

Anglian Water is the water and water recycling provider for over 6 million customers in the East of England, encompassing everything between the Humber and Thames estuaries and around fifth of the English coastline. The area we serve is home to some of the most ecologically diverse and internationally significant wetland habitats. In fact, we have over 3,300km of rivers, the UK's only wetland National Park in The Broads, a fifth of the total number of Sites of Scientific Interest in England, and a quarter of England's best bathing waters along our 1240km of coastline. As a responsible business, we know the importance of our role as stewards of the natural environment.

We play a crucial role ensuring the water we take and return to the environment is of the highest standards and, ultimately, we want to see a flourishing natural environment and dynamic biodiversity. This is why we share the Government's vision to be the first generation to leave the natural environment in a better state than we inherited it. Indeed, the water industry has been delivering on that commitment since the industry was privatised in 1989.

We welcome the vision set out in this consultation, and believe that the proposals will create a strong framework to protect and enhance the natural environment for the long term. There are areas where the proposals could go further, but the direction of policy is positive. We are pleased to have the opportunity to contribute to the debate so that the UK develops a system of responsive and rigorous environmental protections that suit the country, while responding to emerging threats and scientific research.

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

We welcome the inclusion of all of the environmental principles in Annex A of the consultation. In particular, we would like to see (among others) the inclusion of the following principles:

- Polluter pays
- Prevention principle
- Rectification at source
- Sustainable development

Inclusion of these principles is crucial in order to underpin future policy development. Of equal importance however is their enforcement which is key to actually delivering real environmental enhancement. This is particularly the case for sustainable development, and there is more work to be done to develop and resource a framework to ensure adequate enforcement of this principle.

Additionally, we would also welcome the inclusion of the following principles:

- Maintenance of a strong regulatory baseline: to ensure that existing environmental standards are not compromised post-Brexit.

- Natural capital and environmental net gain - a key commitment underpinning the 25 Year Environment Plan. We believe this principle should also be included within any legislative proposals.
- Recognition of both water quantity (availability) and quality as a public good – the inclusion of which we believe is vital within the development of a replacement to the current Common Agricultural Policy.

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

Yes - the proposals for a statutory policy statement on environmental principles are appropriate.

3: 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)?

Whilst both options 1 and 2 would adequately ensure that environmental principles are taken into account in policymaking, option 1 would be our preferred choice as it gives a strong statement of the Government's intent and commitment to the environmental principles.

A statutory policy statement explaining how environmental principles embedded in legislation should be interpreted and applied should be reviewed and consulted upon periodically, for example every five years. This would ensure that the interpretation and application will remain fit for purpose in improving environmental standards. However, we would like to see a draft policy statement on the interpretation and application to be published for consultation alongside publication of the Governance and Principles Bill.

Whichever option is selected, it must focus on how environmental protection is delivered. That is to say a range of tools should be available to the new body to ensure proportionate and flexible enforcement. Adequate enforcement action has a significant role to play in any future approach, but communication and education should be pursued in the first instance before enforcement action is taken.

Additionally, the remit and focus of the new bill must be wholly and truly cross-government. For example, plastic pollution from car tyres - believed to be the biggest source of micro-plastic pollution into the aquatic environment - should mean that the Department for Transport is held to account by the new body, not Defra. This would be in line with the principle of Rectification at Source.

Ultimately, whichever option is chosen, the legislation needs to be responsive to emerging research, whilst also carrying sufficient weight to demonstrate a firm commitment to the guiding principles.

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

In the strictest sense, the European Court of Justice's ability to carry out infraction against the Government will be missing as a result of EU withdrawal, along with some of the enforcement mechanisms. However, if the proposals within the consultation are strengthened, such as allowing the new body to use binding notices, intervene in legal proceedings and order environmental undertakings, these gaps can be overcome.

Essentially, the enforcement of environmental legislation must not be weakened during or after the creation of the new body.

5: Do you agree with the proposed objectives for the establishment of the new environmental body?

We do agree with the proposed objectives. Although, we must stress the importance of the new body holding all government departments to account equally and not focus on Defra specifically, echoing recommendation two from the Westminster Sustainable Business Forum [Bricks and Water](#)¹ report.

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

Yes - the new body should be able to scrutinise and advise the government in relation to extant environmental law.

7: Should the new body be able to scrutinise, advise and report on the delivery of key environmental policies, such as the 25 Year Environment Plan?

Yes - the new body should be able to advise and scrutinise on the delivery of the 25 Year Environment Plan. Additionally, it should have powers to enforce against its delivery and be resourced appropriately to fulfil its duties.

We would welcome greater clarity on how the new body will be funded as this is crucial to ensuring its impartiality.

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 - it is right that members of the public are able to ask the new body to investigate and take action against government failure to implement environmental law. Any procedure through which the public are able to make complaints to the new body should not hinder the ability of other interest groups to take legal action in the courts against government.

¹ Bricks and Water, *Westminster Sustainable Business Forum*, 2018. Page 8.

Equally, the powers of the new body should be legally enforceable and proportionate, rather than overzealous in a way that promotes box-ticking regulation which stifles innovation.

Finally, we believe the Government should explore the feasibility of extending the remits of other regulatory bodies, like the Parliamentary and Health Service Ombudsman or the Local Government and Social Care Ombudsman, to reduce regulatory burden on and cost of the new environmental body.

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 notices?

Yes - we support the use of the other options considered in the consultation, including binding notices, intervention in legal proceedings and environmental undertakings.

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?

We wholeheartedly believe that the new body should hold national government to account, rather than other public bodies. However, in exceptional circumstances, we support a remit to take action against local government if they persistently fail to implement central government environmental policy, particularly in relation to the delivery of sustainable housing and water management, as echoed by Westminster Sustainable Business Forum².

Beyond this exception, we do not believe it to be appropriate for the new body to regulate ALBs and other public bodies. This should remain the responsibility of the respective parent department.

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

Given that international environmental agreements tend to be multi-lateral concordats that are designed to be self-governing, it is right that the new body should only have oversight over domestic environmental law. We want to see that the remit of the new body is clear to reduce the likelihood of duplication of tasks which may already be undertaken by other bodies.

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

In the areas outlined in the consultation, the nature of the body's role would seem appropriate. However, the areas of assessment in the consultation are too narrow. We want to see further assessment of the new body's role within broader areas, such as housing development, plastics, and waste strategy and standards.

² Bricks and Water, *Westminster Sustainable Business Forum*, 2018. Page 33.

There are other areas where the new body could perhaps add value in scrutinising existing EU directives once the supremacy of EU law has ended, like the Urban Waste Water Treatment Directive or the Water Framework Directive. Transposed legislation should be scrutinised to ensure they are fit for purpose; provide genuine environmental outcomes; and that they do not replicate tasks or create unnecessary regulatory burden.

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

Yes - we believe that the new body should be able to advise the Government on planning policy. Specifically, this should be done through a mandatory 'Bricks and Water' Sustainability Code, as advocated by the Westminster Sustainable Business Forum³. This code would set out national housing and water policy with statutory targets for environmental public good, and it would be the responsibility of the Ministry for Housing, Communities and Local Government.

The new body should then be able to provide strategic leadership to ensure the practical implementation of environmental targets around housing and water, and should make an annual report on policy and implementation issues to the Secretaries of State for Housing and the Environment respectively⁴.

14: Do you have any other comments or wish to provide any further information relating to the issues addressed in this consultation document?

The new body should adhere to the principles set out within the Better Regulation Framework. It would be a missed opportunity to deliver real change if the new body was simply to become a catch all regulator that picks up areas where other bodies are not exercising their powers effectively.

Moreover, it is crucial that the new body creates an environment that promotes innovation to deliver environmental improvements through an outcomes-based approach. A great example of this outcomes-led thinking is our wetland scheme in Ingoldisthorpe, Norfolk. Rather than use a traditional end of pipe solution, preferred by the current regulatory framework for their certainty, we worked with the EA to deliver a natural, wetland solution that significantly reduced carbon, reduced cost and drastically improved the local natural environment. A detailed case study of this scheme can be found [here](#).

³ Bricks and Water, *Westminster Sustainable Business Forum*, 2018. Pages 33-34.

⁴ Bricks and Water, *Westminster Sustainable Business Forum*, 2018. Pages 33.