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Policy paper

Draft environmental principles policy statement

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Introduction: our new approach to environmental protection

The government has committed that we will be the first generation to leave the environment in a better state than that in which we found it. To make this happen, it is vital that we deliver a system that places environmental considerations at the heart of policymaking across government. This is the reason for the introduction of the environmental principles in the Environment Act 2021. This will enable us to protect and enhance our environment and preserve England's unique natural assets, all within the context of building resilience to biodiversity loss and the effects of our changing climate.

Leaving the European Union (EU) has opened the door to new opportunities for reviewing historic EU rules and processes to ensure our regulations work for us. We have the chance to strengthen environmental protection and enhancement. We can also ensure that environmental principles are used consistently across government to guide policymaking whilst supporting innovation and economic growth.

This statement will assist in realising this opportunity. The 5 principles in this statement play an important role to support environmental improvement plans (for example the [25 Year Environment Plan](https://www.gov.uk/government/publications/25-year-environment-plan) (<https://www.gov.uk/government/publications/25-year-environment-plan>)) and to delivering on our net zero commitment to tackle climate change. It is not prescriptive in dictating the outcome of any application of the environmental principles. Instead, it aims to provide ministers, and those developing policy on their behalf, with the space to use the principles to enable and encourage innovation. This approach will ensure that nature and the environment are proactively designed into the policymaking process.

Environmental principles: an overview

What are environmental principles?

The 5 principles in this draft policy statement, as set out in section 17(5) of the Environment Act, are internationally recognised as successful benchmarks for

environmental protection and enhancement. When making policy, and where relevant, ministers will need to consider:

- the integration principle
- the prevention principle
- the rectification at source principle
- the polluter pays principle
- the precautionary principle

The UK government has already committed to these 5 principles through international instruments and processes^{[\[footnote 1\]](#)}.

The purpose of these principles is to guide ministers and policymakers towards opportunities to prevent environmental damage and enhance the environment, where relevant and appropriate. However, the principles are not rules and they cannot dictate policy decisions by ministers.

Policymakers should consider and use the principles iteratively from the outset and during subsequent stages in policy development. They should identify the potential environmental effects and use the principles to inform and influence the design of the policy.

What is the role of the policy statement?

Improvement of environmental protection and sustainable development

As required by section 17(4) of the Environment Act, the Secretary of State is satisfied that this policy statement will contribute to the improvement of environmental protection and sustainable development. Application of the environmental principles to policymaking will enhance environmental protection and promote sustainable development.

For the purpose of this policy statement (and as defined in the Environment Act section 45), “environmental protection” means:

- a) protection of the natural environment from the effects of human activity
- b) protection of people from the effects of human activity on the natural environment
- c) maintenance, restoration or enhancement of the natural environment
- d) monitoring, assessing, considering or reporting on anything in paragraphs (a) to (c)

Sustainable development is development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs. It involves trying to achieve environmental benefit alongside economic growth and social progress.[\[footnote 2\]](#)

This policy statement sets out how ministers should interpret and proportionately apply the principles, so that they are used effectively and embedded in policy to protect the environment. It aims to empower ministers and those working on their behalf to think creatively and use environmental principles in an innovative and forward-thinking way. It does not seek to dictate a set formula for how environmental principles should be applied to policymaking.

This policy statement is a statutory document. The Environment Act requires a Minister of the Crown to have ‘due regard’ to this policy statement when making policy. The duty to ‘have due regard’ is commonly used in legislation. It means that those to whom the duty applies should consider the environmental principles policy statement with substance, rigour and an open mind. This will ensure an effective and consistent application, which is not just a tick-box exercise. The duty applies to all policy across government (not just environmental policy) subject to limited exemptions laid out in section 19(3) of the Environment Act, relating to:

- the armed forces, defence or national security
- taxation, spending or the allocation of resources within government

This policy statement should be read alongside other relevant government documents, such as national policy statements. The duty does not override any relevant international or statutory obligations.

Devolution and reserved matters

Environmental protection is a devolved matter, subject to a small number of reserved areas. Therefore, each devolved administration can legislate

individually for the environmental principles in their nation.

This policy statement applies to the development of policy by Ministers of the Crown, including when developing policy relating to Scotland in reserved areas. It does not apply to policy so far as relating to Wales or Northern Ireland, or to Scotland where the policy does not relate to reserved areas.

Polycymaking

The legal duty to have due regard to this policy statement applies to ministers when making policy. Policy can be broadly understood as an intended course of action adopted to achieve an objective.

Examples of policy include:

- proposals that lead to legislation
- national policy statements, strategies and frameworks
- ministerial statements setting out the government's formal position on an issue
- documents, strategies and frameworks prepared by public bodies that ministers are required by statute to approve
- any other document that sets out a substantial change in approach to an established position

Making policy includes making, developing, adopting, revising, or repealing policy. An insubstantial change to an existing policy will not amount to revising a policy.[\[footnote 3\]](#)

Polycymaking is typically undertaken by government departments making policy on behalf of Ministers of the Crown. In practice, some arm's length bodies may also develop policy for ministers. In those instances, polycymaking would be in scope of this duty. However, in most cases these arm's length bodies are not developing or making government policy and would therefore be out of scope.

Policy vs individual decisions

The duty is not designed to capture individual regulatory, planning or licensing decisions made by ministers or authorities acting on their behalf.

For example, the duty would apply to a minister when making policy that involved developing a funding scheme framework. However, when making the individual decision as to which organisation would receive the funding, ministers or officials working on their behalf would not need to have due regard to the statement.

Similarly, with reference to planning, the duty would apply to any policy which outlines the policy intent (for example a National Policy Statement or planning practice guidance). However, it would not apply where ministers are making an individual decision as a result of that National Policy Statement or deciding on individual planning applications.

Definitions

Meaning of ‘environment’

In the context of this policy statement, references to the environment mean the natural environment. As defined in section 44 of the Environment Act, the natural environment means:

- a) plants, wild animals and other living organisms
- b) their habitats
- c) land (except buildings or other structures), air and water

and the natural systems, cycles and processes through which they interact.

Meaning of ‘environmental effect’

An environmental effect means a change to the environment which can be:

- a primary effect (that is, intended) or secondary
- occurring once, repeatedly, or cumulative
- local, regional, national or transboundary

- short-term, medium-term or long-term
- permanent or temporary
- positive or negative

Proportionality

When considering the potential environmental effects of a policy option, and the possible changes to the policy, policymakers should take a proportionate approach. This will depend on the environmental effects of a policy and whether they are both a) likely to occur, and b) likely to have a significant effect. If that is the case, policymakers will decide appropriate actions in relation to other broader policy considerations. However, policymakers should be mindful of cumulative effects, which may only become substantial when considered together. Environmental effects will be different for each policy, and these will need to be assessed on a case-by-case basis.

Policymakers are not expected to carry out a “deep-dive” assessment into all environmental effects, as these may not be known. Nor are policymakers required to replicate the environmental impact assessment process. Instead, the level of research into the environmental effect should be relative to the likely effect of the policy on the environment.

This allows policymakers to apply the policy statement in a lighter-touch way, where appropriate and where the potential environmental effect is limited. In rare circumstances, particularly in response to a national emergency where imminent action is needed, the duty should be applied in a way and extent that is relative to the context and the need for a rapid response.

Applying the principles – understanding environmental effects and opportunities

The environmental principles listed in this policy statement operate as a set of overarching principles to guide the development of all relevant policy. At the outset, before a policy has been developed, a policymaker should consider how the environmental principles listed in the policy statement could help shape the policy in general. This might involve considering whether the policy can prevent

environmental harm, promote environmental enhancement, or do both. The policymaker should then consider the potential effects of the policy on the environment. Policymakers should take an iterative approach by regularly reviewing opportunities to shape the policy and its effects as the policy develops.

Not all environmental principles are of the same nature or function; they serve different purposes and will focus the policy in different ways. Some of the environmental principles will be appropriate for all relevant policy areas. Other principles will only be relevant in circumstances where there are specific factors for their use.

Assessing whether a policy will have potential environmental effects

Policies can affect the environment in a variety of ways, for example through pollution, CO₂ or other emissions and physical changes such as biodiversity or habitat loss. When thinking about the potential environmental effects of a policy, policymakers should consider the primary and secondary effects of the policy on the environment. Among other issues, this includes the extent to which it will contribute to climate change, and our net zero commitment.

The environmental effects of a policy should be considered regardless of where the potential effect occurs whether that be in England, or other nations in the UK. If it is feasible and appropriate to consider the overseas effects of a policy, this must be done proportionately and within reason.

Criteria for taking action

Policymakers should take a holistic, common sense approach when thinking through the effects of a policy. They should consider how adjusting the design in the early or later stages in the policy cycle could result in greater environmental protection.

Ministers are not required to take action or refrain from taking action where there would be no significant environmental benefit, or the action would be disproportionate to the environmental benefit. This means that if the policy has no potential environmental effects, or the environmental effects are negligible

(that is, so small or unimportant that it would be insignificant), policymakers do not need to take action. However, policymakers should be mindful of cumulative effects.

The principles must be applied proportionately. This means that ministers should balance social, economic, and environmental considerations in making policy. They should consider the environmental effects of a policy and any mitigating actions. They should consider this in the context of the associated costs and benefits to society of the policy's primary objectives, as well as the financial and economic costs and benefits. This includes the potential effects on the environment, and any related ecosystem services. Having done so, ministers may decide that the public interest is best served by taking forward a policy option that includes associated environmental effects. In these cases, the issues should be recorded, and policy teams should consider the issues in the round.

Applying the environmental principles will look different in each policy area and in some cases no change to the policy will be appropriate. This will depend on the principle under consideration and the opportunities in that context.

Interaction between the principles

The integration principle is overarching, and simply requires that policymakers should look for opportunities to embed environmental protection into policy.

In order for the principles to be most cost-effective and lead to better environmental outcomes, it is preferable for environmental damage to be prevented under the prevention principle. If it is to be addressed after it has occurred, then the rectification at source and polluter pays principles should be considered to reduce, mitigate or disincentivise damage.

This order of consideration is not fixed and may be adjusted if a different order more appropriately addresses a policy's environmental effects. Where a significant adverse effect is likely as a result of a policy, it may be necessary to consider all principles in determining the best policy.

General application options

Many actions can be taken based on applying the principles, either alone or in combination with others. Possible actions that could be taken as a result of having considered the principles may include:

1. Amending policy options or including an additional policy option in the initial design of a policy, which reflects consideration of the environmental principles. In some cases, considering a principle may introduce a new option as a different solution to the policy problem. For example, one where the polluter may pay. This option would then be subject to the same policy evaluation as the existing options.
2. Reframing the policy to accommodate the principles. In some cases, the policy design may need to be amended to ensure that a specific principle is applied. This could include the framing of the problem, the detail of how the policy option may work, or how it may be implemented.
3. Embedding a principle in law or guidance. If policymakers want the principles to be used in decision-making or the implementation of a policy, this approach may be appropriate. This could be relevant where proposed legislation might include associated powers, duties or obligations that may have a significant effect on the environment.
4. Postponing a policy until further evidence is gained. If a policymaker is unsure on whether action is appropriate, they should gather further evidence. Applying the precautionary principle may encourage policymakers to explore the potential environmental damage before moving forwards. Or, where the risk is serious, they may amend, postpone or discontinue the policy in rare cases.

The 5 environmental principles

Embedding environmental protection - the integration principle

Description: The integration principle proposes that policymakers should look for opportunities to embed environmental protection in fields of policy that have environmental effects.

When to use the integration principle: The integration principle applies to all policy in scope of the legal duty, where the policy has a potential environmental

effect.

Application of the integration principle: Applying the integration principle involves considering whether the policy has the potential to cause a negative environmental effect which could be avoided, minimised or reduced through alterations to the policy in proportion to other policy aims.

Integration may also present an opportunity for policymakers to build environmental protection, maintenance, restoration or enhancement into policies from the outset and throughout the development of policies.

In applying the integration principle, policymakers should take a holistic view about how best to deliver policy objectives.

The integration principle provides an all-encompassing framework that incorporates the features of all the other environmental principles outlined below.

Prevention and mitigation of environmental effects

The prevention principle

Description: The prevention principle means that government policy should aim to prevent environmental harm. This principle underpins many aspects of environmental policy to ensure that environmental damage, such as CO2 emissions, pollution or biodiversity loss^{[\[footnote 4\]](#)}, is avoided.

The prevention principle should promote policy design options that prevent environmental damage either before it has occurred (through policy design), or to contain existing damage. This can have economic benefits as it prevents additional costs and complexities that arise when environmental damage occurs.

The prevention principle should generally be used in preference over the rectification at source principle or polluter pays principle, as these principles are used in instances when prevention cannot be achieved.

When applying the prevention principle, policymakers should have particular regard for habitats and species that are endangered or vulnerable, and national

environmental priorities.

When to use the prevention principle: The principle is most effective when it is considered at an early stage, ideally before any environmental harm has occurred. The policymaker should therefore attempt to apply the prevention principle as early as possible. The prevention principle is applicable where a policy has the potential to cause a negative environmental effect. In circumstances where damage has already occurred, the principle should be used to prevent further damage from occurring and ensure that damage does not spread.

There may be situations in which the risk of some environmental damage has to be accepted because it would be disproportionate to prevent all possible damage. Where this is the case, the policymaker should consider applying the rectification at source or polluter pays principles.

Application of the prevention principle: The prevention principle aims to prevent environmental damage and therefore its application involves:

1. Understanding the potential environmental harm of the policy. The policymaker must consider the potential harm identified in the policy through the process for applying the principles, as outlined above. There may be more than one aspect of the environment which could be harmed through the policy (for example land and water).[\[footnote 5\]](#)
2. Considering the extent to which environmental harm can be prevented based on the scale of this harm. Policymakers should consider:
 - whether the damage is short-term or long-term
 - how widespread the damage is likely to be, remembering that a small level of damage multiplied across different areas can become significant
3. Exploring the ways in which this harm could be prevented and the costs and benefits of either preventing or not preventing the damage. The policymaker should consider options to modify the policy to avoid environmental harm. This must be balanced against the original policy objectives and other relevant costs and benefits. A natural capital approach, which considers the value of the natural environment for people and the economy, could be used to support this analysis.[\[footnote 6\]](#)

The rectification at source principle

Description: The rectification at source principle states that environmental

damage should, as a priority, be addressed at its origin to avoid the need to remedy its effects later. Rectification at source should result in approaches that are more cost-effective, efficient, and equitable in the long-term.

When to use the rectification at source principle: The principle should be used to guide the design of policy that addresses or manages environmental damage, or potential environmental damage. It may not always be possible to identify or address all environmental damage at its origin. Where it is not possible to address it at source, there should be consideration of trying to contain or limit the environmental harm as much as possible.

Application of the rectification at source principle: The rectification at source principle requires environmental damage and its source to be identified and therefore policymakers should:

1. Understand what the environmental damage (or potential environmental damage) is. This damage could relate to any aspect of harm to the natural environment.
2. Understand where the damage originates from.
3. Consider the feasibility of rectifying the issue at source versus other options, and the costs and benefits of doing so. Efforts should be made to pursue solutions at source, where proportionate.

The polluter pays principle

Description: The polluter pays principle means that, where possible, the costs of pollution^{[\[footnote 7\]](#)} should be borne by those causing it, rather than the person who suffers the effects of the resulting environmental damage, or the wider community.

The polluter pays principle serves several functions and may be used through different phases of policymaking. It can be used in the design of a policy (before the damage has occurred) to prevent or deter environmental damage. In cases where pollution cannot be avoided or is caused by accident, the polluter pays principle can be used to restore or redistribute the costs of environmental damage. Applying this principle helps to incentivise individuals or groups to avoid causing environmental damage and encourage sustainable practices.

When to use the polluter pays principle: The polluter pays principle is applicable where there is evidence of, or potential for, environmental harm or a negative environmental effect; and prevention of that harm is not possible or

proportionate.

Application of the polluter pays principle: policymakers should consider:

1. Who the polluter is: the polluter could be an individual, group or sector.

Considerations for making this assessment include:

- What is the driver for the pollution being caused and who is responsible for this? It may be difficult to identify or define the polluter, the source of pollution and the associated cost over time. Policymakers must use judgement to identify who the polluter is and the extent to which the polluter ought to and is able to pay.
- How does the allocation of responsibility for the pollution cause the most environmental benefit? For example, in order to bring about a change in behaviour, it may be more effective to charge the consumer of a product associated with environmental harm rather than the producer. For example, the introduction of the plastic bag charge successfully incentivised changes in consumer behaviour and a reduction in consumption. It also allowed retailers to take further actions (such as reducing the availability of plastic bags at tills or for home delivery) as a result of consumer charges, to further decrease the use of plastic bags.
- Who is it fair to expect to pay for the pollution? It may be more effective to distribute the cost across a particular sector responsible for the pollution, rather than place it on an individual or group.

2. How much the polluter should pay: the polluter pays principle should be applied proportionately. This means that the amount the polluter pays should be proportionate to the environmental damage and the wider costs and benefits to society of the activity in question. When deciding how much polluters should pay, policymakers must consider the value of the environmental damage caused by the polluter or the potential polluter, along with the costs and benefits associated with the polluter paying (fully or partially) for this damage. In some cases, full cost recovery may not be possible or proportionate and in these cases it may be reasonable that the cost is covered through other means.

3. How the polluter should pay: the polluter can pay in a variety of different ways depending on what is appropriate, and how this can act as an incentive or disincentive for action. [\[footnote 8\]](#) It may be most appropriate for the polluter to pay directly through fees or charges, or indirectly through regulatory or contractual requirements (which in turn require additional investment to fulfil) to ensure the outcome minimises the environmental damage. In the latter instance, fines or penalties for breaching these obligations may also be appropriate.

However, the duty to have due regard to the policy statement does not create

an obligation on ministers to create a tax in response to the polluter pays principle. If it is decided it would be appropriate for the consumer to pay, the costs of environmental damage (such as pollution control and remediation) would be reflected in the cost of goods and services. Each policy area should consider how the costs of environmental damage could be recovered as well as how polluters could be disincentivised from causing further environmental damage.

Risk management - the precautionary principle

Description: The precautionary principle^{[\[footnote 9\]](#)} assists the decision-making process in the face of a lack of scientific certainty. The principle helps policymakers deal with risks which may not be precisely calculable in advance.

The UK government is a signatory to the 1992 Rio Declaration. Its definition of the precautionary principle states that ‘where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation’.

When to use the precautionary principle: The precautionary principle is applicable where there is plausible evidence of a risk that a particular policy could cause serious or irreversible damage to the environment, alongside a lack of scientific certainty about the likelihood and severity of this damage. The precautionary principle supports policymakers in their management of that risk.

In applying the principle, the policymaker needs to make a reasonable assessment, using the best available scientific evidence, of the risk. Risk in this case should be understood as a combination of the likelihood of the environmental damage occurring and its severity.

Application of the precautionary principle: The application of the precautionary principle manages risk where there is a lack of scientific certainty of the seriousness and likelihood of plausible environmental damage. It therefore requires:

1. Identifying the risk of serious or irreversible environmental harm: The principle focuses on managing the risk of serious or irreversible damage to the environment. Where there are gaps in the scientific evidence base, this should not be used as a reason for inaction if there is a plausible risk of serious or irreversible harm. Achieving scientific certainty may take considerable time and, where the environmental threat is serious or

irreversible, inaction could increase the risk of damage occurring or could cause or worsen the potential damage.

It is fundamental to the principle that the level of uncertainty determines the acceptable level of risk. As the risk of serious damage increases, the level of certainty required before action is taken reduces. However, in all cases, for the precautionary principle to apply, there must be sufficient evidence that the risk of serious or irreversible damage is plausible and real, and where choices are considered to prevent or reduce the environmental degradation in question, they should be cost-effective. This means the precautionary principle should not be applied speculatively and policymakers are not required to prove that a policy is without risk in order to proceed as planned.

2. Managing the risk of serious or irreversible environmental harm:

Policymakers must take a holistic approach in applying the precautionary principle. In some cases, it may be that an alternative technology offers significant potential to reduce the risk associated with established practices. In that case, a policymaker might judge that the likely environmental, economic, or social harm or the opportunity cost of the established practices is greater than the risk of facilitating a cautious deployment of new technology and new innovations. Equally, it may be that there is inconclusive scientific evidence surrounding a particular activity, and a policymaker might judge that they should exercise caution, preventing or limiting the activity until sufficient evidence to support a decision becomes available.

Innovation: The precautionary principle should incentivise innovation by encouraging development of alternative policy options that reduce risk and uncertainty. New or innovative technologies should not be held to a higher standard of safety than existing ones where the level of risk is comparable, otherwise their potential to deliver benefits will be lost. The principle should not unnecessarily hinder innovation due to novelty, without plausible evidence of a risk of serious or irreversible harm, and it should only prevent or defer an innovative development where that risk outweighs the benefits, including potential benefits.

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1. One prominent example is the Rio Declaration on Environment and Development 1992 which includes commitments on the principles. Environmental principles are also featured in a number of environmental agreements to which the UK is party. For example, the precautionary principle is referred to in the Montreal Protocol on Substances that Deplete the Ozone Layer and the Convention on Biological Diversity.
 2. The United Nations has 17 Sustainable Development Goals that aim to achieve a more sustainable future for all. They address global challenges such as poverty, inequality, climate change, environmental degradation and

peace and justice. [United Nations, Sustainable Development Goals: Take Action for the Sustainable Development Goals \(https://www.un.org/sustainabledevelopment/sustainable-development-goals/\)](https://www.un.org/sustainabledevelopment/sustainable-development-goals/).

3. Revising a policy to include factual updates would not count as ‘making policy’. This includes framework documents that set out the responsibilities of government departments, public bodies and partnerships. A substantial change to an existing policy could include strengthening or weakening legislation that could affect the environment, removing provisions that could affect the environment or changing the direction of a policy to allow or prohibit certain activities.
4. The terms environmental pollution, damage and environmental harm are used interchangeably in this document to refer to a negative environmental effect.
5. It is not expected that every single piece of environmental harm is prevented through this approach but is instead an overall driver towards preventing environmental harm.
6. Defra’s [Enabling a Natural Capital Approach \(ENCA\) \(2021\)](https://www.gov.uk/guidance/enabling-a-natural-capital-approach-enca) (<https://www.gov.uk/guidance/enabling-a-natural-capital-approach-enca>) provides tools to assist departments in understanding natural capital and how to take it into account.
7. In this situation ‘pollution’ is synonymous with environmental damage, and the ‘polluter’ refers to those causing the environmental damage.
8. Dame Glenys Stacey, [The Farm Inspection and Regulation Review \(2018\)](https://www.gov.uk/government/publications/farm-inspection-and-regulation-review) (<https://www.gov.uk/government/publications/farm-inspection-and-regulation-review>), provides further information on how this principle should be used in the context of developing regulations on farming and when it may and may not be appropriate to make the polluter pay.
9. While the precautionary principle has been applied to a diverse range of areas, for the purposes of this policy statement, it is applied only to the environment. This does not mean that the precautionary principle does not apply in other circumstances as required by other law where there is scientific uncertainty and potential harm. For example, to human health, food, and safety.

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