



Association of Directors of
Environment, Economy, Planning & Transport

Environmental Principles Team
Department for Environment, Food and Rural Affairs

Submitted via email to:
environmental.principles@defra.gov.uk

28th May 2021

Dear Environmental Principles Team,

Consultation on environmental principles policy statement – ADEPT response.

About ADEPT

The Association of Directors of Environment, Economy, Planning and Transport (ADEPT) represents Place Directors from county, unitary and metropolitan authorities, along with Directors of Local Enterprise Partnerships and corporate partners drawn from key service sectors. ADEPT members are at the very heart of maximising sustainable growth in communities throughout the UK. We deliver the projects that are key to unlocking broader economic success and creating more resilient communities, economies and infrastructure.

General comments

ADEPT welcomes and supports the Government's ambition set out in the 25 Year Environment Plan for this to be the first generation that leaves the environment in a better state than that in which we inherited it. We also welcome and support the ambition to create a new, world-leading, statutory and independent environmental watchdog to hold government to account on our environmental ambitions and obligations. The challenge is to translate these bold ambitions into effective outcomes, this will require strong political and professional leadership to achieve.

The draft policy statement on environmental principles is extremely disappointing and we do not believe that it will help to translate the Government's bold ambitions into effective outcomes. The reasons for this are:

- The principles themselves remain inadequate
- Their applicability is too narrow
- The policy statement is highly discretionary – it does not make clear how the principles should be applied in practice and what weight should be given to them in comparison with other factors
- Beyond 'due regard', they are not legally binding and there is no mechanism for holding Ministers to account

- There is no requirement for Ministers and their advisers to seek independent expert advice on the potential environmental impacts of their policies. Similarly there is no requirement for, nor even acknowledgment of the desirability of, audit and/or review of impact post policy implementation.

Taking all these reasons into account, the policy statement as drafted represents a significant diminution to environmental protection compared to the previous position governed by EU law.

These principles and policy statement need to underpin and explicitly drive public and private investment in green infrastructure and the natural environment to deliver carbon reduction, adaptation and resilience, promote nature restoration and reverse biodiversity loss. The principles and policy statement must be owned across Government and be reflected in key policies such as agriculture (including alignment with the Environmental Land Management Scheme) and transport (including requirements for highways trees and biodiverse verges), planning reform, flood risk management, and a green urban environment.

Environmental principles

Our response to the 2018 consultation on environmental principles and governance is available [here](#). We said then that the list of principles was not comprehensive, and suggested three more:

- International co-operation, working constructively with other nations to tackle cross-border environmental issues and support international agreements
- Non-regression, maintaining current standards and matching or bettering future EU standards
- Delivery of the targets for reducing greenhouse gas emissions, as required under the Climate Change Act 2008.

We still maintain that the current list of five principles is insufficient and should be expanded. Since 2018, the Government has made the statutory commitment to net zero by 2050, meaning that the tackling climate change principle is more important and should be strengthened.

We would now add a further principle on the need to promote nature restoration and reverse biodiversity loss. It is disappointing that the draft policy statement does not mention the Dasgupta review of the economics of biodiversity. The prevention principle – that Government policy should aim to prevent, reduce, or mitigate environmental harm – does not promote nature restoration and reverse biodiversity loss. It is not adequate to point to the very broad definition in the Environment Bill of ‘environmental protection’ meaning (amongst other things) the maintenance, restoration or enhancement of the natural environment. We need a clear additional principle to “ensure that our demands on Nature do not exceed its supply, and that we increase Nature’s supply relative to its current level” (Dasgupta).

In addition, the definition of ‘environmental protection’ should include heritage – the irreplaceable historic environment, as well as the natural.

The application of the principles

The policy statement is intended for Ministers and those working on their behalf, which presumably includes Government departments and bodies such as the Environment Agency and Natural England when acting as policy advisers. It is positive that the duty to have due regard to the policy statement applies to all policy across government, not just environmental policy. It is also positive that the principles should be considered at an early stage in policy-making. However, we believe that the principles and policy statement should also apply to elected public authorities (including combined authorities and mayors), and to other public bodies when acting as policy advisers.

Discretion and proportionality

It is not entirely clear what the policy statement is trying to achieve. The way in which the statement is worded leaves much ambiguity and discretion. It is not prescriptive. The requirement to have “due regard” to the policy statement is not sufficient to deliver the stated ambition of placing environmental considerations “at the heart of policy-making”. The duty of regard should be strengthened to “act in accordance with”. So it would be to “act in accordance with the policy statement” rather than have due regard to it. The requirement should be to use environmental principles to shape policy from the outset.

Proportionality is a particular concern. The guidance that Ministers should balance social, economic and environmental considerations in making policy by looking at the costs and benefits (including financial and economic) of its impacts and any mitigating actions effectively gives permission to cause environmental damage in some circumstances. This seems to undermine the ambition to improve the environment, and will discourage innovative thinking about resolving competing priorities. As Dasgupta argues persuasively, market forces and conventional economics undervalue the environment and natural assets. It seems inevitable that using conventional economic measures any cost benefit analysis will be stacked against environmental protection from the outset.

Legal status

The policy statement will be a statutory document that Ministers must have due regard to, but there is no indication of how they will be held accountable for this. Under EU law the environmental principles were legally binding and pervasive, applying to all levels of governance. There is no information in the statement about how Parliament, the courts, and the Office of Environmental Protection might scrutinise the way in which Ministers are exercising their duties, and whether the levels of discretion and proportionality are reasonable.

Environmental assessments

The policy statement does not require any independent or expert assessment of the likely environmental impacts of a policy. Although Ministers will be responsible for assessing whether a policy will have an environmental impact, it is only suggested that they think about this and consider the impact. This is a very loose and ineffective

formulation. There is no requirement to use existing research and data, or to commission further work from an independent expert. Similarly there is no requirement for, nor even acknowledgment of the desirability of, audit and/or review of impact post policy implementation.

Taken together with our concerns about proportionality (above) this will further reduce the weight given to protecting the environment and nature when assessing the impact of a policy.

We hope that the Government is still open to strengthening its environmental principles and the policy statement, but as currently set out they will not deliver its stated environmental ambitions. It would perpetuate the present situation where the environment and nature are systematically undervalued in policy-making. We would be pleased to have a further opportunity to meet with you to discuss the issues set out here, with the intention of achieving greater clarity, accountability and impact.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Joe Wood', is centered below the text 'Yours sincerely'.

Chair of the Environment Board
ADEPT