

Draft Policy Statement on Environmental Principles

Landscape Institute Response

Who we are

The Landscape Institute (LI) is the royal chartered body for the landscape profession. We represent over 5000 landscape architects, planners, designers, managers and scientists. As a professional organisation and educational charity, we provide training, accreditation, technical advice, and standards to maintain the high quality of the landscape profession in the UK. We protect and enhance the built and natural environment for the public benefit.

1 Response to questions

Question 5. Do you think the overview section provides an adequate foundation for policy makers to apply the environmental principles in policy-making?

Yes, although some amendment possible.

It is important and welcome that a ‘due regard’ obligation to this policy statement exists. We hope that such wording will ensure the principles are applied, it is however a step down from the legally binding EU obligations. Potential strengthening could include the wording ‘take all reasonable steps to meet’ which was used by the Welsh Government in Wellbeing of Future Generations Act (Wales) 2015.¹

The text “This statement does not place any obligation on policy-makers to commission detailed research to inform an assessment” is unnecessary and undermines the potential of informed decision making. It is understandable that the policy statement intends to avoid onerous red-tape but such wording is overly negative and could be softened or omitted.

Question 6. Do you think step one allows policy-makers to correctly assess the potential environmental effects of their policy?

Yes

Although the definitions and explorations of the terms and requirements are broadly robust there are some areas that could be strengthened.

The definition of proportionality is too open ended, morphing into a simplistic and highly flexible public interest test. Environmental harm through “light-touch” measures appears to be a satisfactory measure. The statement ‘ministers may decide that the public interest is best served by taking forward a policy option that includes associated environmental impacts’ is indicative of an overall negative approach to the environment. There are limited options for environmental improvement. Enhancing and protecting the environment needs greater weight in a proportionality assessment.

Currently the draft statement notes that “when considering the environmental impact of a policy, policy makers also need to take a proportionate approach. The environmental effects that should be considered are those which are both a) likely to occur, and b) likely to have a substantial impact.” As it stands this wording appears to only enable environmental action to be taken when there is a “substantial” threat to the environment. It does not consider underestimated future environmental impacts or positive environmental improvement.

Question 7. Do you think step one ensures that policy-making will address the most important environmental effects?

No

To truly protect and enhance the nation’s environment, policies need to start with environmental improvement or enhancement at their heart. Step one is negative, opting to emphasise the reasons not to take action, rather than the benefits of ambitious environmental action. The statement must include a more ambitious wording to match the government’s apparent convictions for environmental enhancement.

¹ <https://www.futuregenerations.wales/about-us/future-generations-act/>

Question 8. Will step two assist policy-makers in selecting the appropriate environmental principles?

Yes

The environmental principles are clearly outlined within this section. The inclusion of case studies or examples of best practice would aid application of appropriate principles.

Question 9. Do you think step three provide a robust and sufficient framework for the application of each individual environmental principle?

Yes, with some caveats

In the section “Criteria for Taking Action” a cost-benefit analysis model is proposed. Such frameworks when applied to environmental regulation often undervalue and limit positive environmental outcomes.² It is still challenging to quantify the benefits of regulation compared to the more obvious costs of regulation, putting environmental protection on weaker footing. The incommensurability of some economic vs environmental outcomes means that greater emphasis needs to be placed on the public benefits of environmental enhancement.

There is insufficient weight given to the economic benefits of environmental enhancement. Throughout the document there must be a positive economic case for the principles. The principles can help the UK build back greener and create an economy that delivers for people, place and nature.

Question 10. 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

The strong language of the integration principle is welcome (‘requires’). The principle could be even stronger to include environmental enhancement (if we are to leave the environment in a better shape than it is).

The rectification at source principle is an important step and one we believe needs embedding with wider targets of environmental net gain. The principle of environmental net gain, in its broadest sense of “progressive improvement”: to ensure that the net stocks and quality of natural capital does not decrease from this point onwards, in line with the 25 Year Environment Plan. In practice this includes a non-regression principle applied to the targets and obligations contained in EU environmental directives, which should be written into the policy statement.

Question 11. Do you have any other comments on the draft policy statement which are not covered by the previous questions?

Overall, the Environmental Principles Policy Statement is a relatively defensible and safe framework for environmental governance. However, the loss of legally binding robust EU environmental governance is not offset by this document.

Given that this is a chance to create a visionary “world-leading” mechanism the policy statement is a disappointment. The EPPS lacks the teeth, demanding language and ambition to fulfil the government’s commitment to “to leave the natural environment in a better state than it found it.” The document acts as soft guidance that will potentially maintain the status quo rather than a framework that can deliver environmental enhancement.

² Tadhg O'Mahony, 2021 Cost-Benefit Analysis and the environment: The time horizon is of the essence, Environmental Impact Assessment Review, 2021, <https://doi.org/10.1016/j.eiar.2021.106587>.