

Report of the Strategic Director

ENVIRONMENT BILL UPDATE

1. Purpose of report

To update Members on the Environment Bill.

2. Background

The Environment Bill at the time of writing this report is at the Report Stage in the House of Commons within the parliamentary process.

The Environment Bill makes provision for targets, plans and policies in relation to:

- improving the natural environment
- reporting about environmental protection
- the creation of four environmental priority areas, namely:
 - resource efficiency and waste reduction
 - air quality
 - water
 - nature and biodiversity
- the creation of a Governing Body for Environmental Protection

Further information relating to the Environment Bill is shown in the appendix.

3. Financial implications

There are no financial implications at stage. Further reports will be brought to Committee in due course should the financial position change.

Recommendation

The Committee is asked to NOTE the report

Background papers

Nil

APPENDIX

1. Parliamentary Stage

At the time of writing this report the Environment Bill is currently at the Report Stage within the House of Commons. There is a third reading within the House of Commons before the Bill moves on to the House of Lords and then on to the final stage and receiving Royal Assent. There is no set timescale for the Environment Bill to progress and receive Royal Assent.

2. Overview of the Environment Bill

The Government states that the Environment Bill sets a new and ambitious domestic framework for environmental governance. The aim of the Bill is to respond to a clear and urgent scientific case and growing public demand for action to address environmental challenges including biodiversity loss, climate change, waste and pollution of the air, water and land.

The Environment Bill will give the Secretary of State a power to set long-term, legally binding environmental targets of at least 15 years in duration, across the breadth of the natural environment. It will specifically require the Government to set at least one target each in four priority areas.

3. The Four Priority Target Areas (updated 21 October 2020).

The four main priority areas are air quality, biodiversity, water and resource efficiency and waste reduction. The Government will also set a target for fine particulate matter expressed as an annual mean.

The Government will set at least one target in the four priority areas. Consultation will be undertaken before the targets are brought forward by 31 October 2022. Long term targets will be supported by interim 5 yearly targets which set a trajectory towards the long term targets.

The information below gives a brief overview of the information relating to the key priority area.

3.1 Air Quality

Air pollution comes from a diverse range of sources, including industry, transport, burning of solid fuels in the home, and the use of cleaning products. It poses the single greatest environmental risk to human health. The Environment Bill will help ensure we all have cleaner air to breathe¹.

The key actions the Government is taking to continue to reduce emissions from a wide range of sources are set out in two documents as shown below:

- The UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations (2017).

¹ <https://www.gov.uk/government/publications/environment-bill-2020/10-march-2020-air-quality-factsheet-part-4>

- The Clean Air Strategy (2019).

The Environment Bill delivers key aspects of the Clean Air Strategy with the aim of maximising health benefits for our citizens. It also ensures local authorities have a clear framework and simple to use powers to address air quality in their areas, and provides the Government with powers to enforce environmental standards for vehicles².

The Bill introduces a duty on the Government to set at least two air quality targets by October 2022. These include:

- Reduce the annual average level of fine particulate matter (PM_{2.5}) in ambient air. This will deliver substantial public health benefits.
- Set a long-term target for a minimum of 15 years in the future, which will encourage long-term investment and provide certainty for businesses and other stakeholders.

The Government propose to also amend the existing substantive primary legislation:

- The Environment Act 1995, which sets up the local air quality management framework (amongst many other things), including local government responsibilities to tackle air pollution.
- The Clean Air Act 1993, which enables local authorities to tackle smoke emissions from chimneys of buildings, fixed boilers and industrial plant.

The amendments to the Clean Air Act 1993 made through the Environment Bill will help local authorities reduce pollution from domestic burning. Specifically, the amendments will:

- Replace the criminal offence of emitting smoke from a chimney in a smoke control area with a civil penalty regime, which allows for the removal of the statutory defences that currently hinder enforcement. This will enable quicker, simpler and more proportionate enforcement at a local level against the emissions of smoke within a smoke control area.
- Give local authorities powers to address pollution from solid fuel burning on inland waterway vessels (e.g. canal boats) in smoke control areas.
- Strengthen the offences in relation to the sale and acquisition of certain solid fuels for use in smoke control areas, by removing the limit on the fine for delivering unapproved solid fuels to a building in a smoke control area, and requiring retailers of solid fuels to notify customers that it is illegal to buy unapproved fuel for use in a smoke control area unless burning in an approved appliance.

3.2 Biodiversity

The Environment Bill will contribute to the recovery of our natural environment, improving biodiversity and protecting urban street trees. It will also enable localised

² <https://www.gov.uk/government/publications/environment-bill-2020/10-march-2020-air-quality-factsheet-part-4>

action to be taken across the country, directing investment in nature where it is most needed.³

The nature and biodiversity part of the Environment Bill provides a framework of measures to support nature’s recovery in line with the ambition set out in the Governments 25 Year Environment Plan. A link to the plan is https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693158/25-year-environment-plan.pdf

Within the Bill there are six main measures which together are designed to deliver long-lasting action for nature as shown in the table below:

Measure	Action
A strengthened biodiversity duty	The duty within The Natural Environment and Rural Communities (NERC) Act 2006 will be amended so that there is an expectation on public authorities to look strategically at their policies and operations (at least every 5 years) and assess what action they can take ‘to further’ the conservation and enhancement of biodiversity. They must also have regard to the relevant Local Nature Recovery Strategies (LNRSS) as part of the consideration. The Bill also introduces a streamlined reporting duty which requires local authorities and designated large landowning public authorities to produce a Biodiversity Report every five years
Biodiversity net gain	The Bill will make it mandatory for housing and development, subject to some narrow exemptions, to achieve at least a 10% net gain in value for biodiversity – a requirement that habitats for wildlife must be left in a measurably better state than before the development. Developers must submit a ‘biodiversity gain plan’ alongside usual planning application documents. The local authority must assess whether the 10% net gain requirement is met in order to approve the biodiversity gain plan. If net gain is not achievable on-site, the biodiversity gain plan will need to include off-site habitat enhancements, in line with the mitigation hierarchy; the local authority must be satisfied that this is secured through a planning obligation or conservation covenant. If habitats are significantly enhanced within the development site, these improvements must be secured in the same way or through a planning condition.
Local Nature Recovery Strategies	Local Nature Recovery Strategies are a new system of spatial strategies for nature, covering the whole of England. Each strategy will, for the area that it covers: <ul style="list-style-type: none"> •map the most valuable existing habitat for nature •map specific proposals for creating or improving habitat for nature and wider environment goals •agree priorities for nature’s recovery This new mandatory system of spatial strategies for nature, will cover the whole of England. Locally led by an appropriate ‘responsible authority’, these will identify the opportunities and

³ <https://www.gov.uk/government/publications/environment-bill-2020/10-march-2020-nature-and-conservation-covenants-parts-6-and-7>

Measure	Action
	<p>priorities for enhancing biodiversity and supporting wider objectives such as mitigating or adapting to climate change in an area. The Bill will give the Secretary of State the power to determine what area each LNRS should cover and to appoint a ‘responsible authority’ to lead its production and publication. LNRSs will guide smooth and effective delivery of biodiversity net gain and other nature recovery measures by helping developers and planning authorities avoid the most valuable existing habitat and focus habitat creation or improvement where it will achieve the most.</p>
<p>Duty to consult - Trees</p>	<p>This clause introduces a duty on local highway authorities to consult with local communities before felling street trees, unless the trees qualify for certain exemptions. Guidance for local highway authorities will be provided to determine whether trees are exempt. This will give communities an opportunity to understand why a tree is being felled in their local area and, if they wish, to raise concerns to the local highway authority regarding the felling of trees. This will increase transparency around decisions over these green assets.</p>
<p>Strengthening forestry enforcement measures</p>	<p>The forestry enforcement measures will increase fines for illegal felling (to unlimited fines); introduce a court ordered Restocking Order to be made by the courts and allow for the Forestry Commission to list Restocking Notices and Enforcement Notices on the Local Land Charges register. They will also streamline the administrative process for the Forestry Commission; and provide clarity to some existing clauses, making it easier to enforce where illegal activity has taken place. These amendments will increase the deterrent for illegal felling and streamline administration for the Forestry Commission.</p>
<p>Conservation covenants</p>	<p>These are voluntary but legally binding agreements between a landowner and a designated “responsible body” such as a conservation charity, public body or for-profit body to conserve the natural or heritage features of the land. Conservation covenants can contain positive and restrictive obligations to fulfil conservation objectives for the public good. Generally, they will bind subsequent landowners and therefore have the potential to deliver long-lasting conservation benefits.</p>
<p>Proposed amendments: species conservation and protected site strategies</p>	<p>A Species Conservation Strategy is a new mechanism to safeguard the future of particular species at greatest risk. They build on the success of the district level licensing (DLL) approach for great crested newts.</p> <p>A Protected Site Strategy will seek to achieve a similar purpose in respect of protected sites. The concept of a Protected Site Strategy is broad and it includes any approach to mitigation or compensation that is wider than the individual project level. They will be particularly helpful where evidence shows sites are being affected by a range of different offsite activities.</p> <p>The amendments will place a new duty on local planning authorities to cooperate with Natural England and other public bodies in the establishment and operation of the Strategies.</p>

Measure	Action
	Species and Protected Sites Strategies are targeted tools to help particular species and sites. Where these strategies are created, the relevant measures that they propose will be integrated into the LNRs for the whole area – which will consider wider opportunities for enhancing biodiversity beyond these particular species and habitats

3.3 Water

The measures in the Bill address seven elements of our stewardship of water in the environment. These are shown below:

Measure	Action
Water Resources Management	The current statutory water resources planning process will be amended to ensure there is more effective collaboration between water companies and other sectors to manage supply and demand, deliver resilience against droughts and facilitate environmental improvement through a better understanding of environmental need.
Drainage and Sewerage Management	Drainage and sewerage management planning will be a statutory duty. Such planning, through which companies examine and investigate the capacity of their networks, will enable better risk-based assessments of current drainage and wastewater issues, impacts on the environment and long-term planning, improving our resilience to extreme weather events and risks of sewer/ surface water flooding.
Water Industry Regulation	The process for modifying water and sewerage company licence conditions will be modernised. The current process can constrain their responsiveness to Government priorities; increase regulatory uncertainty for the industry; and create divergence between individual companies' licence conditions. Bringing the process in line with other utility sectors will strengthen OFWAT's ability to improve the way water companies operate. The measures will also improve the information OFWAT receives from those companies about their operations and update the process for serving documents under water industry legislation.
Water Abstraction	Steps will be taken to further minimise the risk that water abstraction may damage the environment from which it is being taken. The measure will enable the revocation or variation of permanent abstraction licences, many dating back to the 1960s, without liability for compensation where the change is necessary to protect the environment or where the licence is consistently under-used.
Water Quality	Powers will be provided to enable the Secretary of State to maintain the list of priority substances used to assess the chemical status of water bodies in line with the latest scientific and technical knowledge, once existing powers to update it (section 2(2) European Communities Act 1972) are revoked.

Measure	Action
Solway Tweed River Basin District:	The way in which the cross-border Solway Tweed river basin district is administered by UK and Scottish Ministers and their respective agencies will be simplified, in order to better reflect devolved competence and bring administrative efficiencies.
Land Drainage	Technical barriers will be addressed which currently prevent existing internal drainage boards from expanding and new ones being established, where there is local support to do so. The measure will enable certain valuation calculations to be stipulated (and updated) in secondary legislation, addressing the issue of missing or incomplete data that currently prevents internal drainage boards from expanding because they cannot update the calculations used to apportion their expenses.

3.4 Resource Efficiency and Waste Reduction

The Environment Bill will increase efficiency in our use of resources. It will enable us to fundamentally change the way we use resources, whilst reducing polluting plastic waste, increasing rates of recycling and making the products we use every day more durable and easier to recycle. It also contains the powers for the Government to ban the export of polluting plastic waste to non-OECD countries.⁴

Through the Environment Bill the powers necessary to deliver on many of the commitments in the Resources and Waste Strategy will be mandated, such as to reform the UK Packaging Producer Responsibility system and to introduce greater consistency in recycling collections in England as well as to improve enforcement against littering.

More significantly, the Bill presents a rare opportunity to provide the broader legislative framework needed to transform the way we manage our resources and waste. For example, it will not just allow the Government to make packaging producers responsible for the costs of managing their products when they become waste and introduce a deposit return scheme for drinks containers, but will allow for the introduction of producer responsibility schemes for other waste streams in the future. This is because such schemes and other mechanisms such as resource efficiency standards, are seen as having a significant role to play in reducing our impact on the environment and moving to a circular economy.

The table below shows the measures within the Environment Bill intended to address resource efficiency and waste reduction:

Measure	Action
Extended Producer Responsibility	Powers to introduce extended producer responsibility will be implemented which will enable the Government to reform the existing producer responsibility schemes and introduce schemes for additional products in the future. These powers will ensure producers can be held responsible for the end-of-life costs of managing their products, thus incentivising them to design their

⁴ <https://www.gov.uk/government/publications/environment-bill-2020/10-march-2020-waste-and-resource-efficiency-factsheet-part-3>

	<p>products with re-use, recycling and repairing in mind. It is intended to introduce an extended producer responsibility scheme for packaging in 2023.</p> <p>The Bill also clarifies that producer responsibility obligations can be extended to the prevention of waste and the redistribution of surplus products and materials.</p>
Consumer Choice	<p>Powers to introduce clear labelling and consumer information will be implemented to enable consumers to identify products that are more durable, repairable and recyclable and to inform them on how to dispose of used products.</p> <p>Powers will be implemented to enable charges for single-use plastic items, similar to the carrier bag charge, to incentivise consumers to use more sustainable items.</p> <p>Consideration is being given to the introduction of a Deposit Return Scheme for cans, plastic and glass bottles, though the specific details, including the material and drinks to be in scope, will be developed using further evidence and ongoing engagement with stakeholders. The proposed scope and model of a deposit return scheme will be presented in a second consultation.</p> <p>The implementation of a deposit return scheme will support consumers to reduce litter and reuse and recycle more. It is intended that a deposit return scheme will be introduced from 2023.</p>
Consistent set of materials	<p>The Bill stipulates a consistent set of materials to be collected from all households, including food waste and potentially the provision of a free garden waste collection. Subject to a technical, economic and environmental test these materials are to be collected separately. Subject to further consultation, these requirements would come into force from 2023.</p>
Waste Crime	<p>Measures to tackle waste crime will improve the management of waste, better enabling its use as a resource and reducing the risk of economic, environmental and social harm that illegal activity often causes. This includes powers to introduce a digital system to track waste movements. Measures will also ensure agencies and authorities can work more effectively to combat waste crime through better access to evidence and improved powers of entry.</p> <p>Existing provisions on enforcement against littering and related offences will be improved and extended to ensure this is carried out proportionately and in a way which retains public trust.</p> <p>The Bill also contains powers which will allow Government to ban or restrict the exports of waste, including plastic waste to non-Organisation for Economic Co-operation and Development countries. Government will consult with industry, NGOs and local authorities on any specific restrictions or prohibitions.</p>

The majority of the above measures will need secondary legislation before they can be implemented. Where that is the case the Government will develop the evidence, identify full costs and benefits and consult on detailed proposals, as appropriate, prior to implementation. Indeed, further consultation will follow on consistency in recycling,

reforming the UK packaging producer responsibility system and introducing a deposit return scheme for drinks containers⁵.

The Government has stated that it will fully fund all new burdens arising from the Environment Bill recognising the financial pressures local authorities will face from new statutory duties proposed by the Bill.

The changes will mean that local authorities will be collecting more materials for recycling which may mean additional equipment – such as food waste bins for householders and the Government states it will allow sufficient time to adapt to the new duties and to communicate changes with householders.

4. Governance

The legally-binding targets will be monitored through the creation of an environmental enforcement body, the Office for Environmental Protection (OEP), which as well as assessing levels of environmental improvement will be able to hold the Government to account on achieving the targets it has set. As a further safeguard, people will be able to complain to the OEP if they think their Council, the Government or any other public authority has broken environmental laws.

In addition to legally binding targets the Government wants to transform the UK's environmental governance through the creation of statutory Environmental Improvement Plans (EIP's). In the Environmental Improvement Plan, the Government will set interim targets for each five-year period and lay out the steps it intends to take to improve the natural environment.

'A Green Future: Our 25 Year Plan to Improve the Environment'. which was published in 2018 and updated in 2019 will be adopted as the first Environmental Improvement Plan. Both the targets and the EIP's will be supported by this new statutory cycle of monitoring, planning and reporting.

The Bill framework requires Government to periodically review its targets, by carrying out a Significant Improvement Test at least every five years with the first Significant Improvement Test being conducted in January 2023. This means that Government must consider whether meeting its long-term targets and the PM_{2.5} target (particulate matter), alongside any other relevant statutory environmental targets, would significantly improve the natural environment in England. It must report to Parliament on its conclusions and, if it considers that the test is not met, set out how it plans to use its target-setting powers to close the gap.

The OEP will hold the Government to account on progress towards achieving targets and every year can recommend how it can make better progress, to which Government must respond.

⁵ <https://www.gov.uk/government/publications/environment-bill-2020/10-march-2020-waste-and-resource-efficiency-factsheet-part-3>

5. Implications of the Environment Bill for the Council

The measures within the Environment Bill will be cross cutting across the Council. The table below shows some examples of the possible impact on the services provided by the Environment Department relating to some of the proposed measures outlined in the Environment Bill:

Activity	Possible Impact for Council
Consistent set of materials	Will affect the Councils recycling rate Increase in costs which will be met by Government. Reduce the amount of residual waste collected in the black lidded bins. Could increase mileage and fuel consumption within the fleet.
Deposit Return Scheme	A well-designed deposit return scheme could lead to a minimal amount of deposit return scheme containers ending up in kerbside collection. Therefore, potentially reducing the amount of recyclables collected and so could affect the Councils recycling rate. Possible loss of income from the glass collection.
Commons set of recyclables	Create uniformity and reduce contamination.
Common set of labelling	Create uniformity and reduce contamination.

The Council's current Waste Strategy covers the period 2016-2020. The measures mandated as part of the Environment Bill will significantly shape the Councils waste and recycling services over the coming years. It is therefore intended that once the Bill has received Royal Assent and is ratified into law, and, the full implications in terms of mandatory functions and appropriate timescales for implementation are known, the Council's Waste Strategy will be updated accordingly to reflect the requirements of the Bill.

A watching brief will be kept on the progress of the Bill, including any pending consultations, and further reports will be brought to Committee in due course for consideration and approval by Members.