

Environmental Principles and Governance after the United Kingdom leaves the European Union

Consultation on environmental principles and accountability for the environment

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About techUK

techUK represents the companies and technologies that are defining today the world that we will live in tomorrow. More than 950 companies are members of techUK. Collectively they employ approximately 700,000 people, about half of all tech sector jobs in the UK. These companies range from leading FTSE 100 companies to new innovative start-ups. The majority of our members are small and medium-sized businesses.

Part 1: Environmental Principles

Q1: Which environmental principles do you consider as the most important to underpin future policy making?

a) Sustainable Development

High importance/Medium importance/Low importance/Do not include/Other

Please give any reasons for your answer (250 word limit)

We support a continuation of the environmental principles enshrined in the EU law. This will help to ensure continued business certainty and predictability in the application of EU law which is now to be enshrined in UK law.

b) Precautionary Principle

High importance/Medium importance/Low importance/Do not include/Other

Please give any reasons for your answer (250 word limit)

We support a continuation of the environmental principles enshrined in the EU law. This will help to ensure continued business certainty and predictability in the application of EU law which is now to be enshrined in UK law.

c) Prevention Principle

High importance/Medium importance/Low importance/Do not include/Other

Please give any reasons for your answer (250 word limit)

We support a continuation of the environmental principles enshrined in the EU law. This will help to ensure continued business certainty and predictability in the application of EU law which is now to be enshrined in UK law.

d) Polluter Pays Principle

High importance/Medium importance/Low importance/Do not include/Other

Please give any reasons for your answer (250 word limit)

We support a continuation of the environmental principles enshrined in the EU law. This will help to ensure continued business certainty and predictability in the application of EU law which is now to be enshrined in UK law.

e) Rectification at Source Principle

High importance/Medium importance/Low importance/Do not include/Other

Please give any reasons for your answer (250 word limit)

We support a continuation of the environmental principles enshrined in the EU law. This will help to ensure continued business certainty and predictability in the application of EU law which is now to be enshrined in UK law.

f) Integration Principle

High importance/Medium importance/Low importance/Do not include/Other

Please give any reasons for your answer (250 word limit)

We support a continuation of the environmental principles enshrined in the EU law. This will help to ensure continued business certainty and predictability in the application of EU law which is now to be enshrined in UK law.

g) Other environmental principles not listed

Innovation Principle
Principles of Better Regulation

High importance/Medium importance/Low importance/Do not include/Other

Please give any reasons for your answer (250 word limit)

The **innovation principle** was introduced by the European Risk Forum in 2013 and is complementary to the existing stock of European principles. It aims to ensure that whenever a policy or regulatory decision is under consideration the impact on innovation as a driver for jobs and growth is fully assessed and addressed. It sets out to provide a new and positive way of ensuring that policy makers fully recognise social and economic needs for both precaution and innovation.

Alongside the stock of environmental principles the **principles of better regulation** should also be enshrined whereby regulation is designed with the intention of minimising regulatory burden by being "smarter, better targeted and less costly to business."

Q2: Do you agree with these proposals for a statutory policy statement on environmental principles (this applies to both Options 1 and 2)?

Yes/No/Other response/Don't know/No opinion

If "other response" was selected, please state what this is below (please limit to 250 words).

techUK supports the principles being enshrined in the Bill with more detail on their application being outlined in a supporting statutory policy statement.

Please give any reasons for your answer (250 word limit)

techUK believes this approach will support consistency in the interpretation of the principles and in their subsequent application by those developing policy and implementing regulatory decisions.

Q3. Should the Environmental Principles and Governance Bill list the environmental principles that the statement must cover (Option 1), or should the principles only be set out in the policy statement (Option 2).

Option 1: Environmental principles listed on the bill

Option 2: Environmental principles only set out in the policy statement

Option 3: Other response

Option 4: Don't know/no opinion

If "other response" was selected, please state what this is below (please limit to 250 words).

Please give the reasons for your answer (please limit to 250 words)

techUK supports Option 1 as it provides more long-term certainty to our members.

Part 2: Accountability for the environment

Question 4: Do you think there will be any environmental governance mechanisms missing as a result of leaving the EU?

- Yes, I agree with the consultation document.
- I think the governance gap will be greater in some areas than that described in the consultation document.
- I think the governance gap will be less in some areas than that described in the consultation document.
- I do not think there will be any environmental governance mechanisms missing as a result of leaving the EU.
- Don't know/no opinion
- Other response

If "Other response" was selected please state what this is below (please limit to 250 words).

Please give the reasons for your answer (please limit to 250 words).

Question 5: Do you agree with the proposed objectives of the establishment of the new environment body?

a/Act as a strong, objective and impartial and well-evidenced voice for the environmental protection and enhancement.

Yes/No/Partially, but with amendments/Don't know/No opinion

Please give the reasons for your answer (please limit to 250 words).

techUK supports the establishment of a body that provides impartial, well-evidenced voice on **environmental performance and protection** in line with commitments that have been made in Government strategies and accompanying legislation. This has proved to be a successful model in the case of the Committee on Climate Change, whose high calibre staffing made of experts, economists and data scientists have ensured robust, well-evidenced advice to Government in delivering the ambition laid out in the Climate Change Act. We'd like to see a similar degree of expertise and experience in the independent body.

b/ Be independent of government and capable of holding it to account.

Yes/No/Partially, but with amendments/Don't know/No opinion

Please give the reasons for your answer (please limit to 250 words).

It is important that the body is independent and capable of holding it to account from a business certainty perspective. We have seen in the past Government reign in on previous commitments and make u-turns that have led to losses for businesses that have invested against previous decisions. If companies are to invest in business models in line with the intentions outlined in the 25 year environment plan then it is absolutely vital that the body is independent of Government and capable of holding it to account. However, we question whether a body which is providing advice to Government is also capable of impartially carrying out enforcement activities too and question whether there needs to be actually two separate bodies – one providing analysis, expert advice and scrutiny and another enforcement body.

c/ Be established on a durable, statutory basis

Yes/No/Partially, but with amendments/Don't know/No opinion

Please give the reasons for your answer (please limit to 250 words).

We have seen in the case of the Environment Agency that independent voices that may be critical of Government have had their independence stripped back with successive governments. The independent body must be durable and statutory to avoid this happening in future.

d/ Have a clear remit, avoiding overlap with other bodies

Yes/No/Partially, but with amendments/Don't know/No opinion

Please give the reasons for your answer (please limit to 250 words).

techUK absolutely supports the body having a crystal clear remit from the outset. However, we think there is an opportunity to consider whether to bring relevant, existing bodies together rather than to design the new body to avoid overlap with them.

e/ Have the powers, functions and resources required to deliver that remit

Yes/No/Partially, but with amendments/Don't know/No opinion

Please give the reasons for your answer (please limit to 250 words).

Without the necessary powers, functions and resources then it would be incapable of delivering its objectives.

f/ Operate in a clear, proportionate and transparent way in the public interest, recognising that it is necessary to balance environmental protection against other priorities.

Yes/No/Partially, but with amendments/Don't know/No opinion

Please give the reasons for your answer (please limit to 250 words).

It is important that the body operates in a clear, proportionate and transparent way and that the business community can engage with body, when appropriate. We have seen in the past the pursuit of environmental outcomes which fail to weigh up the wider benefits for society i.e. chemical rules being applied without due consideration of the way in which the chemical is being used and the benefits for society for using that chemical in certain applications. We need to avoid unbalanced decision making whilst operating in the public interest.

g/ Other objective not listed below

Please list any other objectives below (please limit to 250 words)

Is UK wide

Please give any reasons for your answer (please limit to 250 words).

Is UK wide – techUK sees no benefit in the UK establishing potentially three separate bodies to fulfil the same task. A UK-wide body will help to reduce cost and provide more alignment for business. We recognise that environmental issues are devolved but that doesn't preclude the development of one standard with national flexibility in how it is applied. This approach works well in the case of the Committee on Climate Change, for example.

Q6. Should the new body have functions to scrutinise and advise the government in relation to extant environmental law?

- **Yes**
- **No**
- **Don't know/no opinion**
- **Other response**

If 'other response' was selected please state what this is below (please limit to 250 words).

Whilst we agree that a body should be established to scrutinise and advise Government in relation to the extant environmental law, as above, we question whether a single body can provide advice and impartially enforce as well. Further, we believe that the body providing this advice must be sufficiently nimble to address issues as they arise: for example, the body should have the flexibility to intervene if it looks like a target will be missed rather than reviewing why a target has been missed after the event.

Please give any reasons for your answer (please limit to 250 words).

See above.

Q7. Should the body be able to scrutinise, advise and report on the delivery of key environmental policies, such as the 25 Year Environment Plan.

- a. Annual assessment of national progress against the delivery of the ambition, goals and actions of the 25 year environment plan.**

Yes/No/Don't know/no opinion

Please give any reasons for your answer (please limit to 250 words)

- b. Provide advice when commissioned by government on policies set out in government strategies and other published documents on how they are being implemented.**

Yes/No/Don't know/no opinion

Please give any reasons for your answer (please limit to 250 words)

- c. Respond to government consultations on potential future policy**

Yes/No/Don't know/no opinion

Please give any reasons for your answer (please limit to 250 words)

d. Other response

If you selected yes to “other” please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

Question 8: Should the new body have a remit and powers to respond to and investigate complaints from members of the public about the alleged failure of government to implement environmental law?

Yes/No/Other response/Don't know/No opinion

If you selected yes to “other” please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

Question 9: Do you think any other mechanisms should be included in the framework for the new body to enforce government delivery of environmental law beyond advisory notes?

a. Binding Notes

Include/Exclude/Partially include but with amendments/Don't know/No opinion

Please give any reasons for your answers (please limit to 250 words)

b. Intervention in legal proceedings

Include/Exclude/Partially include but with amendments/Don't know/No opinion

Please give any reasons for your answers (please limit to 250 words)

c. Agree environmental undertakings

Include/Exclude/Partially include but with amendments/Don't know/No opinion

Please give any reasons for your answers (please limit to 250 words)

d. Other powers not listed

Include/Exclude/Partially include but with amendments/Don't know/No opinion

Please give any reasons for your answers (please limit to 250 words)

Fines: The biggest omission *vis a vis* what is currently in place is the ability to levy fines against a department for failing to meet an environmental objective. We believe that, if all other measures have failed, this should be the final course of action with any fines

levied taken from Treasury and hypothecated into a fund that can only be used to support the delivery of the failed target. This would be by far the strongest signal to business of the robustness of the strategy, providing in turn a clear signal for investment.

Question 10: The new body will hold national government directly to account. Should any other authorities be directly or indirectly in the scope of the new body?

a. Non-Ministerial Departments and Non-Departmental Public Bodies

Yes/No/Don't know/No opinion

Please state which NMDs and NDPBs should be directly in scope below.

Any NMDs and NDPBs which has a role in the delivery of environmental legislation and goals should be in scope.

Please give any reasons for your answer (please limit to 250 words)

The governance and assessment of effective enforcement practices of any body tasked with the delivery of environmental legislation should be subject to review by the independent body. This will help to provide business certainty.

b. Local authorities

Yes/No/Don't know/No opinion

Please state which local authorities should be directly in scope below.

Any local authority which has a role in the delivery of environmental legislation and goals should be in scope.

Please give any reasons for your answer (please limit to 250 words)

The governance and assessment of effective enforcement practices of any Local Authorities tasked with the delivery of environmental legislation should be subject to review by the independent body. This will help to provide business certainty.

c. Other public authorities

Yes/No/Don't know/No opinion

Please state which other public authorities should be directly in scope below.

Any public authority which has a role in the delivery of environmental legislation and goals should be in scope. This will help to provide business certainty.

Please give any reasons for your answer (please limit to 250 words).

The governance and assessment of effective enforcement practices of any authority tasked with the delivery of environmental legislation should be subject to review by the independent body.

Question 11: Do you agree that the new body should have oversight of domestic environmental law, including that derived from the EU, but not of international environmental agreements to which the UK is party?

a/ EU environmental law retained under the EU withdrawal bill

Include all/Include some/ Exclude/ Don't know/No Opinion/ Other response

If you selected yes to "other" please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

This will help to provide business certainty.

b/ Domestic environmental law not based on EU legislation

Include all/Include some/ Exclude/ Don't know/No Opinion/ Other response

If "other" was selected please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

This will help to provide business certainty.

c/ International environmental law

Include all/Include some/ Exclude/ Don't know/No Opinion/ Other response

If "other" was selected please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

This will help to provide business certainty.

Question 12: Do you agree with our assessment of the nature of the body's role in the areas outlined below?

Climate Change

Agree/Disagree/Partially Agree, Disagree/Other/Don't know, No opinion

If "other" was selected please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

We are struggling to see the distinction between climate change and environment and do not support the rationale to exclude climate change from the scope of the body. Climate change, and our adaptation to it, is central to our ability to meet the 25 year environment plan. Indeed, in time, we hope that many of the metrics that underpin environmental action are more closely linked to climate change goals and objectives (for example carbon metrics for recycling instead alongside weight-based ones).

Further, while the Committee on Climate Change has an excellent record for delivering quality advice and information, we have not yet seen what happens when circumstances mean that we fail to meet carbon budgets and its advice is ignored. Climate change policy has been subject to controversial u-turns in recent years and concerns remain on our ability to meet the next carbon budget target. The enforcement element (or as we have argued the enforcement body) should be able to hold Government to account for its ability to meet climate change goals as well as environment ones to strengthen business certainty and support investment.

Agriculture

Agree/Disagree/Partially Agree, Disagree/Other/Don't know, No opinion

If "other" was selected please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

We support the Government's assessment to include relevant aspects of agricultural policy in the scope of the body's remit.

Fisheries and the Marine Environment

Agree/Disagree/Partially Agree, Disagree/Other/Don't know, No opinion

If "other" was selected please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

We support the Government's assessment to include relevant aspects of agricultural policy in the scope of the body's remit.

Question 13: Should the body be able to advice on planning policy?

Yes/No/Other response/Don't know, no opinion

If "other" was selected please state what this is below (please limit to 250 words)

Please give any reasons for your answer (please limit to 250 words)

We support the two roles Government has identified in the consultation paper: to be a key consultee and to provide advice on the implementation of the environmental aspects of existing planning policy and suggest future changes.

Part 3: Overall environmental governance

**Question 14: Do you have any other comments or wish to provide any further information relating to the issues addressed in this consultation document?
Please explain below.**

For business, the most important factors are to have a **clear long-term direction of travel, certainty and policy stability** – these factors must be designed into the fabric of the Bill to ensure businesses can make decisions and invest reliably against Government strategy.

Furthermore, businesses want one standard to work to across the entire breadth of the UK and as less divergence as possible across the four nation states of the UK. While we recognise that environmental matters are a devolved matter, we strongly believe that the issues outlined in this consultation should be harmonised across the UK. We urge all governments of the UK to work together to try and achieve this. We believe this is a benefit not only for consistency and business certainty, but logically from a cost and expertise perspective.