



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

A submission from the Royal Society of Chemistry to the Department of Environment Food and Rural Affairs (Defra)

This document is the Royal Society of Chemistry's response to Defra's consultation paper on 'Environmental Principles and Governance after the United Kingdom leaves the European Union', which is open for written submissions until 2 August 2018.

About us

With over 52,000 members and a knowledge business that spans the globe, the Royal Society of Chemistry is the UK's professional body for chemical scientists, supporting and representing our members and bringing together chemical scientists from all over the world. Our members include those working in large multinational companies and small to medium enterprises, researchers and students in universities, teachers and regulators. See www.rsc.org

Summary

At the Royal Society of Chemistry (RSC), we have a breadth of environmental sciences experts as active and engaged members of our community, who work on the development of environmental standards, on environmental chemicals risk assessment, chemicals management and on scientific research underpinning environmental policy. Our Environment, Sustainability and Energy Division comprises approximately 4000 RSC members. (Our Divisions support the development of research and training within their field and act in an advisory capacity in areas of science policy). We are responding to this consultation as a key stakeholder representing a scientific community providing data and expertise that informs environmental decision-making.

We have consulted with our membership over the past six months and have produced a document on the topic of 'Principles for the management of chemicals in the environment' (see Annex 1), which aims to inform the Environmental Principles and Governance Bill.

We provide a partial response to the consultation below, structured as relevant to the 'parts' of the consultation.

Part 1 Environmental Principles

Environmental principles act as an important foundation in guiding good governance and setting environmental laws. They provide a clear basis for holding governments and bodies to account regarding the management of the environment for the benefit of society. Such principles should ideally be internationally harmonised and compatible with international conventions and laws.

We propose a set of principles for consideration by government, that our community sees as important in the development of environmental and chemicals management policy (see Annex 1). These principles draw upon existing global principles, for example the Rio principles, including those in the Treaty for the Functioning of the EU (TFEU) for the environment, and where the UK has been a leading player in their development and implementation.

Part 2 Accountability for the Environment.

We seek specific and due recognition from the government in this Bill of the important and integral roles **high quality scientific data and scientific expertise** play in the development and implementation of environmental policy. As a scientific community, we perform scientific and technical work with due regard to principles as set in policy, and we call on the Government to ensure that all national decision-making is performed transparently and with due regard to scientific evidence. In all the circumstances we can envisage with respect to the management of chemicals in the environment, scientific evidence must play a strong part in enabling effective decision-making.

We expect scientists of high calibre to play leading roles on the new environment body. Given the pivotal role of science in environmental policy, qualified scientific professionals are needed that have a breadth and depth of scientific knowledge relevant to all issues that the body will cover, including chemicals in the environment, within the government's plans for a new chemicals strategy.

We advocate consistent science evaluation at UK level. We note the proposed Bill is for England only at this stage. Whilst decisions can and should be taken by devolved administrations, there are significant benefits in terms of resource efficiencies and consistency in discussing the science involved in environment policy within a single committee or working group that serves to inform all four administrations (England, Scotland, Wales and Northern Ireland).

Part 3 Overall environmental governance.

- 1) We seek further clarity on how and to what timelines a chemicals strategy is to be developed within the 25-year plan for the environment.** There is currently no specific mention of environmental chemicals management in the consultation paper, though it is a large and integral part of environmental policy.
- 2) An 'association agreement' that enables 'full participation' in the work of relevant EU agencies, needs to be in place before the UK leaves the EU to ensure uninterrupted scientific collaboration and data sharing between UK and EU bodies.** This is particularly important given the strong links between how chemicals are managed and regulated and environmental (air, land, water & waste) pollution. Substance data on key environmental contaminants and substances of very high concern as environmental pollutants is held within the auspices of REACH. Other agencies work to review the data in depth for environmental policy purposes, and the UK does not have similar capability available at present.

Part 1 Environmental Principles

- 1.1 Environmental principles act as an important foundation in guiding good governance and setting environmental laws. They provide a clear basis for holding governments and bodies to account regarding the management of the environment for the benefit of society.
- 1.2 Principles should be internationally harmonised and compatible with international conventions (such as the Rio Declaration, Minimata, Stockholm and Basel conventions) to which the UK is a signatory.
- 1.3 Particularly in the context of seeking a future partnership agreement with the EU, UK principles on environment should be harmonised with those in the Treaty for the TFEU for achieving maximum collaboration and cooperation between the UK and the EU going forward, as well as maintaining high standards of protection for the environment and human health.
- 1.4 Environmental pollution is linked integrally to the way industrial chemicals, pharmaceuticals and consumer goods are managed and regulated. Therefore, the approach Government takes on chemicals regulation as the UK leaves the EU, and the strategy taken on chemicals generally, will inevitably impact on environmental policies.
- 1.5 As the Government has stated that a chemicals strategy is to be developed within the 25-year plan for the environment, we are working on the assumption that the management of chemicals in the environment will be included within the remit of the new environmental body and governance framework at Defra. Therefore, the principles for 'environment' determined in the near future should be compatible with delivering a future chemicals strategy.

Defra ask in the consultation:

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

- 1.6 In Annex I of this response, we provide an **RSC document 'Principles for the Management of Chemicals in the Environment'**. We have consulted leading members and practitioners from our scientific community involved in environment and chemicals management. We have drafted this document based on their input and recommendations on what are important principles that underpin environmental policy. We also looked at existing environmental principles, for example the Rio Declaration.
- 1.7 Six principles are provided by Defra in the consultation paper, as examples of principles already embodied into EU law via the TFEU. These are, as worded in Annex A of the consultation paper:

Sustainable Development. Development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

Precautionary Principle. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Prevention Principle. Preventive action should be taken to avert environmental damage.

Polluter Pays Principle. The costs of pollution control and remediation should be borne by those who cause pollution rather than the community at large.

Rectification at Source Principle. Environmental damage should as a priority be rectified by targeting its original cause and taking preventive action at source.

Integration Principle. Environmental protection requirements must be integrated into the definition and implementation of policies and activities.

- 1.8 In our document on '**Principles for the Management of Chemicals in the Environment**' we have performed a wider analysis than the six principles included in the consultation paper, which we suggest do not include all aspects of 'principles' that are important for environmental and chemicals policy.
- 1.9 We have analysed and considered the principles embodied in current EU environmental regulation as captured in the TFEU and also all 27 principles from the RIO 1992 declaration and environmental principles as proposed by other member organisations, such as the [Institute of Environmental Management](https://www.iema.net/assets/newbuild/documents/IEMA%20Brexit%20Key%20Principles%20Oct%202017.pdf) (IEMA).
[<https://www.iema.net/assets/newbuild/documents/IEMA%20Brexit%20Key%20Principles%20Oct%202017.pdf>]
- 1.10 We note that the Welsh Government has adopted 'principles for the sustainable management of natural resources' in PART 1 section 4 of the Environment (Wales) Act 2016. Consideration should be given to the harmonisation of principles for England with these existing principles in Welsh legislation.
- 1.11 As a leading EU member state, the UK upholds environmental principles in current EU law. We advocate that these basic principles currently embodied in EU law should be maintained in the UK post EU-exit. As the UK leaves the EU, current principles included in EU law will transfer over into UK law via the implementation of the EU withdrawal bill. We support this as a foundation to maintaining on-going harmonisation with EU chemicals regulation and policy, for the purposes of supporting frictionless trade and collaboration and maintaining high environmental and human health protections as supported by world-class science. Going forward, any exceptions to this ongoing harmonisation should only be introduced where essential after careful consideration and on a case-by-case basis.
- 1.12 In addition, we propose to include key global principles from the Rio Declaration. This would satisfy the international ambitions outlined in the Government's 25 year plan for the environment. The UK is a signatory nation to the principles contained in the 1992 Rio Declaration and as such, we suggest drawing upon this as a foundation to affirming the UK's commitment to environmental principles that will have a direct impact on shaping environmental policy for England, Scotland, Wales and Northern Ireland.

Part 2 Accountability for the environment

Objectives of the new environment body

2.1 We support the principle of establishing a new, independent and world-leading body for the environment and the objectives of the new body listed in the consultation paper as follows:

- Act as a strong, objective, impartial and well-evidenced voice for environmental protection and enhancement.
- Be independent of government and capable of holding it to account.
- Be established on a durable, statutory basis.
- Have a clear remit, avoiding overlap with other bodies.
- Have the powers, functions and resources required to deliver that remit.
- Operate in a clear, proportionate and transparent way in the public interest, recognising that it is necessary to balance environmental protection against other priorities.

2.2 We advocate the implementation of **consistent and transparent ‘decision-making principles’** in our document in Appendix 1, as being key. In particular, it will be important that there is transparency about how scientific evidence has been used in decision-making and how it may have been balanced with other considerations. If scientific advice or evidence has been overruled by ‘other priorities’ in coming to a decision, this must also be transparent.

2.3 **Skills and competencies in the new body:** Lord Deben stated in the oral evidence session of the Environmental Audit Committee inquiry on this consultation¹, on 19 June 2018, that issues relating to the environment are ‘science-based issues’ and decisions should be ‘science-based and facts-based’. We agree wholeheartedly and given the importance of scientific evidence in the vast majority of environmental policy, **the new body must include high calibre scientists** with extensive knowledge in relevant scientific areas to develop environmental policy and inform decision-making. Ideally, these scientists should be professionally accredited or able to demonstrate a significant level of experience. Furthermore, the Chair of the new body must command the respect of scientists and of those affected by and interested in the new body’s decisions.

Part 3 Overall Environmental Governance - Gaps and Uncertainties post EU-exit:

2.4 **Is ‘Chemicals in the Environment’ covered adequately in the Bill or elsewhere?**

We have seen that a new UK Chemicals Strategy is to be developed by government in the context of the 25-year plan for the environment. It appears from the point made in

¹ We would also echo the points made by Sir Amyas Morse in the same oral evidence session of 19 June, that ‘having the expertise in the body to do intelligent enforcement is a big ask’. There is a need for ‘a critical mass of expertise’. This includes **a critical mass of the right scientific expertise**. This includes scientists with professional standing in the following areas of the chemical sciences: analytical chemistry, exposure assessment, exposure modelling, environmental monitoring, biomonitoring, ecotoxicology, human toxicology, chemicals risk assessment.

para 24 of the consultation paper in relation to environmental principles that 'These principles feed through into EU legislation. For example, the precautionary principle is included in the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation (1907/2006)', and that infers chemicals regulation and management is to be considered within scope. As such, we presume here the new body will also cover the oversight of policies in relation to management of chemicals on the environment and the implementation of a new chemicals strategy.

We call on Defra to clarify urgently the arrangements for evaluating the effects and impacts of chemicals in the environment post EU exit and seek to establish a 'common rulebook' with the EU, as per the ambition of achieving an 'association agreement' with ECHA as outlined in the Brexit white paper.

2.5 How will a science-policy interface work with the new environment body?

Obtaining high quality scientific advice into the new body and into environmental policy decision-making is vital to ensure decisions are informed by the best scientific and technical evidence. In order to achieve this:

- a) New structures such as scientific committees will need to be established to support decision-making by the provision of scientific data and evidence and their role should be transparent;
- b) The right recruitment processes need to be in place to hire scientists of appropriate professional standing and a Chair who commands the respect of scientists, those affected by and interested in the new body's decisions.

The final plans need to address these issues.

- 2.6 We advocate consistent science evaluation across UK administrations.** We note the proposed Bill is for England only at this stage, and whilst decisions can and should be taken by devolved administrations, there are significant benefits in terms of resource efficiencies and consistency in discussing the science involved in environment policy within a single committee or working group that serves to inform all four administrations.
- 2.7 An 'association agreement' that enables 'full participation' in the work of relevant EU agencies, must be in place before 29 March 2019 to ensure uninterrupted scientific collaboration and data sharing between UK and EU bodies.** This is particularly important given the strong links between how chemicals are managed and regulated and environmental (air, land, water & waste) pollution.
- 2.8 By 'full participation' we expect UK scientists to have an active voice and influence** on the committees and working groups in EU agencies where key environmental policy decisions are to be made that could impact on UK-EU trade and UK air, water, land and waste policies.

2.9 Substance data on key environmental contaminants and substances of very high concern such as environmental pollutants is held within the auspices of REACH. EU agencies work to review the data in depth for environmental policy purposes, and there is not a similar capability available in the UK at present. These agencies include the European Chemicals Agency (ECHA), European Foods Standards Agency (EFSA), European Environment Agency (EEA) and the European Commission Joint Research Centre (JRC).

2.10 **Our community is very concerned there could be an unnecessary hiatus in collaboration, data sharing and scientific engagement** between the UK and EU from 30 March 2019. The UK will cease to be a member of these EU bodies and will not be party to important discussions on environmental pollutants unless this is via a new successful 'association agreement' with relevant EU agencies. Not having an agreement in place on exit day for the evaluation of chemical pollutants in the environment presents significant risks and uncertainties and a governance gap in the Bill.

2.11 The concern is that **regulatory divergences could occur in an unintentional way** as a result of interrupted collaboration between scientific experts and that such divergences in currently harmonised environmental policy could have negative consequences on the ability to have frictionless trade and good cooperation between UK and the EU during the implementation period and beyond. Importantly, scientific discussions underpinning regulatory decisions could quickly diverge on key hazardous environmental pollutants that respect no geographical boundaries in air and water. **Once the UK is out of technical discussions it is very difficult to rejoin and pick up where we left off.**

2.12 In particular, our community would like to see:

- **Uninterrupted and continued full participation of UK nominated scientific experts in the work of all ECHA's scientific and technical committees** and in the important scientific work of the European Environment Agency, European Foods Standards Agency, and European Commission's Joint Research Centre (JRC), which underpins chemicals evaluation and research on environmental pollutants.
- **Effective and continued data sharing:** to ensure harmonised decision-making, the UK must seek access to exactly the same detailed comprehensive dossiers of industry-derived data as ECHA are using to inform regulatory decisions for hazardous chemicals under regulations such as REACH. The UK must also be able to continue sharing our data on chemicals with ECHA.
- **A future close partnership in which the EU and UK work together to raise global standards** for environment is essential for the future.

Contact

The Royal Society of Chemistry would be happy to discuss any of the points raised in our response in more detail. Any questions should be directed to Dr Camilla Alexander-White, Senior Policy Advisor in Environment & Regulation alexanderwhitec@rsc.org, 01223 432438.
2 August 2018

Annex: Principles for the Management of Chemicals in the Environment – a Thought Starter



RSC Principles for
Chemicals in the Env