

<b>Report on</b>	Environmental Plans, Principles and Governance for NI - Discussion Document
<b>Date of Meeting</b>	9 <sup>th</sup> February 2021
<b>Reporting Officer</b>	Mark Kelso - Director Public Health & Infrastructure

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To advise members on the consultation document entitled "Environmental Plans, Principles and Governance for Northern Ireland" Public Discussion Document and associated draft response.
<b>2.0</b>	<b>Background</b>
2.1	The Department of Agriculture, Environment & Rural Affairs (DAERA) is seeking views on a number of environmental governance issues that arise due to UK withdrawal from the EU. The Department of Agriculture, Environment and Rural Affairs (DAERA) is the designated lead department for Outcome 2 within the draft Programme for Government (PfG) for 2016 – 2021 which was published in May 2016. Outcome 2 is "We live and work sustainably – protecting the environment." Within the document it is recognised that the environment is all-encompassing and can contribute to many, if not all, of the PfG outcomes.
<b>3.0</b>	<b>Main Report</b>
3.1	Prior to EU exit, environmental plans, principles and governance within NI formed part of the EU's arrangements. The UK Government has highlighted its commitment to maintaining and improving environmental standards after the UK leaves the EU and has enacted a raft of legislation to maintain the operability of existing environmental legislation in Northern Ireland after withdrawal. EU legislation identified in the Protocol will continue to apply directly. This legislation did not cover the environmental principles and governance aspects of EU arrangements.
	<b>Environmental Principles</b>
3.2	Environmental principles are a specific set of principles, which have been used to guide and shape modern environmental law.  Four core environmental principles underpin the development of EU environmental policy, and are commonly defined as:

3.3	<p>(a) <b>Precautionary principle</b>. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation;</p> <p>(b) <b>Polluter Pays principle</b>. The polluter should bear the cost of pollution control and remediation;</p> <p>(c) <b>Prevention principle</b>. Preventative action should be taken to avoid environmental damage; and</p> <p>(d) <b>The principle that environmental damage should be rectified at source.</b></p>
3.4	<p>Whilst these principles are central to government policy, NI Assembly had not needed to set them down in one place, or define their role in policy-making or delivery as they have been able to rely on EU law. With the introduction of Brexit there is a need to consider a new framework of environmental principles to guide policy-making going forward. As a result, it has been proposed that environmental principles, and governance should be included in an Environment Bill, along with the requirement for environmental improvement plans.</p>
3.5	<p>DAERA, as the lead Department, has been working with the UK government to provide the option for Northern Ireland Ministers to underpin environmental regulation and policy-making in Northern Ireland by including provisions in the Environment Bill which would :</p> <p>(a) Set out <b>principles defined on a statutory basis</b>, and a duty to produce a policy statement which the Northern Ireland Departments will then be required to take into account when devising policy;</p> <p>(b) Establish the <b>Office for Environmental Protection (OEP)</b> as Northern Ireland's independent environmental oversight body to replace a role currently performed by the European Commission; and</p> <p>(c) Require DAERA to prepare <b>environmental improvement plans</b>.</p>
3.6	<p>The consultation document also refers to the adoption of a Green Growth approach, essentially a roadmap to achieving net zero carbon by 2050, protecting and enhancing our environment and sustainably growing our economy.</p> <p>"This roadmap includes a co-designed <b>Green Growth Strategy</b>, a framework of policies to achieve its objectives, and the establishment of an inter-ministerial group to help embed Green Growth within future Government policies. "</p>
3.7	<p><b>Environmental Governance in Northern Ireland: Office for Environmental Protection</b></p> <p>This explores the functions, of a new, independent, statutory environmental body to hold government to account on environmental matters. The role that the new body fulfils will also take account of any future relationship negotiated with the EU on environmental matters. In the Bill this body is named the Office for Environmental Protection (OEP) .</p>
	<p>The Office for Environmental Protection will: (a) provide independent scrutiny and advice on the development and implementation of environmental law and policy; (b) investigate environmental complaints from members of the public; and (c) oversee</p>

	the delivery of environmental law by public authorities and take steps to bring about compliance where needed.
3.8	<p>An environmental oversight body is required to replace the governance functions of the European Commission. It is proposed that The OEP will be a non-departmental public body, receiving and investigating complaints and performing enforcement, advisory and monitoring functions in relation to the environment for England and Northern Ireland.</p> <p>In Northern Ireland it is proposed to put in place appropriate interim arrangements to handle complaints from 1 January until the OEP begins operating - which is of course subject to NI Assembly approval. Beyond complaints it will also remain possible to employ existing mechanisms and for people to raise concerns through Departmental processes, the Ombudsman or via the established judicial review process. Northern Ireland will be required to pay a proportionate contribution to the funding provided to the OEP to enable it to carry out its functions – the amount and mechanism of the funding has not yet been set out.</p> <p><b>The OEP and the Ireland / NI Protocol</b></p>
3.9	The Protocol covers around 20 pieces of EU legislation which enables them to continue to be applicable in NI after the end of the transition period. In NI these will have to be updated as the EU updates its legislation in these areas and the EU's mechanisms for enforcing them through the Commission and CJEU via the infraction process will continue.
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: Not yet known
	Human: N/a
	Risk Management: N/a
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: N/a
	Rural Needs Implications: N/a
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	That Members note the content of the report and consider the draft response points identified at Appendix 2 together with any matters which they may wish to raise .
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	Appendix 1 – Environmental Plans, Principles and Governance for Northern Ireland Public Discussion Document.
6.2	Appendix 2 – Stakeholder Response Template.