

Briefing for: **Members of Parliament**
Purpose: Debating the Environment Bill
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1. The Environment Bill

The Environment Bill was originally published in July 2019, and brought forward later in the year, as part of the Queen's Speech in November. However, following the announcement of the General Election and the dissolution of Parliament it was dropped, before being reintroduced at the end of January 2020, with a few amends. The Bill aims to:

- Create a new system of green governance
- Improve air quality
- Restore and enhance nature
- Improve waste management and resource efficiency
- Improve surface water, ground water and waste water management

The Bill will do this by either providing powers to relevant Government bodies, or directly amending existing Act's, in order to implement a wide range of Environmental proposals set out in a number of Government Strategy documents. This includes the 25 Year Environment Plan, the Waste and Resource Strategy and Clean Air Strategy, amongst others.

The Bill also establishes a new independent public body called the Office for Environmental Protection (OEP) designed with the primary purpose of protecting the Environment and holding public bodies to account for failing to follow environmental law within their policy making activities.

2. Environmental Targets

The Environment Bill has already come under scrutiny by a number of NGO's due to the proposed targets. This includes criticism that the Government would not be held accountable for their policies and actions until 2037, almost two decades away. As it stands, the Environmental Bill calls for the Secretary of State to set targets in relation to:

1. Air quality,
2. Water quality,
3. Biodiversity
4. Resource efficiency and waste reduction.
5. A separate PM_{2.5} air quality target

Targets 1-4 must be 'long-term' with a specified target date no less than 15 years after the date on which the target is initially set. Target 5 can be similarly long term, or shorter depending on what the Secretary of State sees fit.

A draft Statutory Instrument for the above targets must be published no later than 31st October 2022. The Secretary of State must review targets every 5 years, with the first having to be completed by 31st January 2023.

Whilst it is true that the completion of the target won't be until 2037 (if set in 2022), the five year interim targets will still allow for some accountability. In essence, the Bill would follow a system akin to the Committee on Climate Change and the carbon budgets in which the Government are held accountable every year through annual progress reports despite not having to meet a target until the budget ends.

3. Environmental Improvement Plan

The Bill also requires the Secretary of State to publish an Environmental Improvement Plan that must not be shorter than 15 years. This will include the targets referenced above.

Annual progress statements on the current Environment Plan will need to be presented by the Secretary of State. This will include reporting progress on environmental targets. The first environment improvement plan is the already published '25 year Environment Plan'. Its first annual review will be completed in 2023 – by which time the targets will have also been implemented. Further to this, the SoS must report on developments in international environmental protection legislation every two years, although there is no provision that they must be considered when setting interim targets.

Like the targets the Environment Plan is to be reviewed at least every 5 years, with the first to be completed by the 31st January 2023. The first review must also introduce interim targets for targets legislated above, with dates no later than the end of the following 5-year period.

- Assurance is needed that such high-level targets will not see a delay to more immediate policy goals.
- Concerns that the time frames mean the Government cannot be held to account for future targets until 2037 at the earliest.
- Long term targets should be welcomed but cannot be used as an excuse for inaction. More immediate target dates for specific policies, such as food waste collection should be written into the Bill.

4. Environmental Principles

The Secretary of State must prepare a policy statement on environmental principles for policy making. The Bill stipulates these relevant principles:

- a) The principle that environmental protection should be integrated into the making of policies,
- b) The principle of preventative action to avert environmental damage,
- c) The precautionary principle, so far as relating to the environment,
- d) The principle that environmental damage should as a priority be rectified at source, and
- e) The polluter pays principle.

The Statement is to first be consulted on with draft statement being presented to parliament with 21 days for parliament to pass a resolution or Committee to comment. A revised statement on policy principles can be presented at any time. There is no date as to when this statement must be made.

It is positive that the principles themselves have been written in the Bill and not just in the Statement – which could be subject to greater change.

However, the principles of pragmatism and proportionality are not included. It is concerning that policies may seek easy wins that do not make the biggest difference or that policies restrict innovation.

5. Office for Environmental Protection (OEP)

The Bill establishes a new independent body with the primary objectives of protecting and improving the natural environment. Whilst the Bill acknowledges that the OEP needs to set out a strategy on how its objectives will not overlap with that of the Committee on Climate Change it does not mention overlap with the Environment Agency.

The OEP's roles will include:

- Monitor and produce annual reports on progress against the Environment Improvement Plan, environment targets and interim targets
- Monitor the implementation of environmental law.
- Produce published advice to ministers and departments on Environmental law

The OEP will also have enforcement powers against public authorities, where investigation can be launched on the back of a complaint, or where the OEP has reason to believe there has been a failure against environmental law. Enforcement of this act comes in three stages;

- ***Issuing of an Information Notice*** – when an authority has failed to comply with environmental law
- ***Issuing of a Decision Notice*** – Where there is evidence of an authority having failed to comply with environmental law and this failure is considered serious.
- OEP can apply to the ***Upper Tribunal*** for an Environmental review as well as applying for Judicial Review.

It is important that the role of the OEP is clear and does not confuse industry or mean an additional cost burden to operators. The Environment Agency is currently the law maker, permit issuer and regulator for the biowaste sector. Although it is implied that the OEP is aimed more at public authorities than operators, there must be clear and defined roles for both the OEP and the Environment Agency and this must be clearly communicated to industry.

6. Waste and Resource Efficiency

The Bill contains the enabling powers needed for Ministers to deliver the policy measures laid out in the Waste and resource Strategy. These include:

- Producer Responsibility Obligations – enabling costs to be collected from those producing the materials that end up in the waste stream (Schedule 4 - 6)
- Resource Efficiency Requirements (Schedule 8) - Powers to set resource efficiency specifications for certain products and show specific information to consumers.
- Deposit Scheme (Schedule 9)- Powers to establish a deposit return scheme
- Charges for Single Use Plastic Items (Schedule 10) – Powers to provide charges to single use plastic items that supplied in connection with goods or services.
- Enforcement Powers (Schedule 11) – powers to enforce actions against waste crime such as seizing vehicles connected to such activities and powers of entry in relation to pollution control.
- Electronic Waste Tracking – powers to establish an electronic system that monitors the transfers of waste.
- Managing Hazardous Waste – powers to make provisions to tighter regulations around the activities involving hazardous waste.

- Transfrontier shipments of waste – strengthening Regulatory powers of the SoS to prevent the exports of polluting plastic waste to non-OECD countries.

7. Waste Collection

The Bill makes amendments to the Environmental Protection Act 1990 to place into law requirements for Local Authorities to carry out separate collections of recyclable waste streams in England from households, non-domestic properties and further industrial and commercial waste. Separate amendments are also made to apply this to Northern Ireland. This enacts the decisions made in connection to the consultation made earlier in the year.

Recyclable waste streams include glass, metal, plastic, paper & card, food waste and garden waste. Food waste is stipulated as having to be collected once a week.

The Bill does allow for these waste streams to be mixed where it is not technically or economically practicable to collect them separately; or where there is no significant environmental benefit to having them collected separately.

Dates for implementation is not provided within the legislation making it unclear when separate collections must start. Also doesn't seem to be any reference to how Local Authorities will be financially supported to instigate separate collections.

8. Air Quality and Environmental Recall

The Bill implements several proposals from the Governments Clean Air Strategy, providing greater power to local government bodies to tackle sources of air pollution. Measures include:

- Strengthening requirements for what needs to be covered in the creation of action plans for declared Air Quality Management Areas. This includes ensuring cooperation between local authorities and all tiers of local Government on acting on these plans.
- Enable local authorities to issue financial penalties, rather than criminal prosecutions, within Smoke Control Areas in order to help make enforcement action quicker and simpler. Financial penalties can range from £175 - £300.
- The Bill amends the Clean Air Act to strengthen penalties for the sale of 'controlled solid fuels' in Smoke Control Areas and ensures consumers must be informed that it is an offence to buy controlled solid fuels for use in SCAs. This covers both retailers and those involved in fuel delivery, on both domestic and non-domestic contexts.
- The Bill also removes an exemption from the Clean Air Act so that Local Authorities can pursue someone who emits smoke that is damaging to human health or causing a nuisance from private dwellings, which were previously exempt.
- New powers are also provided to the Secretary of State within the Bill to compel vehicle manufacturers to recall products for reasons of environmental failure.

The amendments to the Clean Air Act are positive. They recognise the lack of enforcement currently taking place within Smoke Control Areas and providing Local Authorities the abilities to enforce measures quickly through fines.

However a lot more could be done in this area. The Government in 2018 consulted on cleaner domestic burning of solid fuels and wood, including proposals to legislate on the banning of the sale of most polluting domestic fuels. As of yet, Government have not responded to this

consultation, nor have they addressed the fundamental issues around lack of public awareness of Smoke Controls Areas and what is allowed within them.

9. Water Quality

The Bill makes amendments to the Water Resource Act 1991 and Land drainage Act to strengthen powers around water resource planning.

- The Bill places drainage and wastewater planning to assess risks to sewage networks and network capacity
- Updates elements of abstraction licensing regime to link more closely with environmental objectives.
- Introduce measures to protect water quality in surface and groundwater enabling updates to the list of priority substances that pose a threat to water bodies.

While positive, the REA would like to see the introduction of legislation on improving Used Cooking Oil traps that would stop oil entering and blocking the drainage system, while also ensuring its collection in use for the production of renewable transport fuels.

10. Nature and Biodiversity

The Bill amends the Natural Environment and Rural Communities (NERC) Act 2006 to shift the focus from a 'duty' of public authorities to an active requirement to seek further conservation of biodiversity when delivering their functions.

The Bill introduces Local Nature Recovery Strategies, placing spatial planning for nature on a statutory footing. These are expected to support local partner's better direct investment and action that improves, creates and conserves wildlife-rich habitats.

The Bill also amends the Forestry Act 1967 to strengthening requirements to tackle illegal felling and measures requiring local highway authorities to consult the public before felling any street trees.

Finally the Bill also provides for the introduction of Conservation Covenants. These private voluntary agreements between a landowner or responsible body such as a conservation charity or public body, can bind subsequent owners of the land to deliver conservation benefits on that land, providing long term benefits.