

Brighton & Hove City Council Response: Environmental Principles Consultation

Background

The government has committed to leaving the environment in a better state than that in which we inherited it. To make this happen, we need to ensure that environmental protection forms an integral part of policy development across government. The Environment Bill does this through the integration of internationally recognised environmental principles.

The Environment Bill sets out five internationally recognised environmental principles to be considered in policy-making to protect the environment from damage. These principles are:

The **integration principle** is the principle that policy-makers should look for opportunities to embed environmental protection in other fields of policy that have impacts on the environment.

The **prevention principle** means that government policy should aim to prevent, reduce or mitigate harm.

The **rectification at source principle** means that if damage to the environment cannot be prevented it should be tackled at its origin.

The **polluter pays principle** is the principle that those who cause pollution or damage to the environment should be responsible for mitigation or compensation.

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.

The Environment Bill^[1] requires the Secretary of State for the Department of Environment, Food and Rural Affairs to publish a policy statement on environmental principles, setting out how these principles are to be interpreted and proportionately applied by Ministers when making policy. Once in effect, the statement will contribute to the improvement of environmental protection and sustainable development.

In addition, the Bill places a legal duty on Ministers of the Crown to have due regard to the policy statement. In practice this means that Ministers across government will need to consider the five environmental principles when making new policy or revising existing policy. They will need to assess whether or not the policy has an environmental impact and work through the steps in the policy statement to consider if any of the principles are relevant to their policy, whether and how they should be applied.

The government is keen to obtain stakeholders' views on this draft policy statement on environmental principles and so has ensured that the Environment Bill requires the draft statement to be scrutinised through two main means; firstly through a public consultation and secondly by Parliament once the Environment Bill has received Royal Assent.

Environmental Principles - An overview

The overview section of the draft policy statement introduces important aspects of the statement to policy-makers. It begins by listing the five environmental principles, included in the Environment Bill, whose application is covered in the later Process section. Following paragraphs explain the intended outcome of the draft statement and an explanation of how the draft statement will contribute to environmental protection and sustainable development, including the definition of important terms.

The final part of the section includes outline information on the application of the statement during policy-making, the duty, and the relevance of other documents.

Do you think the overview section provides an adequate foundation for policy makers to apply the environmental principles in policy-making?

Yes No Other

Please provide any additional information in support of your answer

The overview section provides a high level, generalist introduction to the background of environmental protection and sustainable development and the established environmental principles. The tone errs on the side of mitigation and remediation, rather than enhancement of the environment and would be strengthened by more strongly reflecting the urgency of action at all levels required by the climate and biodiversity emergencies, and the change in outlook and approach required in every element of government. As well as focussing on having 'due regard', there could be more emphasis upon placing an 'obligation on policy makers to commission detailed research to inform an assessment' to ensure that a more robust approach is undertaken. This would more strongly reflect the gravity of the situation or the priority that enhancement of the environment should be at a national and international level to prevent and adapt to the catastrophic impacts from climate change, which requires a whole system change from the current business as usual.

Process for Applying the Policy Statement

This section of the draft policy statement builds on the overview provided in the preceding section and begins with an explanation of policy. This explanation is intended to provide policy-makers with enough information to ensure that the environmental principles are applied throughout appropriate activities, and at appropriate points. It continues by clarifying the difference between policy and individual decisions through the use of two examples.

Step 1: Understanding environmental impact

Step one begins the section of the policy statement detailing the application of the environmental principles. It builds on the previous section's discussion of policy by introducing the issue of environmental impact.

The purpose of the first two sections is to ensure that policy-makers understand what is meant by the term environment, in line with the relevant Environment Bill definition, and what may be considered an environmental impact. In adequately describing these terms, these sections should ensure that policy-makers can meet the requirements of the third section and apply these concepts to accurately assess the environmental impact of their policy.

The fourth section describes how the policy statement should be proportionately applied to address environmental impacts which result from their policy-making. This section aims to ensure that mitigation is developed and applied to areas most at risk of environmental impact, and where the greatest positive outcomes can be achieved.

The section also aims to provide the policy maker with brief guidance on assessment requirements, the approach in cases where there is limited environmental impact, and national emergencies. It concludes by focussing on what actions may be appropriate in addressing alternative policy options, each with their own impact.

Do you think step one allows policy-makers to correctly assess the potential environmental effects of their policy?

Yes No Other

Please provide any additional information in support of your answer

Step one introduces the terms environment and environmental impact and describes ways in which policy can affect the environment at a very high level. There is a risk that this encourages a light touch or surface level assessment of the potential effects.

It is not apparent at what point a full Environmental Impact Assessment of the policy implication would be undertaken, if at all. Whilst it is of great importance that an understanding and awareness of the real and potential environmental effects of policy is embedded across all sectors of policy making in government, not detailing how this will be checked and balanced – including by the full Environmental Impact Assessment process – means that there is a risk for negative environmental impacts from policy based on Step One alone.

Do you think step one ensures that policy-making will address the most important environmental effects?

Yes No Other

Please provide any additional information in support of your answer

Step One identifies some of the most obvious environmental effects of policy and does recognise there are primary and secondary impacts. However, the environment is a complex natural system and often cumulative impacts caused by multiple small effects are more devastating than single, large impacts. This is a complex topic and there is insufficient detail on how the addressing of important environmental effects will be ensured. The importance of overseas impacts is not sufficiently emphasised. The environment is a global system that does not recognise national or international

boundaries. The international nature of modern society and supply chains means that many domestic policy decisions could create overseas impacts rather than the few this document suggests (e.g. utilise the precautionary principle).

Step 2: Understanding Which Principles are Relevant

Step two is designed to assist Ministers of the Crown, and those making policy on their behalf, in their understanding of the environmental principles. It provides a summary of the Secretary of State's interpretation of the environmental principles, included on the face of the Environment Bill, to which following sections of the policy statement provide further detail on their application.

The step explains how the five principles address different aspects of environmental impacts and how they should be considered along with other objectives in policy-making. This is intended to aid policy-makers use of their own judgement in selecting, and applying in line with the remainder of the statement, those environmental principles appropriate to their particular policy.

Will step two assist policy-makers in selecting the appropriate environmental principles?

Yes No Other

Please provide any additional information in support of your answer

There is a significant principle that is missing – the principle that all policy should create a net benefit for the environment. The other five established principles are clearly explained but all deal with addressing negative impacts of policy. The first principle should be to create positive environmental impacts through policy, in line with the urgent action required to address the climate and biodiversity emergencies. Therefore, policy makers currently are unable to always select the appropriate environmental principles due to this significant omission.

Step 3: Applying The Principles

Step three aims to provide strong guidance to policy-makers on the application of the five principles. To achieve that aim, step three addresses several areas. It begins by defining the criteria for taking action before continuing to detail the application of each of the five environmental principles in its own section.

Each of those sections starts by describing the principle and when it should be applied; what it aims to achieve and what its use affords the policy-making process. Where relevant, it places the principle in relation to the application of others and specifies any additional considerations specific to their application. The prevention principle, for example, promotes policy design options that preclude environmental damage from the outset or contain existing damage.

Each section continues with advice for the policy-maker explaining the requirements of the principle's application and details what actions are required. These actions are specific to

each principle, given their focus on different aspects of environmental protection, but should not be considered an exhaustive list.

The section covering the precautionary principle includes further information for policy-makers on the relationship between the principle and innovation. This additional information aims to secure the opportunities afforded by a consistent and thorough application of the principle's risk-based approach.

Step three concludes with two further short sections. The first, providing a brief note on the interaction between the principles and environmental outcomes, is intended to reinforce prevention over mitigation. The second provides some limited examples of policy action that could be taken as a result of the application of the principles.

Do you think step three provide a robust and sufficient framework for the application of each individual environmental principle?

	Yes	No	Other
Integration	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Prevention	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rectification	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Polluter pays	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Precautionary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Integration Principle - Please provide any additional information in support of your answer

There should be greater recognition of potential positive impacts

Prevention Principle - Please provide any additional information in support of your answer

This highlights further the need for a principle to create net benefit, rather than focussing solely on a mitigation hierarchy. There should be a clearer link to the precautionary principle in the information, in the statement 'when to use the prevention principle'. The definition suggests it should be used 'where a policy will cause harm', however this should be expanded to include reference to the precautionary principle i.e. where there is plausible evidence of risk of environmental damage.

Rectification Principle - Please provide any additional information in support of your answer

As above, requires stronger link to precautionary principle.

Polluter Pays - Please provide any additional information in support of your answer

There is an opportunity to be stronger, the use of the term 'where possible' creates significant flexibility for avoidance. The example of changing consumer behaviour rather than penalising the polluter also creates flexibility for avoiding the core issue of driving changes in industrial technology or practice. The consumer can only consume a product that is on the market, products on the market should not pollute the environment.

Precautionary Principle - Please provide any additional information in support of your answer

N/A

Do you think the process for applying the policy statement (the three steps) provides a robust and sufficient framework for the application of the environmental principles as a whole?

Yes No Other

Please provide any additional information in support of your answer

The process of having the three steps for the application of the environmental principles is positive but it needs to be strengthened to be robust and effective

Final Thoughts on the Policy Statement on Environmental Principles

Do you have any other comments on the draft policy statement which are not covered by the previous questions?

Yes No

Please provide any additional information in support of your answer

Overall in this policy statement there should be stronger recognition of the urgency for action to benefit the environment in order to address the climate and biodiversity emergencies, or that fundamentally government policy should be creating net benefit for the environment, rather than trying to mitigate environmental damage. The policy statement risks creating a light touch framework and being without teeth, being business as usual without recognising the need for urgent change or taking the presented opportunity for innovation and a forward-thinking approach. The introduction an audit process may allay these concerns or context to the wider policy tools e.g. formal Environmental Impact Assessment.