

January 2025

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Environmental governance in the UK

A post-Brexit assessment



About Green Alliance's Legislation and Governance Unit

The Greener UK coalition of leading UK environmental organisations came together after the EU referendum to ensure that environmental protections were maintained and enhanced, particularly through ambitious domestic legislation, and during negotiations with the EU and on other trade agreements.

The coalition facilitated a unified voice from the environment NGO sector and combined its expertise to produce high quality briefings and run impactful campaigns.

The passage of the 2021 Environment Act was a major focus for Greener UK's work. Having campaigned for legislation to fill the governance gap that arose following the UK's exit from the EU, Greener UK then successfully pushed for the act to include a high level of ambition, a strong enforcement framework and legally binding environmental targets. This work ran alongside campaigns on several other pieces of post-Brexit legislation including the Agriculture Act 2020, Fisheries Act 2020 and Trade Act 2021.

The coalition wound up in December 2023, but its work continues under Green Alliance's Legislation and Governance Unit.

Introduction

When the UK left the EU there was concern that environmental laws would be lost or weakened, threatening vital work to restore nature, improve water quality and protect people and the environment from harmful chemicals.

The journey towards a consistent and robust set of new governance frameworks across the UK has not been straightforward. Systems have developed at different speeds and through different approaches and have had to navigate political turbulence and a global pandemic. Five years on, Wales is still without an effective replacement system to monitor and enforce breaches of environmental law.

There is now a greater proximity to the laws that protect the environment due to the domestic nature of the governance systems. With this, has come a heightened sense of responsibility and growing interest in the law making process. Parliamentarians and civil society have become more active and adept at scrutinising changes and advocating for improvement. Where they exist, the UK's new governance bodies are holding their governments to account and are so far operating independently and having some impact.

The new governance systems are being used and appreciated and there are encouraging signs that they are prompting re-evaluations and sparking citizen action. As political tides continue to turn, the checks and balances these systems provide will be important anchors. The future of environmental law is in our hands; we must use these new systems wisely and with purpose.

This report is the first in a series of stocktakes from Green Alliance's Legislation and Governance Unit on the state of UK environmental law five years after Brexit. In it, we focus on the new national environmental governance systems that have been established over the past five years across the UK to hold governments and public authorities to account on environmental laws and commitments. We chart their evolution and early years, making recommendations for how they should be strengthened.

First, we look at components of the UK government's 2021 Environment Act and assess what has changed since it was passed, and whether it has enhanced environmental protection. In the second part of this assessment, we look at progress in Northern Ireland, Scotland and Wales and how that differs from action in England.

Environment Act 2021

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How the Environment Act came to be

In 2017, the Greener UK coalition highlighted the environmental governance gap that would emerge once the UK was no longer subject to the oversight and environmental laws provided by the European Commission and the European Court of Justice.¹

The government’s initial response was that a combination of existing bodies, parliament and judicial review would be sufficient to hold it to account on the environment.² This changed when then Environment Secretary Michael Gove committed to a consultation to “...establish a new, world-leading body to give the environment a voice and hold the powerful to account. It will be independent of government, able to speak its mind freely” and to “create a new policy statement setting out the environmental principles which will guide us”.³

During early parliamentary debates on the EU (Withdrawal) Bill 2018, cross-party consensus emerged on the need for a new, independent body to hold the government to account on its environmental performance and standards and on the value of environmental principles.⁴ However, the worry that Brexit might erode environmental safeguards featured heavily throughout the bill’s passage. The delay in issuing the consultation promised by Michael Gove led peers to amend the bill and require the government to publish proposals for primary legislation on environmental governance.⁵

The government published a draft bill on environmental principles and governance at the end of 2018.⁶ This underwent pre-legislative scrutiny by both the Environment, Food and Rural Affairs Committee and the Environmental Audit Committee, resulting in several improvements, including to give the new governance body a power to launch its own investigations and a commitment for its funding to be awarded on a multiyear and ringfenced basis.^{7,8} By this point, the government had also accepted the case for a wider bill to address other environmental issues.⁹

The Environment Bill was first published on 15 October 2019. Then prime minister Boris Johnson described it as “The huge star of [its] legislative programme [...] – a lodestar by which we will guide our country towards a cleaner, and greener future.”¹⁰ While the new environmental governance framework would remain at the heart

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of both the bill and ensuing debates, the bill now included other provisions on nature, air quality, water resources, and waste and resource efficiency.

The bill had its second reading in the House of Commons on 28 October 2019, but did not have a swift passage due to a general election and the coronavirus pandemic. The bill was, unusually, included in three parliamentary sessions and two Queen’s speeches. When parliament resumed in the summer of 2020, while other government business moved forward, the Environment Bill’s absence was increasingly conspicuous, with bills on immigration, trade, pensions and the Commonwealth Games leapfrogging it.¹¹

This meant there was insufficient time for the bill to pass by the end of the transition period, so the governance gap, which was first warned of in 2017, became a reality.¹² The bill eventually received Royal Assent on 9 November 2021, 1,056 days since the draft bill was published and 648 days since the bill was first introduced to parliament.¹³

The Environment Act 2021 is a wide-ranging piece of legislation, comprised of several thematic elements. It grew throughout its passage and contains 149 sections and 21 schedules.¹⁴

Below, we assess progress on significant areas since the inception of the act, including the four cornerstones of the new national governance system: targets, the Environmental Improvement Plan, the Office for Environmental Protection and environmental principles.

Targets

The Environment Act gives the government the broad power to set long term targets to improve the natural environment. These can be set on any matter relating to the natural environment, or people’s enjoyment of the natural environment, and must specify a standard to be achieved and a date by which it is to be achieved.

These targets generated strong interest from the public, over 200,000 people supported a petition calling for the 2030 species abundance target.¹⁵ The government was initially required to set targets in four priority areas (air quality, water, biodiversity, and resource efficiency and waste reduction) as well as species abundance and particulate air pollution.¹⁶

Comparison with the target setting framework in the Climate Change Act 2008 highlighted shortcomings of the Environment Act’s framework, including the lack of binding interim targets and the lack of a requirement for the Environmental Improvement Plan to contain policies and proposals for meeting targets.^{17,18}

The government published a policy paper on its approach to setting targets under the act, followed by a public consultation which ran between March and June 2022. Over 180,000 responses were received, despite the consultation being hampered by delayed publication of evidence documents.^{19,20}

“**Government progress on delivering the Environmental Improvement Plan and Environment Act targets is off track.**”

The government missed the statutory deadline of 31 October 2022 for publishing its proposed legislation on targets in parliament. Members of three environmental coalitions made a formal complaint about this to the Department for Environment Food and Rural Affairs (Defra), and then to the Office for Environmental Protection (OEP), to maintain pressure on the government to publish the targets as quickly as possible.²¹

This worked. The government response to the consultation was published alongside the statutory instruments which would bring the targets into law on 16 December 2022.^{22,23} In its response, Defra acknowledged that “the majority of views (in most cases with over 90% of responses) on biodiversity, Marine Protected Areas, water, waste, woodland cover and air quality targets were for higher levels of ambition”. However, it ignored the results of the consultation, leaving major gaps in areas where there was strong public and expert support for additional and stronger targets.^{24,25}

The targets are now subject to annual review by both Defra and the OEP and are due for a full statutory review by the end of January 2028.

Environmental Improvement Plan

The act placed the existing 25 year environment plan on a statutory footing, making it the first Environmental Improvement Plan (EIP).²⁶ The EIP was intended to be the engine of a new cycle of monitoring, planning and reporting on the environment.

The previous government did not consult external stakeholders on the preparation of the EIP it published in 2023. This means that the interim targets it included in the EIP, to act as staging posts towards the delivery of the long term targets, lack veracity.²⁷ The OEP has found government progress on delivering the EIP and Environment Act targets is off track. It has repeatedly called for the government to develop and implement delivery plans and pathways.^{28,29}

Environmental NGOs urged the government to review the EIP to ensure that the scale, pace and delivery of government action can meet the Environment Act’s targets. The government announced a rapid review of the EIP in July 2024. It has committed to publish a summary of findings early in 2025, followed by the publication of the revised EIP later in 2025.^{30,31,32} The OEP identified five priority actions for the review.³³

In its response to the OEP’s 2024 assessment, Defra recognised the “...importance of having robust delivery plans for how we intend to deliver our Environment Act targets and meet the Environment Improvement Plan (EIP) goals”. It also committed to set out further delivery information as part of the revised EIP.³⁴

In January 2025, the OEP found that government progress remained largely off track and had slowed down in 2023-2024. It warned the window of opportunity to reverse environmental declines was closing fast and that urgent and decisive action was needed for the government to catch up and get on track.³⁵

Office for Environmental Protection

The act established the OEP as one of the four cornerstones of the new national governance system. It was the most hotly contested part of the act, with fierce debates on its independence and powers.^{36,37,38} The OEP was established as a non-departmental public body, with a bi-jurisdictional remit covering England and Northern Ireland. Its remit also extends to reserved matters (on which only the UK parliament in Westminster can make legislation). It is governed by a board, has a chief executive officer and is supported by a staff team of 86.³⁹

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The OEP reports to parliament on government progress towards national environmental goals and targets, and on environmental law; it advises ministers on proposed changes to the law and other matters affecting the environment; it investigates complaints about potential breaches of environmental law by government and public authorities; and it enforces environmental law, including through legal action where necessary.

It has made increasing use of its wide range of functions. It has reviewed the effectiveness of environmental law (for example on water quality and bathing waters), responded to public consultations (for example on the National Planning Policy Framework), published annual progress reports on the government’s environmental commitments and launched calls for evidence.^{40,41,42,43}

In 2024 it consulted on and revised its strategy and enforcement policy, which was broadly welcomed by stakeholders.^{44,45}

The OEP has investigated a number of potential breaches of environmental law by public authorities, both on its own initiative and in relation to complaints from stakeholders.⁴⁶ In December 2024, it issued its first decision notice (the second stage of its escalating enforcement system) to three public authorities in relation to compliance with environmental law on combined sewer overflows.⁴⁷ It is becoming increasingly active as a third party intervener in court cases to clarify the meaning of environmental law, with its contribution to the Finch Supreme Court case found to be “particularly helpful” by the judges.⁴⁸

Various safeguards on the OEP’s independence were agreed by the government, including a duty on the environment secretary to protect the OEP’s independence.⁴⁹ So far, its independence has largely been respected by government, although there was some concern about the nature of the previous government’s response to some OEP recommendations.^{50,51}

On 9 December 2024, the OEP published its 2023-24 annual report and accounts.⁵² This included an assessment (known as a sufficiency statement) of whether the OEP considered it had sufficient funding to carry out its functions in the way that the UK parliament and Northern Ireland assembly expected. The OEP was provided with less funding than it estimated to be necessary in both England and Northern Ireland. Defra’s head count cap, limiting the OEP to 65 full time equivalent staff, fetters the OEP’s discretion as an independent body.

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When the OEP was established, parliamentarians sought assurances that it would be sufficiently independent from the government. To ensure financial independence, the previous government committed to give the OEP a five year indicative budget, formally ringfenced within any given spending review period, providing it with longer term certainty. As the 2025 spending review is multiyear, the current government should restate this commitment.

Environmental principles

Five environmental principles form the basis for EU environmental law and policy. They are also a central part of environmental protection laws at the international and national levels. They are: the principle that protecting the environment should be integrated into the making of policies; the precautionary principle as it relates to the environment; the principle of preventative action to avert environmental damage; the principle that environmental damage should as a priority be rectified at source; and the principle that the polluter should pay.

At the time of the first major Brexit legislation, the EU (Withdrawal) Act 2018, the debate began in earnest on the replacement system for these environmental principles and continued throughout the passage of the Environment Bill and the 2021 consultation on a draft Environmental Principles Policy Statement (EPPS).^{53,54,55}

The UK government enshrined these five environmental principles in the Environment Act 2021. Its aim was for “...a system that places environmental considerations at the heart of policy making”.^{56,57} But it opted for a less direct system than the EU’s, in which ministers are required to have “due regard” to a policy statement on environmental principles when making policy, rather than to apply the principles themselves.⁵⁸ The EPPS duty applies to new policies, the revision or repeal of existing policies

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and to the drafting or revising of legislation. It also applies to strategies and frameworks prepared by public bodies that ministers are required to approve. Concerns were expressed by parliamentarians, environmental NGOs and the OEP about the drafting of the EPPS and exclusions for policy making relating to the armed forces, defence, national security, taxation, spending and the allocation of resources within government.^{59,60,61}

The EPPS duty has been active since 1 November 2023. Our analysis of the first year of operation highlights the efforts of Defra officials to raise awareness of the duty and promote good practice across government.^{62,63} While we found evidence of the duty and policy statement informing policy making in some departments, it is impossible to judge whether it has had a substantive effect on final outcomes, not least because of the sparse information published.⁶⁴

Further work is needed to embed the principles more fully into the work of all departments and qualifying public bodies. This should include explicit reference to the duty in cross government training programmes and assessment tools and greater transparency on how it is being applied.

The current government has confirmed that the Guide to Making Legislation will be updated “shortly” and will include references to environmental principles, that government departments have been advised to amend their ministerial submission templates to reflect the EPPS duty and that the duty will be reflected in the Treasury’s Green Book when the document is next updated. These commitments must be delivered swiftly.^{65,66,67}

Other provisions

Through the Environment Act, the government sought to create the foundations for a nature recovery network through Local Nature Recovery Strategies and mandatory biodiversity net gain for new developments. These are welcome measures, but questions remain about the extent to which they will drive nature’s recovery, their resourcing and the connection to other levers such as Environmental Land Management Schemes.^{68,69,70}

The water chapter of the Environment Act came under particularly intense scrutiny. While the government strengthened the act by including elements of a popular Private Members’ Bill on sewage, these were generally considered insufficient to tackle serious and systemic pollution of water bodies.⁷¹

On air quality, the act was intended to implement important parts of the previous government’s Clean Air Strategy. The main debate was around the level at which air quality targets should be set, in particular whether the World Health Organization’s (WHO’s) recommended limit value for particulate air pollution (PM2.5) is appropriate and achievable. The coroner’s recommendation that the WHO target should become UK law, following the inquest into the death of the child Ella Kissi-Debrah who died from air pollution related asthma, was not accepted by the government.⁷²

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On resources and waste, the act gave the government powers to introduce new extended producer responsibility schemes, implement charges on single use items and set up a deposit return scheme for drinks containers. Resource efficiency powers in the act enable the government to set product design requirements and improve product labelling on recyclability.

Some parts of the act are yet to be activated, notably a measure to reduce the UK’s contribution to global deforestation by banning products of illegal activity from supply chains. Parliamentarians and campaigners have challenged the government’s approach which is focused on illegal rather than all deforestation, excludes the finance industry and does not set a firm timescale to tackle the UK’s environmental footprint.^{73,74}

The government has not yet published its report on developments in international environmental protection legislation, as required by section 21 of the act.

This first dedicated Environment Act for over 20 years was a welcome addition to the statute book. It will undergo post legislative scrutiny in 2026, which is a good opportunity to assess whether its implementation has matched expectations and whether amendments are needed.⁷⁵

Devolved governance

“**Northern Ireland’s environment is in a perilous state, with extremely poor water quality and dwindling biodiversity.**”

Environmental governance systems in Northern Ireland, Scotland and Wales are at different stages of development, with progress slowest in Wales. Ministers from the four UK governments meet via an Inter-Ministerial Group for Environment, Food and Rural Affairs, which co-ordinates engagement and promotes greater collaboration in areas of shared interest. Terms of reference for the group were published in December 2024 to support transparency and public scrutiny.⁷⁶

Representatives of the three environmental governance bodies: the Office for Environmental Protection (OEP), Environmental Standards Scotland and the Interim Environmental Protection Assessor for Wales, meet regularly, with some evidence of co-ordinated investigations.⁷⁷

Environmental NGOs share information via a working group on four nation governance, convened by Green Alliance and Environment Links UK.

We provide an assessment below of progress in Northern Ireland, Scotland and Wales, and set out recommendations on how the new systems should be improved to provide stronger oversight of environmental laws and ensure consistency across the UK.

Northern Ireland

When the Northern Ireland Assembly agreed to adopt the Northern Ireland provisions of the Environment Act 2021 it was a game changing moment for Northern Ireland’s environment.⁷⁸

Northern Ireland’s environment is in a perilous state, with extremely poor water quality and dwindling biodiversity. There is historic regulatory dysfunction and low compliance with environmental law, exacerbated by the absence of an independent environmental protection agency.^{79,80}

Part 2 of the Environment Act enabled the establishment of a new national environmental governance system in Northern Ireland. This was intended to mirror the system the UK government planned for England and would have three elements: a statutory Environmental Improvement Plan (EIP); a new governance body (the OEP’s bi-jurisdictional remit covers both England and Northern Ireland, one of its board members has special expertise in Northern Ireland matters and several of its staff are based in

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Northern Ireland); and a duty on Northern Ireland’s ministers to take five environmental principles into account in their policy making. No provision was included to set statutory nature targets for Northern Ireland.

The political hiatus caused by the suspension of the Northern Ireland assembly in February 2022 unfortunately delayed progress for the next two years. The Department of Agriculture, Environment and Rural Affairs of Northern Ireland (DAERA) was legally required to present its EIP to the assembly by 25 July 2023.⁸¹ The lack of a functioning executive had a major impact on the publication of plans and strategies, so the statutory deadline was missed.

In January 2024, Green Alliance and RSPB Northern Ireland complained to the OEP about the ongoing failure of DAERA to publish an EIP. The OEP called this failure “deeply regrettable” and exchanged letters with DAERA officials and government ministers between 26 July 2023 and 14 August 2024, reiterating at every opportunity the importance of the EIP in spurring action required to protect and improve Northern Ireland’s environment.^{82,83}

In February 2024, the Northern Ireland assembly began sitting again and Andrew Muir was appointed as environment minister. His list of priorities included the publication of Northern Ireland’s first EIP and strengthening environmental governance.^{84,85}

Despite this welcome intent, progress was slow. The OEP issued an information notice to DAERA on 3 June 2024, which is the first formal stage of enforcement action. On 25 September 2024, the OEP’s board resolved to move to the next stage of the enforcement process and give DAERA a decision notice. The Northern Ireland executive agreed to an EIP on 26 September 2024 and it was immediately published by DAERA on 27 September 2024, highlighting the influence of the OEP’s escalating enforcement powers.

These powers were also previously used to good effect, in September 2023, when the OEP issued a judicial review pre-action letter to DAERA and the Northern Ireland Environment Agency, prompting the withdrawal of guidance given to local planning authorities and applicants seeking planning permission for certain livestock developments, which the OEP found did not comply with environmental law.^{86,87,88,89}

On 15 October 2024, the OEP published a report which systematically assessed the drivers and pressures which had impact on nature in Northern Ireland, concluding that the pressures were unsustainable, and that urgent action was needed to protect and improve the environment.⁹⁰

In November 2024, Andrew Muir announced an independent review to strengthen environmental governance, including considering options for an independent environmental protection agency.⁹¹ He also published a draft environmental principles policy statement for consultation, which stakeholders broadly welcomed, while calling for its implementation to be swift and effective.^{92,93}

“There is a continuing risk that the OEP’s funding will be insufficient, especially in Northern Ireland.”



On 9 December 2024, the OEP published its 2023-24 annual report and accounts.⁹⁴ This included an assessment (known as a sufficiency statement) of whether the OEP had sufficient funding to carry out its functions in the way that the UK parliament and Northern Ireland assembly expected. The OEP was provided with less grant-in-aid than it estimated to be necessary in both England and Northern Ireland, but this was particularly true in relation to its functions in Northern Ireland. It said that the amount and timing of receipt of grant-in-aid in relation to these materially affected the work it was able to carry out in Northern Ireland. While the level of support for the year 2024-25 has been increased, revenue funding remains below the sums the OEP estimates it needs to carry out its functions in the way parliament and the assembly expect. It concluded that for the next financial year, there is a continuing risk that the OEP’s funding will be insufficient, especially in Northern Ireland.

Scotland

Scotland was the first country in the UK to pass legislation on environmental governance, the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (known as the Continuity Act).⁹⁵ This created a new oversight body, Environmental Standards Scotland (ESS), and established five environmental principles in law, but did not include provisions on statutory nature targets. Following a 2023 consultation, the Scottish government has committed to include statutory nature targets in a new Natural Environment Bill to be introduced in 2024-25.^{96,97}

ESS was established as a non-ministerial office, independent of the Scottish government. It is governed by a board, has a chief executive officer and is supported by a staff team of 23.⁹⁸ Its role is to ensure public authorities comply with environmental law and that environmental law is effective. It can issue compliance notices where it finds an environmental law has been breached and improvement reports to address systemic failures.⁹⁹

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The Environmental Rights Centre for Scotland has expressed concern about ESS’s approach to investigating and enforcing concerns about potential breaches of environmental law.¹⁰⁰ In its response, ESS explained why it considered these concerns to be unfounded, while noting that the development of ESS’s next strategy is an opportunity for it to review and refine its operations for the future.¹⁰¹

Scottish ministers must have due regard to five environmental principles when making policies, including proposals for legislation. Policy making related to national defence, civil emergency, finance and budgets is excluded from this duty. Unlike England and Northern Ireland, the duty also applies to public authorities when exercising their duty under section 1 of the Environmental Assessment (Scotland) Act 2005. This requires them to carry out environmental assessments on plans and programmes. The Scottish government has published guidance on the duty.¹⁰²

Maintaining alignment with EU law is a stated priority of Scottish ministers. The Scottish government sought, and was granted, a ‘keeping pace’ power, symbolically included as the first provision in the Continuity Act. This is for the purpose of “maintaining and advancing standards”, including for environmental protection.¹⁰³

The Scottish government has made little use of this power, using it only once so far, to enact regulations aligning Scotland’s water quality standards with those set out in the EU’s Drinking Water Directive 2020/2184.^{104,105,106}

In 2024, ESS recommended for the first time that the Scottish government should bring forward legislative proposals that reflect developments in Europe, such as the EU’s Nature Restoration Law and proposed Soil Monitoring Law, so that it can meet its commitment to align with EU standards where appropriate. The Scottish government is yet to respond to this recommendation.¹⁰⁷

The Scottish government has carried out a review of the new environmental governance system, as required by the Continuity Act.¹⁰⁸ It published a report which concluded that, in its view, the arrangements were generally working well. This did not reflect the

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experience of stakeholders, who criticised both the narrow focus of the review and its prematurity, as the Scottish government issued its view before responses had been submitted to the public consultation. ESS said the review was “a missed opportunity to consider the system of environmental governance more broadly and assess whether there is the potential to strengthen the system further...”¹⁰⁹

Civil society stakeholders have called for ESS’s role to be strengthened by empowering it to investigate and enforce individual cases of potential non-compliance, to provide parity with the powers of the OEP and grant Scottish people equivalent rights to those in England, Northern Ireland and the EU.^{110,111}

Wales

Wales does not yet have a statutory national environmental governance system, although the Welsh government has committed to introduce an environmental governance bill to Senedd Cymru in 2025, to be passed before this Senedd term ends in 2026.^{112,113}

The Welsh government published a white paper for consultation in January 2024. This proposed to embed five environmental principles in Welsh law, set up a new environmental governance body to hold Welsh public authorities to account for non-compliance with environmental law and introduce targets and statutory duties for the protection and restoration of biodiversity in Wales.¹¹⁴ The consultation closed in April and the Welsh government published its response to the consultation in July 2024.¹¹⁵

As a stop gap, an interim environmental protection assessor for Wales was established in 2021 to oversee the functioning of environmental law in Wales and to provide advice to Welsh ministers to improve environmental outcomes. Dr Nerys Llewelyn Jones has been appointed as the interim assessor, supported by two deputy interim assessors, Lynda Warren and Anna Heslop, and a small secretariat of Welsh government officials.^{116,117}

The interim assessor focuses on the functioning of environmental law, for example where the law is outdated or no longer functions in a way which protects the environment or where clearer guidance would improve how the law operates. She has no statutory powers to investigate or enforce specific breaches of environmental law. Senedd Cymru and stakeholders have expressed concern about the resourcing of the role, and, as a result, the impact that it has had. Only one report has been published during the interim assessor’s first three years of operation.^{118,119}

This interim process will be in place until a permanent environmental governance body has been established. The Welsh government is yet to publish a timetable for the transition between the interim assessor and the permanent body.

The transition to the new system will need to be carefully managed to avoid further delay and ensure that permanent arrangements are in place soon. This must be done concurrently with the passage of the environmental governance bill.

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The Welsh government’s proposals for its new environmental governance system are broadly welcome but need strengthening in certain areas to ensure the governance body has the necessary enforcement powers, resourcing and independence, and that environmental principles inform the work of Welsh public authorities, not just ministers.¹²⁰

On biodiversity targets, a headline target should be included on the face of the environmental governance bill to drive ambition and delivery, with additional targets developed at pace and not in the 36 month time period suggested by the deputy first minister and cabinet secretary for climate change and rural affairs when he gave evidence to the Climate Change, Environment, and Infrastructure Committee on 16 October 2024.¹²¹

Recommendations

Based on our assessment of the implementation of the Environment Act and environmental governance in the devolved nations since Brexit, these are our recommendations to ensure ambition and that progress happens at the speed necessary to protect and enhance the UK's environment.

Office for Environmental Protection

Defra should remove the cap on the number of employees it permits at the OEP as a condition of its funding. This unreasonably fetters the OEP's discretion and does not reflect the environment secretary's duty to protect the OEP's independence.

The government should restate its commitment to ringfence a multiyear budget for the OEP in the 2025 spending review. The previous government accepted the case that the OEP's funding should be provided as transparently and as securely as possible. The current government should reinstate this commitment.

Environmental principles

The central co-ordinating resource and 'critical friend' function on the environmental principles policy statement should be retained in Defra. This is an important point of co-ordination, advice and oversight, improving environmental outcomes.

Departments should be required to maintain clear paper trails on the environmental principles duty and publish their assessments of how it has been applied. This will increase transparency and help raise awareness of how the duty is working in practice.

The government should clarify that policies made using urgent procedures or in expedited timescales must, nevertheless, take full account of the environmental principles duty. This will minimise the risk that environmental principles are ignored in inconvenient timescales.

The Treasury and the Ministry of Defence should publish annual statements to show how they are incorporating environmental principles into their policy making. Without this, there is no clarity on how the principles are informing the work of these departments.

Defra should publish the findings of its high level review of the implementation of the environmental principles duty. This will be an important resource to highlight good practice and where lessons might be learned.

Public bodies which have policy making roles, likely to be within scope of the duty, should be required to confirm which of their contributions to policy making are within the scope of the environmental principles duty. This will increase transparency and provide clarity on when the duty is being applied.

Northern Ireland

DAERA should deliver on the political commitment to establish an independent Environmental Protection Agency for Northern Ireland.¹²² The Northern Ireland Environment Agency (NIEA) carries out the same functions as other statutory conservation bodies elsewhere in the UK. But, because it is an executive agency, rather than an independent body, there are serious concerns about its effectiveness and conflicts of interest.

DAERA should set ambitious binding targets where they are absent or most needed, such as for biodiversity and water and air quality, reflecting public and cross-party support for ambitious action.^{123,124} Embedding nature recovery targets in law across the UK, even though details will vary across each jurisdiction, will enable a four nation approach to international agreements such as the global biodiversity framework.

DAERA should increase its funding for the OEP, to address the shortfall identified in the OEP's sufficiency statement and supporting evidence. Without this, the OEP may not be able to properly fulfil all its functions in Northern Ireland, which is not in the public interest.

Scotland

The Scottish government should introduce its Natural Environment Bill as soon as possible and include statutory nature recovery targets. As recommended by Scottish Environment LINK, these must be:¹²⁵

- sufficiently wide-ranging to capture the complexity of nature, recognise and seek to reverse historic declines in biodiversity, and set targets for 2030 and 2045, consistent with international biodiversity commitments;
- linked to Scotland's Biodiversity Strategy and its reporting mechanisms;
- based on independent, expert advice and subject to independent monitoring and reporting of progress (this could be provided by ESS, subject to provision of additional resources and a broadened remit).

Early in the next parliament, the Scottish government should commission an independent review of the application and effect of the Continuity Act's provisions and government guidance on environmental principles, to assess what, if any, improvements might be made.

Wales

The Welsh government should provide a clear timetable for the transition between the interim assessor and the establishment of the permanent governance body. This is essential so that the transition is effectively managed and resourced, providing clarity for businesses, public authorities and civil society.

The governance body should be empowered to act on its own initiative, including to undertake judicial reviews or intervene in court proceedings where necessary. Its independence should be protected through Senedd oversight of board appointments and safeguards in law. This will provide the Welsh body with the tools it needs to hold public authorities to account and ensure parity with the existing governance bodies in the UK.

The interim assessor should gather complaints about potential breaches of environmental law for the permanent governance body to consider. This would help minimise the risk of serious breaches of environmental law either being lost or not considered in the most expedient timescale.

Endnotes

- ¹ Greener UK briefing, August 2017, ‘The governance gap: why Brexit could weaken environmental protections’
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Environmental governance in the UK

A post-Brexit assessment

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Acknowledgements

Thanks to Green Alliance colleagues Sophia Greacen and Sarah Williams. Thanks also to the former and current members of Green Alliance's Legislation and Governance Unit's working groups on devolution and environmental governance, for their input, support and guidance, especially Lloyd Austin, David Baldock, Kierra Box, Georgie Holmes-Skelton, Kate Jennings, John Martin, Lucy Metcalfe, Dan Paris, Annie Smith, Rosie Sutherland and Jake White.

Green Alliance's Legislation and Governance Unit is funded by the Esmée Fairbairn Foundation, Samworth Foundation and Waterloo Foundation.

Green Alliance's Legislation and Governance Unit

This unit is a unique hub, offering expert knowledge sharing and detailed analysis of legislative and policy changes relevant to the environment. It monitors and influences environmental legislation, regulation and governance and provides detailed advice and responses to parliamentarians, government officials and the environment sector.

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The Green Alliance Trust
Registered charity no 1045395
Company limited by guarantee
(England and Wales) no. 3037633

Published by Green Alliance
January 2025

ISBN 978-1-915754-50-9

Designed by Howdy

Cover photo by Jill Dimond on Unsplash

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