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Chair, Environment & Climate Change Committee
House of Lords
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Department for Environment, Food & Rural Affairs
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Dear Minister,

Scrutiny of the Draft Environmental Principles Policy Statement

I am writing to you in my capacity as Chair on behalf of the Environment and Climate Change Committee in response to your letter of 11 May and to the Draft Environmental Principles Policy Statement which was laid before Parliament on 12 May. We appreciate the time you and your advisors took to speak with the Committee and discuss our concerns about the draft policy statement on 9 June. This letter contains the Committee's comments on the draft policy statement, in line with the role afforded to us as a committee referred to in section 17 of the Environment Act 2021.

The Committee warmly welcomes the Government's intentions to put the environment at the heart of their decision-making and the changes made since the last draft to help the Environmental Principles Policy Statement achieve that. Nevertheless, we continue to have significant concerns that are outlined below and that we hope you will reflect on, in order to strengthen the Environmental Principles Policy Statement (EPPS) going forward.

Proportionality

The latest draft of the text gives insufficient weight to environmental considerations, in defining what constitutes a proportionate response by Ministers when considering the potential effects of a policy option. As such it risks limiting achieving the Government's stated environmental objectives. This concern about encouraging an excessive degree of proportionality was raised in debates on the Environmental Principles during parliamentary scrutiny of the Environment Act 2021. It is disappointing this draft EPPS does not resolve this issue; indeed it is arguable that the draft EPPS weakens the intent further than that expressed in the Act in its statement:

"When considering the potential environmental effects of a policy option, and the possible changes to the policy, policymakers should take a proportionate approach. This will depend



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on the environmental effects of a policy and whether they are both a) likely to occur and b) likely to have a significant effect.”

In this we agree with the views expressed by the Office for Environmental Protection (OEP), most recently in their letter to you of 8 June. It also seems in the text of the draft EPPS that it is clearer what policy makers should not do, rather than what policy makers should do, for example, Page 9f states: “Policymakers are not expected to carry out a “deep-dive” assessment into all environmental effects, as these may not be known. Nor are policymakers required to replicate the environmental impact assessment process.” It is imperative the proposed toolkit of resources for government departments to support them in planning to implement the duty make what **is** required clear.

In our meeting, you explained that Section 19(2) of the Environment Act 2021 states how the environmental principles should be interpreted and applied by ministers, with the aim of putting environmental considerations alongside social and economic considerations. We appreciate the balancing of such considerations, but we are not confident that it will protect environmental concerns from being overridden by economic and social interests.

Precautionary principle

We are concerned that the interpretation of the precautionary principle in the draft is different from its established use as a means to deal with uncertainty. The principle is usually understood to apply where there is a risk of serious or irreversible damage and where potentially damaging action or inaction should be avoided, even if there is a lack of full scientific certainty. The below statement in the text of the draft EPPS qualifies this too substantially, weakening the precautionary principle and creating a risk of allowing preventable environmental harm:

“There must be sufficient evidence that the risk of serious of irreversible damage is plausible and real, and where choices are considered to reduce or prevent the environmental degradation, they should be cost-effective.”

This reinterpretation of the precautionary principle continues in the new duty given to it to ‘incentivise innovation’. Incentivising innovation is an entirely laudable policy objective, but it is not an integral part of the precautionary principle itself. Decoupling the precautionary principle from a responsibility to incentivise innovation would be beneficial because the former is an approach to appropriately weigh up and manage the benefits and risks inherent in the latter.

Integration principle

The definition of the integration principle is more limited than the definition given in section 17.5 of the Environment Act, and risks limiting the achievement of the Government’s environmental ambitions. We believe the new definition, which says policymakers should “**look for** opportunities to embed environmental protection in fields of policy that have environmental effects ...” is weaker than that in the Environment Act which calls for the principle to be integrated, and that of the standard definition of the integration principle in international instruments which **requires** policymakers to act. Indeed, the Convention on Biological Diversity (CBD), Rio Declaration on Environment and Development and UK-EU Trade and Cooperation Agreement, all of which we are signatories to, make it clear the principle requires the integration of environmental considerations. We welcome your commitment to look again at the wording in this area.



Prevention principle

There does not appear to be a sufficient sense of urgency within the description of the prevention principle: “The prevention principle means the government policy should aim to prevent environmental harm.” The principle sets out that it would be preferable for environmental damage to be prevented, but this did not appear to be a priority and we feel that the need for timeliness and urgency of acting could be more ambitiously worded in the description of when to use the principle. We appreciate your suggestion during our meeting on 9 June that you could strengthen the phrase in the draft EPPS which currently reads “the prevention principle is most effective when it is considered at an early stage”. We believe the addition of the following wording would be effective in strengthening the principle: “Where environmental harm is already occurring, prevention should be applied without delay and as soon as possible.”

International impacts

We welcome that the draft EPPS makes clear that the application of the environmental principles will enhance environmental protection and promote sustainable development. The inclusion of the definition of sustainable development and the reference to the Sustainable Development Goals in the Draft EPPS is of benefit; however, we believe that ensuring consideration of the international impacts of policy making, where relevant, should be made clearer as part of applying the environmental principles. The effects of environmental degradation are felt amongst the poorest most keenly, both at home and globally, and we were disappointed not to see a firm requirement for policymakers to consider the global impacts of policies as they applied the environmental principles to policy making. The UK is signed up to the UN Sustainable Development Goals and our concern here is that Departments may only look to the economic considerations in relation to the UK, and not take into account the global impacts. We understand you are looking into this further and appreciate your promise to consider our suggestion of adding “globally” to the definition of sustainable development on page 6 of the draft EPPS to meet “the needs of the present generation (globally)”.

Implementation and monitoring

We recognise the importance of the toolkit of support resources, alongside the Environment Principles Policy Statement itself, to embed environmental considerations across Government policymaking and we would suggest that the Office for Environmental Protection would be best placed to review the toolkit. We were pleased to hear that you are in discussion with other departments to understand how they will apply the duty and that you are keen to get a measure of consistency across departments through ensuring that the principles are applied effectively and efficiently.

We are extremely concerned by the failure to seek to monitor how departments are taking forward the principles through applying the EPPS, and the impact of the introduction of the principles on policymaking. We agree with the House of Lords Secondary Legislation Scrutiny Committee and the Office for Environmental Protection that it is essential that the practical implementation and effectiveness of the policy statement are properly monitored and evaluated to assess whether they have had any impact and to what extent they have achieved their purpose. Given the united strength of feeling on this issue, we look forward to the Government giving the fullest considerations as to how this can be achieved.



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The commitment to leave the environment in a better state for the next generation is a worthy ambition of this government. It would not be unfair to say though that progress on being able to implement the environmental principles policy statement, a cornerstone of the tools to help achieve that, has been slower than the urgency of the task to turn round the environmental situation we are in demands. We are therefore anxious about when the principles will actually be in use, given the unclear future timetable for producing a final policy statement and for departments to prepare for the duty. It is clear the environmental principles need to be applied as soon as is practicable and we would hope that you could be clearer about the eventual introduction of applying the EPPS. It would also be remiss not to mention that the sudden publication of the draft EPPS, following many months of questioning about when to expect the policy statement, meant parliamentary scrutiny was not as smooth as it could and should be.

Finally, you will be aware of the concerns raised in the House of Lords during the passage of the Environment Act 2021 as to the exclusions of certain areas of fiscal and defence policy from this process. We were therefore extremely heartened to hear from you at our meeting that the Ministry of Defence are looking at their own processes as to how they can take forward the intentions of the environmental principles, in a way consistent with those and their broader role. We applaud the work of both departments for working together to pick up this issue and would hope to hear more about how this intention is to be delivered in due course.

As a result of these concerns and following the Secondary Legislation Scrutiny Committee's report on the draft EPPS in which they drew special attention to the instrument, I have tabled a motion on the Draft EPPS which will be debated in Grand Committee in the House of Lords on Thursday 30 June.

We look forward to hearing your response to our concerns.

Yours sincerely,

Baroness Parminter

Chair, Environment and Climate Change Committee