



Representing Drainage Water Level & Flood Risk Management Authorities

Rural Innovation Centre, Avenue H,
Stoneleigh Park, Warks., CV8 2LG
Telephone: +44 (0) 2476 992889
Email: admin@ada.org.uk
Website: www.ada.org.uk
Twitter: [@ada_updates](https://twitter.com/ada_updates)

| | | | |
|----------------------|--|-----------------|--|
| Consultation: | Environmental Principles and Governance after the United Kingdom leaves the European Union | | |
| By: | Department for Environment Food and Rural Affairs | Contact: | Ian Moodie, Technical Manager |
| To: | EnvironmentalP&G@defra.gsi.gov.uk | Tel: | 024 76 992889 |
| Date: | 02 August 2018 | Email: | ian.moodie@ada.org.uk |

Consultation: Environmental Principles and Governance after the United Kingdom leaves the European Union Response by ADA (Association of Drainage Authorities)

ADA is the membership organisation for drainage, water level and flood risk management authorities throughout the UK. Today ADA represents over 230 members nationally, including internal drainage boards, regional flood & coastal committees, local authorities and national agencies, as well our associate members who are contractors, consultants and suppliers to the industry.

Our purpose is to champion and campaign for the sustainable delivery of water level management, offering guidance, advice and support to our members across the UK, and informing the public about our members' essential work.

ADA's is interested in ensuring that England retains robust and effective environmental accountability once the United Kingdom leaves the European Union and that its governance is based on sound principles.

Principles

In ADA's opinion, we need to ensure that the application of any principles applied to future policy-making are appropriate to England's future circumstances, and much will depend on the terms of the UK's exit from the EU. Such principles should be set out in the content of any future bill to be put before parliament.

The existing environmental principles used to guide and shape modern environmental law are accepted. However, ADA is concerned that the precautionary principle has been used, in some instances, to either justify an approach to, or prevent, a potentially harmful activity by considering only its hazard, without sufficient consideration of either its scale, probability or duration of that hazard, or indeed any probable environmental benefits. Therefore, ADA would support a further proportionality principle, to be listed within the Bill, taking account of factors, such as the severity of risk, scale of exposure, probability, and duration, as well as the importance of the environmental issue.

New environmental body

ADA considers that the case for a new environmental body has been insufficiently made by the Government and the cost and effort would be better spent towards enhancing environmental delivery. Greater clarity is needed that such a body would not overlap with or duplicate the powers, duties and functions of existing bodies.

[ADA – representing drainage, water level and flood risk management authorities](#)

Member of EUWMA- the European Union of Water Management Associations

ADA is a Company Limited by Guarantee. Registered in England No 8948603



Representing Drainage Water Level & Flood Risk Management Authorities

Rural Innovation Centre, Avenue H,
Stoneleigh Park, Warks., CV8 2LG
Telephone: +44 (0) 2476 992889
Email: admin@ada.org.uk
Website: www.ada.org.uk
Twitter: @ada_updates

However, if such a body were to be created, ADA considers that:

- it may scrutinise and advise the government in relation to extant environmental law,
- It should not be given powers to take legal proceedings against the government,
- it should be able to scrutinise, advise and report on the delivery of key environmental policies, such as the 25 Year Environment Plan,
- its powers to hold the government to account for non-compliance should only apply to central government and not agencies, other bodies, or local authorities, as existing accountability regimes and departmental oversight should provide this,
- it should be able to advise on national planning policy, such as the National Planning Policy Framework (NPPF), but not directly local planning authorities,
- it should not have a remit or powers to respond to, or investigate, complaints from members of the public, as there are already a number of existing routes by which such complaints may be made,
- in tabling any draft Bill that includes provision for a new environmental body, the government should complete and publish both a detailed gap analysis of environmental governance mechanisms and a detailed impact assessment.

Consultation Questions Responses

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

Other: A proportionality principle

We need to ensure that the application of any principles applied to future policy-making are appropriate to England's future circumstances, and much will depend on the terms of the UK's exit from the EU. However, ADA is concerned that the precautionary principle in particular has been used in some instances to justify an approach to, or prevent, a potentially harmful activity by considering only its hazard, without sufficient consideration of either its scale, probability or duration of that hazard. Therefore, the precautionary principle insufficiently considers the risk fully. For flood risk managers risk is commonly defined as, Risk = hazard x exposure x vulnerability. Furthermore, the precautionary principle does not enable the balancing of the actual risks of harm against the potential benefits that a project, product, activity, or action would offer.

ADA therefore would support a further proportionality principle, to be listed within the Bill, taking account of factors, such as the severity of risk, scale of exposure, probability, and duration, as well as the importance of the environmental issue.

Question 2: Do you agree with these proposals for a statutory policy statement on environmental principles (this applies to both Options 1 and 2)?

No comment



Representing Drainage Water Level & Flood Risk Management Authorities

Rural Innovation Centre, Avenue H,
Stoneleigh Park, Warks., CV8 2LG
Telephone: +44 (0) 2476 992889
Email: admin@ada.org.uk
Website: www.ada.org.uk
Twitter: @ada_updates

Question 3: Should the Environmental Principles and Governance Bill list the environmental principles that the statement must cover (Option 1) or should the principles only be set out in the policy statement (Option 2)?

Option 1

In order to provide clarity and long term certainty our preference would be for any principles to be included in the face of the draft Bill, accompanied by a policy statement explaining how these principles can be interpreted and used.

Question 4: Do you think there will be any environmental governance mechanisms missing as a result of leaving the EU?

Don't know

It is difficult to assess whether any environmental governance mechanisms are missing as this will depend on the detailed terms of the UK's exit from the EU. We consider that the Government, in tabling any draft Bill should complete and publish both a detailed gap analysis of environmental governance mechanisms and an impact assessment.

Question 5: Do you agree with the proposed objectives for the establishment of the new environmental body?

No

Greater clarity is needed that such a body will not overlap with or duplicate the powers, duties and functions of existing bodies. The analysis within the consultation is insufficiently detailed and appears to lack regard for the environmental scrutiny role of local authorities and other local bodies such as national park authorities. ADA considers that the case for a new environmental body has been insufficiently made by the Government and the cost and effort would be better spent towards enhancing environmental delivery.

Question 6: Should the new body have functions to scrutinise and advise the government in relation to extant environmental law?

Yes

If such a body were to be created, ADA considers that it should scrutinise and advise the government in relation to extant environmental law. However, the function of policy making should remain with government departments.

Question 7: Should the new body be able to scrutinise, advise and report on the delivery of key environmental policies, such as the 25 Year Environment Plan?

Yes

If such a body were to be created, ADA considers that it should be able to scrutinise, advise and report on the delivery of key environmental policies, such as the 25 Year Environment Plan. However, the function of policy making should remain with government departments.



Representing Drainage Water Level & Flood Risk Management Authorities

Rural Innovation Centre, Avenue H,
Stoneleigh Park, Warks., CV8 2LG
Telephone: +44 (0) 2476 992889
Email: admin@ada.org.uk
Website: www.ada.org.uk
Twitter: @ada_updates

Question 8: Should the new body have a remit and powers to respond to and investigate complaints from members of the public about the alleged failure of government to implement environmental law?

No

We do not think that it is necessary to give such a new body a remit or powers to respond to or investigate complaints from members of the public. There are already a number of existing routes by which members of the public can make complaints, including via the bodies to which the complaint applies, relevant ombudsmen and regulating bodies, and via judicial review.

Question 9: Do you think any other mechanisms should be included in the framework for the new body to enforce government delivery of environmental law beyond advisory notices?

No

ADA does not think the new body should be given powers to take legal proceedings against the government.

Question 10: The new body will hold national government directly to account. Should any other authorities be directly or indirectly in the scope of the new body?

No

The power to hold the government to account for non-compliance should apply to central government only. This should not be extended to other organisations such as the Environment Agency, Natural England, local authorities, internal drainage boards as this would undermine the rights and responsibilities of departmental ministers, and other elected and appointed officials.

Question 11: Do you agree that the new body should include oversight of domestic environmental law, including that derived from the EU, but not of international environmental agreements to which the UK is party?

ADA disagrees that if such a body were created it should not have some oversight of international environmental agreements to which the UK is party. This disjoint would risk conflicting scrutiny. If the Government were to proceed with creating such a body it should set out how oversight of international environmental agreements could be integrated with that body's duties, powers and functions.

Question 12: Do you agree with our assessment of the nature of the body's role in the areas outlined above?

No

The analysis is insufficiently detailed and lacks a comprehensive impact assessment.



Representing Drainage Water Level & Flood Risk Management Authorities

Rural Innovation Centre, Avenue H,
Stoneleigh Park, Works., CV8 2LG
Telephone: +44 (0) 2476 992889
Email: admin@ada.org.uk
Website: www.ada.org.uk
Twitter: [@ada_updates](https://twitter.com/ada_updates)

Question 13: Should the body be able to advise on planning policy?

Yes

If such a body were to be created, ADA considers that it should be able to advise on national planning policy, such as the National Planning Policy Framework (NPPF), but not directly local planning authorities, as that is a function for the relevant department/s.

Question 14: Do you have any other comments or wish to provide any further information relating to the issues addressed in this consultation document?

No comment.

END OF RESPONSE