

CONSULTATION ON ENVIRONMENTAL PRINCIPLES AND GOVERNANCE IN SCOTLAND



Scottish Government
Riaghaltas na h-Alba
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“My ambition is to carry through, not just the letter of EU environmental law but also the underlying principles of precaution, prevention and rectifying pollution at source, as well as the ‘polluter pays’ principle.

“Not doing so means we risk lagging behind and diverging from the ambitions of our European allies as well as missing key tools that can help us to meet international ambitions such as the UN Sustainable Development Goals.”

Roseanna Cunningham speaking to the annual conference
of the European Environment Bureau,
Edinburgh, November 2017

Ministerial Foreword

Scotland's natural environment is our greatest asset. We must continue to protect it for the future. It supports and enriches our lives and the prosperity of our nation.

I believe that EU membership has helped Scotland to achieve high environmental standards. Since the referendum on EU membership in 2016, I have been concerned that these gains may be at risk under future trade relationships. The Scottish Government has committed to maintain or exceed EU environmental standards. EU environmental law is informed by four environmental principles, and we intend to keep these at the centre of our environmental policy making.

The European institutions have also provided effective oversight of compliance with EU environmental law. The future relationship between the UK and the EU is still uncertain and the UK Government remains unable to provide much needed clarity about the future. My choice would be to remain fully within EU governance systems. However, as a responsible government, we need to prepare for whatever the future brings.

In particular, the Scottish public deserves continued assurance that environmental standards are being applied effectively. In Scotland, we have well established systems and procedures for holding public bodies to account for their performance, and to provide a challenge if duties are not met or legal powers misused. We need to ensure we have robust arrangements for a future where there is no longer oversight from Europe. In addition, we must prepare to fulfil any new obligations to demonstrate compliance with environmental standards.

I asked the Roundtable on Environment and Climate Change to undertake an initial assessment of what may be at risk following EU exit and I am very grateful for that work. Taking this as our starting point, the purpose of this consultation is to seek wider views to help us to develop a strong, proportionate and effective system to ensure the protection of Scotland's environment.

Environmental governance is an important and complex issue, and one that we must get right. It deserves careful consideration and I hope you will find the time to give your views on the issues raised in this consultation document.

A handwritten signature in black ink, appearing to read "R. Cunningham".

ROSEANNA CUNNINGHAM
MSP

Introduction

1. The purpose of this consultation paper is to consider how we maintain effective environmental governance following an exit from the European Union. We will seek views on:
 - Maintaining the role of environmental principles in developing future Scottish environmental policy and legislation; and
 - Maintaining effective, appropriate and proportionate environmental governance in Scotland.
2. The Scottish Parliament holds government to account for meeting its ambitions and complying with internationally set standards. Scottish courts ensure compliance with the law and protection of individual rights. This paper considers further functions or capabilities that may be needed once the UK has left the EU.

Background to consultation

3. Scotland did not vote for the UK to leave the EU, but the Scottish Government must play its part in dealing with the consequences. We have made a commitment to maintaining Scotland's distinctive approach to environmental protection and to maintaining or exceeding existing environmental standards.
4. The Roundtable on Environment and Climate Change was established in October 2016 to look at the impact of the EU referendum on the environment. This consultation builds on the work of the Roundtable and the issues it identified.

The **Roundtable on Environment and Climate Change** ('the Roundtable') was a panel of experts from different areas of academia and environmental organisations.

In December 2017, the Cabinet Secretary for the Environment, Climate Change and Land Reform asked the Roundtable to consider potential gaps in environmental governance that may arise should the UK exit the EU; and to set out potential options to address any gaps identified.

The Roundtable's report¹ was published in June 2018. Options set out in the report address potential gaps in three key areas

- (i) monitoring, measuring and reporting on environmental data and performance,
- (ii) scrutiny, assessment and investigation of environmental matters and
- (iii) mechanisms for making complaints, challenging performance and enforcing action in environmental areas. A short preliminary study was undertaken to identify the possible issues relating to future environmental governance in Scotland should the UK leave the EU. The report considers a wide range of potential options. The expert group compiling the report focused on maintaining Scotland's global position as a leader in environmental governance and performance.

¹ <https://www.gov.scot/publications/report-roundtable-environment-climate-change-environmental-governance-scotland-uks-withdrawal/> The report was prepared by a subgroup of the Roundtable and some co-opted members: Lloyd Austin, Dr. Antonio Cardesa-Salzmann, Prof. Campbell Gemmell, Jonny Hughes, Dr. Annalisa Savaresi and Prof. Colin Reid.

5. This paper responds to the intent expressed in the Scottish Continuity Bill² to ensure that there continues to be effective and appropriate governance relating to the environment following the withdrawal of the UK from the EU (see box for details).

The UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill 2018 ('the Scottish Continuity Bill')

included provisions for Scottish Ministers to consult on:

- how regard is to be had to the four EU guiding principles on the environment
- (a) by the Scottish Ministers in developing policies (including proposals for legislation), and in determining how to exercise any of their functions, and (b) by any other Scottish public authority in determining how to exercise any of its functions.
- how to ensure that there continues to be effective and appropriate governance relating to the environment following the withdrawal of the United Kingdom from the EU.

The Bill defined "governance", in

relation to the environment, as meaning appropriate arrangements for the purposes of ensuring compliance with the law relating to the environment, and effective implementation of policy relating to the environment.

"Appropriate arrangements" was defined to include functions equivalent to those carried out before exit day by the European Commission, the European Court and any other EU institution for the purposes mentioned in that subsection.

6. The Programme for Government 2018/19, '*Delivering for Today, Investing for Tomorrow*'³ commits us to developing an Environment Strategy for Scotland, to set out an overarching vision for Scotland's environmental ambitions and to guide future activity across our environment policies. We will develop this strategy alongside future arrangements for governance and principles, in light of the strong interactions between these areas.
7. We have benefited from the close cooperation and dialogue between the UK and the EU. We will take steps to maintain collaboration with others across the continent and with the other governments in the UK on shared environmental challenges and solutions. We will also continue to work towards delivery of international agreements, including commitments on biodiversity and nature conservation and taking action in line with the Paris Agreement on climate change.

2 <https://www.parliament.scot/parliamentarybusiness/Bills/107725.aspx>

3 <https://www.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/>

Scotland's ambition for environmental governance

8. Our ambition is to maintain and improve Scotland's place in the world as a country willing to lead global action to address current and future environmental challenges. We want to continue to be a country which shows leadership and commitment on environmental protection.
9. We believe that it is essential that future environmental governance arrangements:
 - Help Scotland to maintain or exceed existing environmental standards and to comply with international environmental obligations.
 - Fit Scottish circumstances and established methods of accountability.
 - Are fair, open and transparent.
 - Respect the devolution settlement.
 - Are effective and proportionate in delivering strong environmental protection.
10. In line with the approach we are taking to develop a future environment strategy for Scotland,⁴ we want to develop future environmental governance arrangements based on a careful and systematic exploration of the issues and evidence. To do this, we want to ensure we have correctly identified the potential governance gaps for Scotland created by the UK's exit from the EU.

Environmental governance requirements during and after a transition period

11. This consultation is primarily concerned with the governance gaps left by the UK's exit from the EU, after a transition period. There remains considerable uncertainty about the nature and duration of any transition period, including the design of possible backstop arrangements. It is likely that for a majority of any transition period, arrangements analogous to membership would continue to apply. This means there are unlikely to be any immediate, significant governance gaps over this time. We would expect the future relationship between the UK and the EU to include extensive obligations with respect to environmental governance, with provisions in the draft Withdrawal Agreement going beyond any existing free trade agreements signed by the EU.⁵
12. Following this consultation, we shall continue to develop our policy for future environmental governance in Scotland. We shall put in place the legislative and institutional arrangements that will be required after any transition period. If arrangements are needed during a transition period, or under an exit without a withdrawal agreement, we shall design interim arrangements that reflect our policy established through this consultation.
13. The consultation paper is in two sections:
 - Section 1: Environmental principles**
 - Section 2: Environmental governance arrangements**

⁴ <https://consult.gov.scot/environment-forestry/environment-strategy/>

⁵ <https://blogs.sussex.ac.uk/uktpo/2018/11/21/environmental-non-regression-in-the-withdrawal-agreement-forcing-the-eus-hand-on-the-level-playing-field/>

Section 1: Environmental principles

14. A range of environmental principles has been established in international agreements, including the core treaties of the European Union, and used to guide and shape modern environmental law.
15. EU environmental law is informed by four environmental principles. The purpose of this section is to set out proposals to ensure the continued application of the four EU environmental principles to Scottish policy and law.

What currently happens?

16. Around 80%⁶ of domestic environmental law in Scotland is derived from EU law and policy. EU law and policy also has a significant influence over policy and legislation in Scotland in other areas.
17. The objective of the European Union is to “work for sustainable development of Europe based on balanced economic growth and price stability ... and a high level of protection and improvement of the quality of the environment”.⁷ Several articles in the Treaty on the European Union (TEU) are dedicated to environmental issues and the achievement of this objective. These include articles which refer to the establishment of the single market, which require a high level of environmental protection to be established. In addition, Article 11 of the Treaty on the Functioning of the European Union (TFEU) has a general application and requires the integration of environmental protection requirements into the definition and

implementation of EU policies, with a view to promoting sustainable development.

18. Four specific environmental principles are enshrined in Article 191(2) of TFEU.⁸ These four principles underpin the development of EU environmental policy, and are commonly defined as:
- **Precautionary principle.** Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.
 - **Polluter Pays principle.** The polluter should bear the cost of pollution control and remediation.
 - **Prevention principle.** Preventative action should be taken to avoid environmental damage.
 - **Rectification at Source principle.** Environmental damage should, as a priority, be rectified at source.

19. EU environmental principles have to be read and implemented in the context of wider principles of EU law, including the fundamental rights of individuals, proportionality and legal certainty. For example, the principle of proportionality is important in interpreting how the environmental principles interact with economic and social objectives.

⁶ http://www.parliament.scot/S4_EuropeanandExternalRelationsCommittee/General%20Documents/SB_15-71_The_impact_of_EU_membership_in_Scotland.pdf

⁷ Article 3(3) of the TEU.

⁸ Article 191(2) of the Treaty on the Functioning of the European Union (2007) provides that Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union, and that it shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

20. The development of EU environmental policy and legislation is also informed by principles in international conventions and agreements, such as the UN Convention on Biological Diversity. These principles are also reflected in law and policy developed in Scotland.
21. A non-exhaustive list of environmental principles that influence environmental policy at the EU and Scottish levels includes:
- The UN Rio Declaration on Environment and Development 1992⁹ established 27 principles to guide **sustainable development**, including the **integration principle**¹⁰ (as well as the precautionary and polluter pays principles).
 - The principle of **sustainable use**¹¹ and the **ecosystem approach**¹² are enshrined in the UN Convention on Biological Diversity 1992.¹³
 - The UN Aarhus Convention 1998¹⁴ established a number of principles in relation to rights of the public with regard to the environment, including **access to environmental information**, **public participation** in environmental decision-making and **access to justice**.
- The principle agreed within the Convention on Biological Diversity that environmental management should be undertaken at **appropriate spatial and temporal scales**.¹⁵
- The principle of **non-regression**¹⁶ has more recently gained international recognition and is ingrained in the Paris Agreement on climate change.¹⁷

What will we continue to have and what might be lost?

22. The Scottish Government is committed to ensuring that the EU environmental principles established by the Treaty of the Functioning of the European Union (TFEU) continue to sit at the heart of environmental policy and law in Scotland. In establishing our approach, we wish to build on the work of the Scottish Parliament's inquiry into environmental principles¹⁸ and good practice in other countries, and to take into account the recommendations from the First Minister's Advisory Group on Human Rights Leadership.

9 <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm/>

10 In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

11 The use of natural resources in a way and at a rate that does not lead to their long-term decline, thereby maintaining their potential to meet the needs and aspirations of present and future generations.

12 A strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way.

13 <https://www.cbd.int/doc/legal/cbd-en.pdf>

14 <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

15 <https://www.cbd.int/ecosystem/principles.shtml>

16 Any changes in law or policy should maintain or increase the level of environmental protection, and not allow any deterioration.

17 https://unfccc.int/sites/default/files/english_paris_agreement.pdf

18 <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/107913.aspx>

23. Scotland already has a distinctive approach to policy making, and to sustainable development. This is reflected in our National Performance Framework, which provides an outcomes framework through which the Scottish Government and its partners in all sectors of society can work in integrated ways to achieve national outcomes and contribute to our purpose and the achievement of the UN's Sustainable Development Goals (see Figure 1).
24. The Framework reflects our values as a nation and the aspirations we hold for our future, including for our environment alongside our social and economic well-being. It also measures and reports on the progress of government in Scotland; providing a mechanism through which the Scottish Government and public bodies can be held to account for their contribution towards achieving our purpose and national outcomes.
25. Scotland's National Planning Framework,¹⁹ Land Use Strategy,²⁰ Climate Change Plan²¹ and National Marine Plan,²² and a number of other important strategies and plans provide additional mechanisms and frameworks to promote sustainable development through integrated decision-making in relation to our land and marine resources.
26. The four EU environmental principles already underpin the majority of Scottish environmental law and policy. For example, the Precautionary principle informs the handbook on environmental impact assessment produced by Scottish Natural Heritage²³ and is also implicit in the Scottish regulators' strategic code of practice,²⁴ with its emphasis on risk-based and proportionate responses. The Polluter Pays principle underpins the Scottish Environment Protection Agency's charging system.²⁵
27. If the UK leaves the EU, retained EU law will continue to apply, as will domestic Regulations made to transpose EU Directives. The four environmental principles will continue to underpin this legislation and inform regulatory practice. The Scottish Government is committed to maintaining or exceeding existing environmental standards which will retain the influence of the four EU environmental principles.
28. However, without action, the EU environmental principles will cease to have legal force over the development of policy and law in Scotland.

19 <https://www.gov.scot/publications/national-planning-framework-3/>

20 <https://www2.gov.scot/Resource/0050/00505253.pdf>

21 <https://www.gov.scot/publications/scottish-governments-climate-change-plan-third-report-proposals-policies-2018/>

22 <https://www.gov.scot/publications/scotlands-national-marine-plan/>

23 <https://www.nature.scot/sites/default/files/Publication%202014%20-%20A%20handbook%20on%20environmental%20impact%20assessment.pdf>

24 <https://www.gov.scot/publications/scottish-regulators-strategic-code-of-practice/>

25 https://consultation.sepa.org.uk/change-programme/consultation-on-sepa-enforcement-policy-guidance/supporting_documents/enforcementguidance.pdf

Figure 1: Scotland's National Performance Framework



Proposed position

29. The Scottish Government proposes to address the loss of legal force for the EU environmental principles through a new legal duty on Scottish Ministers to have regard to the four EU environmental principles in the development of policies and legislation. This most closely matches the current effect of the principles on Scottish environmental policy and law.
30. In coming to this preferred position, we considered three main aspects for the design of this duty.
- a) **Application:** should a duty apply only to the formation of policy and draft legislation by the Scottish Government, or should it also apply to the exercise of powers and functions by the Scottish Government and other public authorities?

- b) **Scope:** should a duty include only the four EU environmental principles or extend to a wider list of principles, including those drawn from international agreements and programmes?
- c) **Implementation:** should there be an associated requirement for the duty to be accompanied by a policy statement to guide its interpretation and application?

Application of environmental principles duty

- 31. It is possible to consider extending a duty to have regard to the principles to the exercise of other powers and functions by Scottish Ministers and public authorities in Scotland, including local authorities. This would extend a duty to actions such as individual funding decisions and regulatory permissions. An explicit duty of this type would go beyond the current application of the EU environmental principles, which generally impact at the level of policy and the design of legislation. The effect of this would be to ensure that the principles were considered in individual decisions that could have significant environmental consequences, and could be called upon by communities resisting proposals which they believe are environmentally harmful.
- 32. There are instances, as discussed in the previous section, where one or more of the EU environmental principles are built into the operation of policies and regulatory systems. This will be unaffected, and Ministers can continue to develop regulations and policies that bring particular environmental principles into specific decision-making processes.

- 33. However, a general application of the four EU principles across all powers and functions would lead to complex interactions with the many requirements and duties already placed on public bodies in Scotland.²⁶ It would be difficult to ensure that these duties were complementary and did not contradict each other. These different factors can be balanced in the development of policies and legislation in a way that is transparent and subject to consultation, and ultimately government is held accountable for policies. It would be very difficult in practice to balance all of these duties in the exercise of individual functions.
- 34. In addition, a general application of the four EU principles across all powers and functions could make individual decision-making less predictable for regulated businesses and households. It would also make challenges to decisions, whether by Ministers or the courts, far more difficult to consider, as judgements would have to be made about the application of the principles on a case by case basis.
- 35. For these reasons, and in order to follow a model which is closest to the current EU framework, the Scottish Government's preferred option is for the duty to apply only to Scottish Ministers during the development of policy, including proposals for legislation.

26 For instance, 20A of the Environment Act 1995 requires SEPA to carry out its functions to protect and improve the environment, to ensure management of resources in a sustainable way and, unless inconsistent with those objectives, to contribute to sustainable economic growth.

Question 1: Do you agree with the introduction of a duty to have regard to the four EU environmental principles in the formation of policy, including proposals for legislation, by Scottish Ministers?

Question 2: Do you agree that the duty should not extend to other functions exercised by Scottish Ministers and public authorities in Scotland?

Scope of environmental principles to be covered by the duty

36. The Scottish Government considers that a future duty should include the four EU environmental principles, as discussed on page 8:
- Precautionary principle
 - Polluter Pays principle
 - Prevention principle
 - Rectification at Source principle
37. The duty could potentially include other environmental principles enshrined in international conventions and agreements, including – but not limited to – those principles listed in the Background on page 9.
38. Extending the scope of the duty in this way would give prominence to a wider range of environmental considerations and priorities and might offer opportunities to strengthen our approach to environmental policy-making and implementation in Scotland. However, there are potential issues which need to be considered.

39. It would be important to be clear that any additional principles continued to operate alongside existing principles in a coherent and effective way. Many of the principles from international agreements have already influenced the development of environmental policy and law in the EU, which will continue to apply in Scotland. As the UK is a party to all the key international environmental agreements, the principles they enshrine will also continue to guide policy and legislative developments in Scotland. The selection of any subset of principles from international agreements could reduce the emphasis on other elements of the agreements.

40. There are important links between environmental principles and human rights. The Scottish Government has endorsed an overall vision of a new Human Rights Framework for Scotland, and will establish a national taskforce to consider the “Recommendations for a new human rights framework to improve people’s lives” reported to the First Minister on 10 December. The report includes consideration of the creation of rights with respect to the environment, and will be carefully considered by the Scottish Government. The rights suggested by the report include the right to be supported by a healthy ecosystem, which would have wide-reaching consequences. The report also suggested formalising rights to environmental information, based on the Aarhus Convention, in domestic rights law.

41. There are many opportunities in the development of a new Human Rights Framework. The design of operational human rights related to the environment will be complex, and the effect of these rights could be far-reaching. To leave the way clear for these developments, our preferred approach at this time is to focus a new duty on Ministers to have regard to the four EU environmental principles.

Question 3: Do you agree that a new duty should be focused on the four EU environmental principles? If not, which other principles should be included and why?

Implementation

42. The duty to have regard to the principles could be accompanied by a duty to produce a policy statement to guide its interpretation and application.

43. The policy statement could set out in detail how the principles should be used to guide the development of policy and legislation, to support policy-makers and ensure the principles are used consistently. It could provide detailed guidance on how the principles should be applied in specific contexts. The statement could have a statutory basis but could also be updated when required, for example to track developments in the EU's application of the principles.

44. At present, the application of the EU environmental principles at EU level is informed by extensive case law. This helps to shape the interpretation of the principles, including how they relate to each other and to wider factors influencing decision-making. An important function of a policy statement would be to capture the key considerations that need to be taken into account to ensure that the principles are not considered in isolation or out of context.

45. Our preferred approach is for a duty to have regard to environmental principles to be accompanied by a requirement to produce a policy statement to guide its interpretation and application. It is also our intention that courts would be able to take account of the duty and its application as a relevant consideration in proceedings. This would help to mirror current arrangements and support continuity and consistency.

Question 4: Do you agree there should be an associated requirement for a policy statement which would guide the interpretation and application of a duty, were one to be created?

Section 2: Environmental governance arrangements

46. The purpose of this section is to consider the potential gaps in environmental governance arrangements following exit from the EU.
47. Building on the Roundtable's report, this section considers four key parts of environmental governance arrangements.

Defining environmental governance

48. Environmental governance arrangements ensure effective implementation of policy relating to the environment and compliance with the law relating to the environment. There are four key parts to environmental governance arrangements, which can overlap and interact:

Part 1. Monitoring, measuring and reporting activities.

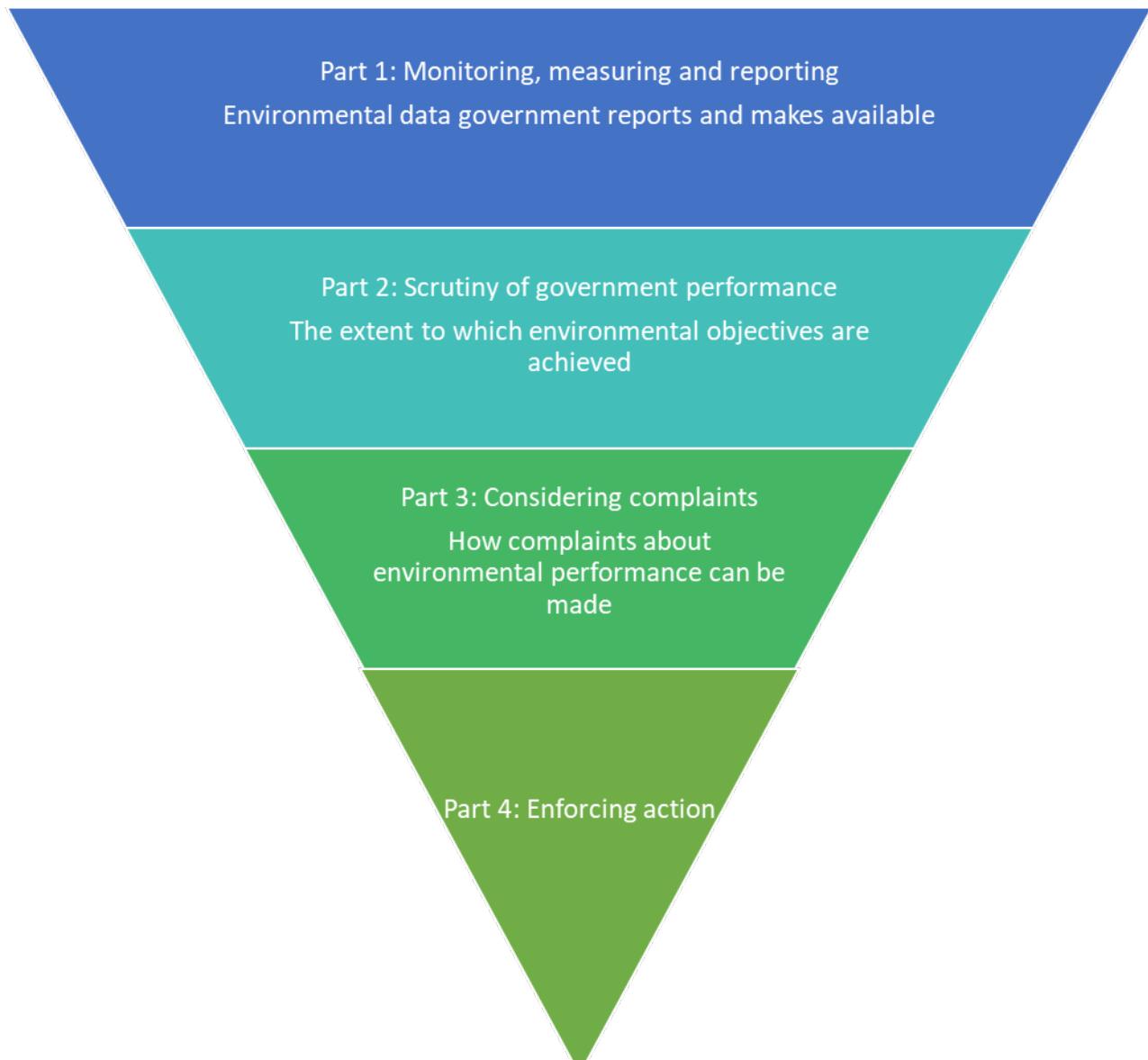
Part 2. The scrutiny of government performance and the extent to which stated environmental objectives are being achieved.

Part 3. A mechanism to consider any complaints by members of the public or civic organisations, which can lead to enforcement action, if an issue of legal compliance were to arise.

Part 4. Enforcing action with respect to legal compliance by government and its agencies in correctly interpreting and following environmental law.

49. Scrutiny can refer to scrutiny of government performance (i.e. whether the government is achieving its stated environmental objectives); scrutiny of government plans and strategies (i.e. whether they are likely to improve our environment); or scrutiny of the effectiveness of Scottish legislation (i.e. whether legislation is meeting its aims).

Figure 2. Four parts of environmental governance arrangements



Part I – Monitoring, measuring and reporting

50. This part considers access to environmental data and information in order to:

- understand the changing state of the environment within Scotland;
- develop environmental law and policy;
- understand the impact of these policies and laws on environmental outcomes, and
- support scrutiny of the implementation of environmental law and policy.

What currently happens?

51. EU membership has provided a framework for monitoring, measuring and reporting on environmental outcomes. It has supported the sharing of information between jurisdictions and the collation of consistent information at EU level. This has allowed progress on environmental objectives to be assessed in a structured and consistent way following agreed methodologies.

52. Many of the reporting requirements are statutory and EU institutions provide the capacity to undertake analysis and prepare reports. Reporting is normally undertaken on behalf of the EU Member States and data are, therefore, often aggregated at UK level.²⁷

53. The Scottish Government, its agencies and non-departmental public bodies maintain working links across the European Union, and their expertise is often sought in helping to develop new guidance and to inform best practice. In turn, this allows Scotland to benefit from experience elsewhere and to establish comparisons with other European nations. One of the key environmental organisations is the European Environment Agency (EEA) (see box) which is an important source of information for those involved in developing, adopting, implementing and evaluating environmental policy. Many Scottish institutions work closely with the EEA, and the EEA supports European networks such as the European Network of the Heads of Environment Protection Agencies (EPA Network) in which the Scottish Environment Protection Agency has long played a leading role.

²⁷ Some data (e.g. some data collected under Directive 2007/60/EC on the assessment and management of flood risks) are not aggregated at the UK level prior to submission to the Commission, or to the European Environment Agency. Examples of aggregated data include article 17 reporting on the Habitats Directive where Scottish information is aggregated via the Joint Nature Conservation Committee. Where Scottish data are aggregated at a UK level, they are generally also published and made available at a Scottish level (e.g. progress data for river basin management planning are published on SEPA's water environment hub (online river basin management plans) which can be viewed here: <https://www.sepa.org.uk/data-visualisation/water-environment-hub>)

The **European Environment Agency (EEA)** is an agency of the European Union which aims to provide sound, independent information on environmental matters. For those involved in developing, adopting, implementing and evaluating environmental policy the EEA is a key source of information. The business community, academia, civil society and the public are all able to use the information provided by the EEA.

The EEA currently has 33 member countries and six other cooperating countries. Through collaborative joint working, the EEA countries are responsible for bringing together national networks involving many institutions (about 350 in all), typically comprising national environment agencies or environment ministries.

The EEA's mandate is:

- To help the Community and member and cooperating countries make informed decisions about improving the environment, integrating environmental considerations into economic policies and moving towards sustainability.
- To coordinate the European environment information and observation network (Eionet).

What will we continue to have and what might be lost?

54. The UK's future relationship with the EU may shape requirements for monitoring, measuring and reporting in the longer term. Much of the information currently reported at international level, including to the EU, is also essential at Scottish level to guide and inform our policy development. After a UK exit from the EU, this information will still be gathered and reported to comply with international agreements and to meet domestic needs and requirements. Public bodies will continue to have monitoring and reporting duties.

55. The Roundtable identified issues about:

- Our future ability to use EU systems to facilitate reporting and contribute to developing methodologies.
- The ability to aggregate data at European level and assess UK progress on a comparative basis.
- Access to wider expertise, systems, and data and knowledge holdings.
- Potential loss of requirements for data to be published.

Question 5: What do you think will be the impact of the loss of engagement with the EU on monitoring, measuring and reporting?

How could this be addressed?

56. During any transition period, it is expected that the current monitoring, measuring and reporting activities would be maintained. The monitoring and reporting requirements in existing EU legislation are expected to be replicated in UK and Scottish legislation through a series of statutory instruments.
57. It will be important, once the requirements of EU membership no longer apply to the Scottish Government, that we provide clarity on the scope and purpose of environmental reporting and monitoring. We accept the Roundtable's suggestion that a review of environmental reporting and monitoring could help to rationalise current programmes. It could build on recent progress on the efficiency of data collection, including the use of remote sensing, and on the reporting and accessibility of data and statistics in Scotland. For example, Scotland's environment web (SEWeb)²⁸ delivers a shared hub for environmental information and data. It presents environmental information and data from many agencies.
58. A review would also consider opportunities to clarify and consolidate reporting requirements. For instance, there are currently around 290 separate environmental reporting requirements on the UK listed on the EEA's database.²⁹ In 2018, the European Commission reviewed reporting arrangements³⁰ and proposed a new Regulation aimed at alignment of environmental reporting obligations. Our review of reporting requirements would consider this proposal and adopt any revised procedures where this is possible.
59. This review will be complementary to the proposed development of a monitoring framework set out in the discussion paper on '*Developing an Environment Strategy for Scotland*'.³¹

Question 6: What key issues would you wish a review of reporting and monitoring requirements to cover?

29 <https://www.eionet.europa.eu/>

30 <https://www.consilium.europa.eu/en/press/press-releases/2018/11/07/environmental-reporting-alignment-council-agrees-its-position/>

31 <https://www.gov.scot/publications/developing-environment-strategy-scotland-discussion-paper/>

Part II: Scrutiny of government performance

60. This part considers the scrutiny of government performance and the extent to which stated environmental objectives are being achieved.

What currently happens?

61. The European Commission scrutinises whether the environmental objectives of the EU, as expressed in its Environmental Action Programme³², are being met. It does this by commissioning research and analysing data from the Member States. The Commission can also prepare and publish more general progress reports such as the Environmental Implementation Review³³, which assesses progress with implementing the environmental acquis across the European Union.
62. In Scotland, the Scottish Parliament scrutinises the performance of the Scottish Government and holds Ministers to account for the effectiveness and implementation of policy and legislation. For environmental policy, the scrutiny role is led by the Environment, Climate Change and Land Reform Committee.
63. Other public bodies have scrutiny roles which are independent of the Scottish Government.

For instance:

- The Scottish Public Sector Ombudsman (SPSO) can investigate complaints by members of the public who claim to have sustained injustice or hardship in consequence of maladministration in connection with the exercise of administrative functions.
- Audit Scotland can examine the implementation of policy by public bodies in terms of both its effectiveness and efficiency.
- The Scottish Information Commissioner can issue guidance and consider complaints about the performance of public bodies in meeting requirements in terms of access to information, including the requirements of the Environmental Information Regulations.

What will we continue to have and what might be lost?

64. Once UK withdrawal from the EU is complete, there will be no oversight from the European Commission or its agencies. There is likely to be a requirement in a future agreement with the EU for independent arrangements for scrutiny of compliance with environmental obligations. The scrutiny role of the Scottish Parliament and other public bodies as described above will continue.
65. However, the Roundtable identified issues relating to:
- The loss of capacity and expertise to undertake assessment and investigation that is available through the Commission and specialist agencies like the EEA.
 - The loss of a level of independent scrutiny to report on performance.

32 <http://ec.europa.eu/environment/action-programme/>

33 http://ec.europa.eu/environment/eir/index_en.htm

Question 7: Do you think any significant governance issues will arise as a result of the loss of EU scrutiny and assessment of performance?

How could this be addressed?

66. The Scottish Government wishes to establish an approach to supporting scrutiny by the Scottish Parliament which meets our essential requirements to:
- Help Scotland to maintain or exceed existing environmental standards and to comply with international environmental obligations.
 - Fit Scottish circumstances and established methods of accountability.
 - Be fair, open and transparent.
 - Respect the devolution settlement.
 - Be effective and proportionate in delivering strong environmental protection.

67. Any future scrutiny arrangements will need to work well with existing governance arrangements and be flexible enough to respond to future developments. We have not reached a conclusion on the best institutional framework to support this scrutiny. The purpose of this consultation is to gather views on whether any additional functions might be required to support effective scrutiny, and how these requirements should be delivered, either through expanding the role of an existing public authority or authorities or through a new body. Any new functions would need to complement the vital role of civil society in scrutinising government performance.

68. The Roundtable considered a set of options to support the Scottish Parliament to meet its future scrutiny requirements and to demonstrate transparency and openness. The aim of these options would be to provide both (i) an enhanced level of analysis about what is being achieved on the environment and (ii) reassurance that there is a degree of independence to this view. The options the Roundtable looked at included a combination of existing and new mechanisms:
- Continuing scrutiny by civil society of government performance.
 - Expanding the role of existing public bodies to provide an enhanced level of analysis and information provision.
 - Establishing an 'independent supervisory panel' to provide additional scrutiny in the short to medium term.
 - Creating a new independent body to undertake scrutiny functions in the long term.

69. In order to reflect existing scrutiny and assessment functions effectively, any future arrangements must have the following key features:

a) Access to specialist expertise and skills

Scrutiny and assessment must be supported by access to data and information required in order to reach conclusions on the achievement of environmental objectives. This reflects the Roundtable's finding about the loss of capacity and expertise to undertake assessment that is available through the Commission and specialist agencies like the EEA.

b) Independence from government

Scrutiny and assessment must be carried out in an open and fair way that is independent of Scottish Government. Again, this feature reflects the Roundtable's analysis of the issues arising from the UK's withdrawal from the EU, where the independence of the Commission from member states' governments is a distinctive asset. There are various ways in which independence could be achieved – either through extending the functions of an existing body or by establishing a new body. One option would be to establish a Commissioner, a model for which there are a number of existing examples (see box).

Examples of Commissioners in Scotland

The Scottish Information Commissioner³⁴

The Scottish Information Commissioner is the independent public official responsible for promoting and enforcing Scotland's freedom of information (FOI) law. The exercise of functions by the Commissioner is not directed or controlled by the Scottish Government or Parliament.

The Commissioner's functions include investigating appeals and issuing legally enforceable Decision Notices. The Commissioner also provides guidance to public authorities on how to meet their legal obligations, encourages public authorities to develop good FOI practice, monitors FOI practice and can intervene to remedy concerns.

The Children and Young People's Commissioner Scotland

Created by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is directly funded by the Scottish Parliament.

The Commissioner's main task is to promote and safeguard the rights of children and young people in Scotland. The Commissioner has a number of statutory duties including a duty to review law, policy and practice relating to the rights of children and young people with a view to assessing their adequacy and effectiveness. Specific regard must also be had to any relevant provisions of the United Nations Convention on the Rights of the Child.

The Commissioner also has a power of formal investigation where the rights of groups of children and young people may have been breached.

³⁴ <http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.aspx>

Other options would be to consider the establishment of a non-departmental public body, which would require legislation, or to extend the powers of an existing public body to undertake scrutiny of environmental matters. Any model would have to incorporate the requirement for independence. We have not reached a conclusion about whether a new body is needed for this and other parts of environment governance in future, in part because of continuing uncertainty about the nature of the long term relationship between the UK and the EU.

c) Adequate powers

Finally, any effective scrutiny function would require adequate powers, including – for instance – powers to investigate and powers to require public bodies to respond to their enquiries. Should evidence of a failure to comply with environmental legislation be established, powers to refer matters to a court and powers to mediate might be required.

70. The Roundtable identified the possible need for a body to have 'own initiative' powers. This means it would have powers not just to consider available information, but to instigate its own reports and require the provision of information.

Question 8: How should we meet the requirements for effective scrutiny of government performance in environmental policy and delivery in Scotland?

Scope of scrutiny arrangements

71. There is no simple way to define the scope of environmental policy, and many policy areas interact with the natural environment. In addition, the scope of scrutiny by the EU is limited by the extent of EU competence. A useful guide to the extent of EU competence is the areas which are listed by the Commission's Directorate General for Environment as being 'environmental policies',³⁵ set out in the table at Annex A. The level of scrutiny will vary depending on the nature of EU law in different policy areas. For comparison, the table also shows the framework approach developed by the Roundtable in order to identify areas of environmental law within which to assess governance issues.³⁶ Another approach to defining environmental law is taken in the UK Government's draft Environment (Principles and Governance) Bill.³⁷ The explanatory notes provide examples of matters which would normally be considered to be the subject of environmental law, for the purposes of the Bill.

72. It will be important to have a clear statement of the scope of any new scrutiny arrangements. We propose that the scope will include the following policy areas, based on the Roundtable's framework:
- nature conservation and biodiversity;
 - air pollution emissions and transboundary pollution issues;
 - environmental impact, access to environmental information and environmental justice;
 - marine environment;
 - radioactive substances;
 - waste and circular economy;
 - water environment and flooding;
 - chemicals, biocides and pesticides
 - climate change mitigation and adaptation obligations;
 - soils and contaminated land.

Question 9: Which policy areas should be included within the scope of any scrutiny arrangements?

35 http://ec.europa.eu/dgs/environment/index_en.htm#

36 <https://www.gov.scot/publications/report-roundtable-environment-climate-change-environmental-governance-scotland-uks-withdrawal/>

37 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766849/draft-environment-bill-governance-principles.pdf

Part III: Considering complaints

73. This part considers the ability of people to make a complaint about either government or public authorities in relation to their compliance with environmental law.

74. In order to do so, we need to consider:

- mechanisms for individuals or organisations to make complaints regarding the application of environmental law; and
- access to expert and independent advice.

What currently happens?

75. At present, people can report to the European Commission any instances where they consider there has been a failure to apply EU environmental law. The Commission has discretion to act upon the information received, which can ultimately lead to infringement proceedings before the Court of Justice of the EU (CJEU). The number of open infringement cases being considered by the Commission's Directorate General for Environment at the end of 2017 was 325. The number of such cases has declined over the last decade. Of these cases, 15 related to the United Kingdom.³⁸

76. Within Scotland, people may pursue concerns through the complaints procedures of public authorities; through their elected representatives; through the Scottish Public Sector Ombudsman (SPSO); or directly to Parliament through the Petitions procedures. All major public authorities in Scotland have complaint procedures through which issues of concern can be raised directly

and a formal response received. These procedures include provision for appeals and escalation.

77. The SPSO can investigate complaints by anyone who claims to have sustained injustice or hardship because of maladministration in connection with the exercise of administrative functions. Individuals must have already exhausted the complaints process with the relevant body before going to the SPSO. The Ombudsman can then consider forms of redress for that individual if the complaint is upheld. The SPSO does not have a role in considering environmental issues where the impact (injustice or hardship) is on a disparate group of people, as opposed to individuals.

78. Individual citizens have the right to petition the Scottish Parliament on any matter of concern within devolved competence. Petitions must be about matters of national policy and practice, and not about individual cases or decisions. Other people can then express support for a petition. Recent petitions about environmental policy have included the raising of concerns about the protection of mountain hares, and questioning the impact of solid fuel stoves on air quality. The Scottish Parliament's Petitions Committee can seek written evidence from the Scottish Government, public authorities and other interested parties. It can commission analysis from the Scottish Parliament Information Centre. The Committee can consider whether the concerns highlighted in the petition point to failures in compliance with international obligations or Scottish law and policy strategies. Having investigated a petition, the Petitions Committee can decide that no further action is needed, or refer

³⁸ <http://ec.europa.eu/environment/legal/law/statistics.htm>

the matter on to the relevant subject Committee to add to their consideration of the wider policy issues.

What will we continue to have and what might be lost?

79. Once the UK's withdrawal from the EU is complete, the Commission and the CJEU will have no role in considering new complaints relating to matters in Scotland. It is likely that there will be a requirement in the future agreement with the EU for transparent, independent and adequately resourced complaints arrangements. The existing Scottish arrangements will continue.
80. However, the Roundtable identified issues about:
- Who can bring a case with respect to harm to the environment.
 - The loss of the Commission's role as an essential means of ensuring Member States take their duties seriously – it acts as an incentive for Member States to deal with concerns and complaints before they reach the Commission.
 - The loss of the Commission's role in resolving concerns and problems without formal procedures.

81. We have not reached a conclusion about whether a new body is needed for this and other parts of environment governance in future, in part because of continuing uncertainty about the nature of the long term relationship between the UK and the EU.

Question 10: What do you think will be the impact in Scotland of the loss of EU complaint mechanisms?

How could this be addressed?

82. The Roundtable considered that to replace the current function of the European Commission to receive and consider complaints, it would be necessary either to expand the role of existing agencies and independent bodies or to provide powers to a new body. This would require legislation.
83. If a new body were established to consider complaints then many of the considerations set out in the previous part on the models for an independent monitoring function would also apply to a complaints function. In practice, it is likely that the different parts of environmental governance would be provided for in a single institutional arrangement.

Question 11: Will a new function be required to replace the current role of the European Commission in receiving complaints from individuals and organisations about compliance with environmental law?

Part IV: Enforcing action

84. This part considers the enforcement of effective implementation by government of environmental law.

What currently happens?

85. The European Commission examines whether EU legislation is being properly transposed into national legislation and implemented in a way that meets the legal requirements contained in European Directives. The Commission generally seeks first to resolve issues through guidance and discussion. The CJEU can be asked to rule on an issue through infraction proceedings and, potentially, require remedy and apply sanctions should a Member State be found to be in breach of EU law. The Scottish Government is obliged to take responsibility for infraction cases in devolved law. A recent example is the CJEU judgment in October 2018 that the UK must designate additional special areas of conservation for harbour porpoises. There is a potential for further action, and ultimately substantial fines, if the UK does not comply with this ruling.

86. Within Scotland, the main mechanism to challenge failures in the implementation of environmental law, or a decision by a public body, including the Scottish Government, is through judicial review. This involves a review of the legality of the actions of the body, including whether it was within the powers of the body and for a proper purpose and consistent with the principles of administrative law. At present, a judicial review can be brought by any person with appropriate standing. Courts can require changes to government decisions through judicial

review but not impose fines. It is not within the responsibilities of any public authority to refer other public bodies to a court for their failure to implement environmental law effectively.

Powers to order interim measures

87. To prevent irreversible damage, the CJEU may require a member state to implement necessary interim measures, for example, to halt an activity, until a final ruling is made. The purpose of these powers is to ensure that no harm is done pending consideration of the merits of the issues and a final decision reached.
88. In Scottish courts, interim relief may be available in relation to activities that are alleged to breach environmental laws pending consideration of the merits of the issues. For example, courts can grant interim relief so that developments or other measures are not proceeded with until a full examination of the legal issues has been carried out, and public bodies also have powers to halt harmful activities (via both Nature Conservation Orders and Land Management Orders).³⁹
89. These powers to order interim measures have rarely been used either in Scotland or at an EU level.

³⁹ The Nature Conservation (Scotland) Act 2004 and The Conservation (Natural Habitats, &c.) Regulations 1994

What will we continue to have and what might be lost?

90. Once the UK's withdrawal from the EU is complete, the Commission and the CJEU will have no role in enforcing compliance by the Scottish Government with environmental law. There may, however, be provisions in a future relationship between the UK and the EU requiring us to have measures to ensure compliance with a set of environmental standards. Political accountability through Parliament and legal accountability through judicial review will continue. In the absence of recourse to the European institutions, it is likely that judicial review will be sought as a route of redress in a wider range of circumstances.

91. In their consideration of this subject, the Roundtable identified issues about:

- The loss of the Commission's power to refer a member state to court for failure to properly implement EU environmental law.
- The fact that judicial review proceedings are traditionally used to consider powers, process and procedure rather than substantive environmental outcomes. The nature of many EU measures is to impose obligations on Member States to achieve specific outcomes (e.g. a target for air or water quality or for recycling rates).
- The CJEU's powers to impose fines on Member States which do not comply with its rulings.

Question 12: What do you think the impact will be in Scotland of the loss of EU enforcement powers?

How could this be addressed?

92. It will not be possible to replace the supranational role played by the European institutions. We have not yet reached a conclusion about whether any additional measures are needed, or whether greater use of existing domestic remedies might be sufficient. We are interested in collecting additional evidence and views on the need for any new arrangements. One option would be to create a function for a Scottish body to have the responsibility to refer the Scottish Government or a public authority to a Scottish court for failure to properly implement environmental law.
93. It is important to bear in mind that only a very small number of cases reach the CJEU. We do, however, want to ensure that deterrents relating to compliance with environmental law are real and effective. We agree with the Roundtable's assessment that there are difficult considerations in creating a domestic system of financial penalties for failures to comply with environmental law. It is important that there continues to be a credible final stage of enforcement, including the ability to impose effective interim measures to prevent additional harm and to seek effective remedy and restoration of any environmental damage.

Question 13: What do you think should be done to address the loss of EU enforcement powers? Please explain why you think any changes are needed?

Responding to this Consultation

We are inviting responses to this consultation by 11 May 2019.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/environment-forestry/environmental-principles-and-governance>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 11 May 2019.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form (Annex C) and send to:

Environment and Land Use Strategy Team
Scottish Government
3H South
Victoria Quay
Edinburgh
EH6 6QQ

Email : EPGScotland@gov.scot

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at EPGScotland@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review;
- inform the development of a particular policy;
- help decisions to be made between alternative policy proposals; and
- be used to finalise legislation before it is implemented.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Annex A

Approaches to defining the scope of environmental policy

DG Environment website ⁴⁰	Roundtable on Environment and Climate Change's framework approach ⁴¹
Air	Air pollution emissions, transboundary pollution and climate change
Chemicals	Chemicals, biocides and pesticides
Circular economy	Waste and circular economy
Environmental assessment	Environmental impact, access to environmental information and environmental justice
Environmental Implementation Review	
Green growth	
Green public procurement	
International issues	
Land	
Marine and coast	Marine environment
Nature and biodiversity	Nature conservation and biodiversity
Noise	
Soil	
Sustainable development	
Urban environment	
Waste	Waste and circular economy
Water	Water environment and flooding
	Nuclear and radioactivity issues

⁴⁰ The DG Environment website also includes a group of other topics and policy areas under the heading: 'Greening other areas'. These are listed as: Agriculture, Cohesion policy, Development, Employment, Energy, Enterprise, Economics, Fisheries, Forests, European Semester, Internal Market, Research, Solidarity Corps, Trade and External Relations, Transport.

⁴¹ <https://www.gov.scot/publications/report-roundtable-environment-climate-change-environmental-governance-scotland-uks-withdrawal/>. Areas of environmental law considered in the Roundtable's report are listed in paragraph 2.2

Annex B

Glossary of terms and acronyms

Audit Scotland: A public body which provides independent assurance that public money is spent properly, efficiently and effectively in Scotland, supporting the Auditor General and the Accounts Commission.

Back stop: The arrangements set out in the Protocol on Ireland/Northern Ireland in the EU – UK Draft Withdrawal Agreement which would apply if a trade agreement is not reached by the end of the transition period. It would ensure that no “tariffs, quotas, rules of origin or customs processes” would be applied to UK-EU trade.

Court of Justice of the European Union (CJEU): The judicial authority of the EU which ensures the uniform application and interpretation of EU law. The CJEU reviews the legality of the acts of the institutions of the EU, ensures that the member states comply with obligations under the Treaties, and interprets EU law at the request of the national courts and tribunals.

Directives: An EU directive is a legislative act that sets out a goal that all EU member states must achieve, without dictating the means of achieving that goal. Member states must generally pass the relevant domestic legislation to give effect to (transpose) the terms of the directive.

Environmental governance: A set of mechanisms, rules and practices to assign, implement, apply and enforce environmental law and policy frameworks.

Environmental principles: Environmental principles help to guide and shape environmental law and policy. They are reflected in international agreements (e.g. the Rio Declaration on Environment and Development and the UN Convention on Biological Diversity) and are an integral part of EU and domestic legislation and policy making.

European Union (EU): The political and economic union of member states located primarily in Europe.

EU referendum: A UK national referendum held on 23 June 2016 on whether the UK should leave or remain in the EU.

EU retained law: The European (Withdrawal) Act 2018 preserves EU-derived domestic law and rolls over directly applicable EU law into the UK statute book on exit day. This collectively then becomes 'retained EU law'.

European Commission: The EU's executive, with responsibility for decisions on the EU's political and strategic direction.

European Environment Agency (EEA): An agency of the EU which aims to provide sound, independent information on environmental matters, including the gathering of data and production of assessments on a wide range of topics related to the environment.

Infraction Proceedings: See **infringement proceedings**.

Infringement Proceedings: Where it detects a failure to comply with EU law, the European Commission can begin infringement proceedings against a member state for failure to fulfil a treaty obligation.

Joint Nature Conservation Committee (JNCC):

The public body that advises the UK Government and devolved administrations on nature conservation issues at a Great Britain, United Kingdom and European level.

Judicial Review: The process by which a court reviews a decision, act or failure to act by a public body or other official decision maker. It is only available where other effective remedies have been exhausted and where there is a recognised ground of challenge.

Non Departmental Public Bodies (NDPBs):

Public bodies which work outwith central Government and operate at arm's length from ministers.

National Performance Framework (NPF): This framework provides the basis for the Scottish Government and its partners across different sectors to work in integrated ways to achieve national outcomes and contribute to the Scottish Government's purpose and the UNs Sustainable Development Goals.

Office of the Scottish Information Commissioner (OSIC):

The independent public official responsible for promoting and enforcing Scotland's freedom of information (FOI) law.

Regulations: A law or rule, set down by an authority (usually government), to regulate conduct.

Roundtable: The Roundtable for the Environment and Climate Change.

Scottish Environment Protection Agency (SEPA):

A non-departmental public body of the Scottish Government. As Scotland's principal environmental regulator, SEPA's role is to protect and improve the environment, including ensuring Scotland's natural resources are managed in a sustainable way; and to contribute to improving the

health and well being of people in Scotland; and to achieving sustainable economic growth.

Scottish Natural Heritage (SNH):

A non-departmental public body of the Scottish Government responsible for advising Scottish Ministers on all matters relating to the natural heritage.

Scottish Public Services Ombudsman (SPSO):

An independent organisation that handles complaints about public services in Scotland. It is the final stage for complaints about councils, the National Health Service, housing associations, colleges and universities, prisons, most water providers, the Scottish Government and its agencies and departments and most Scottish authorities.

Single market: The European Single Market is a trade bloc encompassing the EU member states, along with four other countries, that involves the free movement of goods, services, people and money. Common rules and regulations make it easy for companies within member states to trade across national borders.

Transition period: The proposed period, set out in the EU – UK Draft Withdrawal Agreement, between the UK leaving the European Union (on 29 March 2019) and the start of new arrangements for future trade (on 1 January 2021). It will only come into effect as part of a withdrawal agreement with the EU.

Transposed EU legislation: In EU law, transposition is a process by which member states give force to an EU directive by passing appropriate domestic legislation.

Withdrawal Agreement: The draft EU – UK Withdrawal Agreement will, if passed in the UK Parliament, govern the process of terminating the UK's membership of the European Union.

Annex C

Consultation on Environmental Principles and Governance

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual

Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

Publish response only (without name)

Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No



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