



Office for  
**Environmental  
Protection**

# Strategy

Draft for consultation

January 2022



© Copyright 2022

This information is licensed under the Open Government Licence v3.0. To view this licence, visit [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/).

This publication is available at <https://consult.theoep.org.uk/oep/the-oep-strategy-and-enforcement-policy>

Any enquiries regarding this publication should be sent to us at

Office for Environmental Protection

County Hall

Spetchley Road

Worcester

WR5 2NP

[www.theoep.org.uk](http://www.theoep.org.uk)

03300 416 581

[enquiries@theoep.org.uk](mailto:enquiries@theoep.org.uk)

## Contents

Foreword by the Chair .....	4
Foreword by the Interim CEO .....	5
Part 1. Introduction .....	6
1.1 Facing the challenge .....	6
1.2 The OEP’s mission, objectives, and functions .....	6
1.3 Our role and resources .....	9
1.4 About this strategy .....	9
Part 2. Delivering our strategic objectives .....	12
2.1 Introduction .....	12
2.2 Sustained environmental improvement .....	12
2.3 Better environmental law, better implemented .....	14
2.4 Improved compliance with environmental law .....	15
2.5 Organisational excellence and influence .....	17
Part 3. Our approach to delivering our functions .....	19
3.1 Introduction .....	19
3.2 How we will prioritise .....	19
3.3 Deciding how to act: an issue-based approach .....	21
3.4 Enforcement .....	22
3.5 Scrutinising EIPs and targets .....	25
3.6 Scrutinising environmental law .....	26
3.7 Advice .....	27
3.8 How we will work with others .....	29
3.9 Objectivity, impartiality, proportionality, and transparency .....	34
Part 4. How we will measure success .....	36

# Foreword by the Chair

The natural environment holds an increasingly prominent place in public life and debate. This reflects its fundamental role in the health, prosperity and wellbeing of the nation, and the critical and pressing threats the environment faces. Climate change, biodiversity decline, urban air quality, and the state of our freshwater and marine environments can each claim the need for urgent action, alongside other pressing matters.

It is in this context that the Office for Environmental Protection (OEP) was created, at the end of 2021. Our mission is to protect and improve the environment, holding government and public authorities to account.

I am delighted now to present our first strategy for consultation, setting out how we aim to fulfil the role Parliament has given us. We have listened carefully to a wide range of views as we have developed our thinking, and we are grateful to all those who have spoken to us. This strategy covers our work in England and reserved matters across the UK, including in the marine environment. We also set out for consultation the approach we will take should the Northern Ireland Assembly confirm our role there.

We have new and important functions. In fulfilling them, we will act independently, strategically, responsibly and without fear or favour. Our aim will always be to make the best possible difference to the natural environment and to best protect people from the effects of environmental harm.

We are to hold government and public authorities to account for their obligations under environmental law. In doing so, we will look for early and satisfactory resolution in any matter, yet take firmer action without hesitation when required. History shows us the need for a credible and purposeful oversight body, so that the law can deliver all the benefits government and Parliament intend.

We will support the good design and implementation of environmental law. We see real opportunities here. Our monitoring, reports and advice will bring independent and expert insight across all stages of the law's creation and implementation.

The UK government's environmental improvement plan is now on a statutory footing, with Northern Ireland's to follow. Our independent scrutiny and reporting of progress against environmental goals and targets should support the delivery of national ambitions and indeed influence the shaping of them, as we anticipate the introduction of statutory targets and future environmental improvement plans.

The OEP has a clear mandate and meaningful new powers. We are ambitious for the natural environment, and the role we will play in protecting and improving it. We appreciate the confidence government and Parliament have shown in creating the OEP. Now we aim to deliver.

Dame Glenys Stacey

# Foreword by the Interim CEO

We are a new public body with a critical role to play. I commend the work of all those stakeholders in our community, Parliament and government who have championed and enabled the creation of the OEP.

We launch this strategy for consultation with more than half of our initial staff recruitment complete, and our transition to functional independence from the Department for Environment, Food and Rural Affairs in its final stages. We are ready to begin our work. Our proposed strategy outlines our proposed approach and fleshes out our ambition to make a significant contribution. We aim to focus on those areas where our actions will have the greatest positive impact.

We start as an organisation which will have 53 staff, in this our initial phase. We must prioritise carefully, as we identify the issues on which we will act, as well as the approaches we take. We will only pursue those matters where we think we can make the most difference. We will do that transparently. We set out in this strategy how we intend to make those choices and the factors that we will take into account.

Purposeful prioritisation will ensure that we make effective use of public money. We look forward to a full review of our operations and resourcing later in 2022, when the evidence from our first months can support a good understanding of our resourcing needs for the future. The Environment Act requires us to report to Parliament on the sufficiency of our resources. We will be clear on the difference our resources allow us to make.

Key to many of the approaches in this strategy is the development of appropriate and productive relationships with other organisations, including those we oversee. We have already begun to work with a wide range of stakeholders. We are committed to being a learning and listening organisation, consciously working to bring diversity of perspective, thought and challenge to our work.

We recognise the value to us of the technical expertise, insight and on the ground experience of others. We aim to earn our authority, so that our voice is one that is heard, respected and can therefore influence better outcomes for the environment and people's health and wellbeing. We aim to be a trusted voice, with a commitment to evidence.

It is a privilege to lead the OEP into its first operational year. I am delighted with support we have had from a wide range of stakeholders and with the calibre and expertise of our Board members and staff. Together we are committed to developing the OEP to be the best it can be. I look forward to working with them all to deliver this strategy, for the lasting benefit of people and the environment.

Natalie Prosser

# Part 1. Introduction

## 1.1 Facing the challenge

There has never been a more crucial time to protect and improve the environment. The world faces many significant challenges: biodiversity loss; degradation of soil, water, air and ocean; unsustainable levels of resource consumption and waste generation; as well as climate change.

These challenges threaten the complex environmental systems which underpin how people live, work and thrive, and their health and wellbeing.

The OEP has been established with unique tools to hold government and other public authorities to account as they work to address these challenges.

## 1.2 The OEP's mission, objectives, and functions

We are established with the principal objective to contribute to environmental protection and the improvement of the natural environment. This includes the protection of people from the effects of human activity on the environment. We will achieve our principal objective through our mission.

### Our mission

Our mission is to protect and improve the environment by holding government and other public authorities to account.

We will act with purpose to pursue our mission, making the best use of the resources available to us and our broad remit and functions to secure the greatest contribution we can to environmental protection and improvement of the natural environment.

Our four strategic objectives set out how we aim to pursue our principal objective and achieve our mission. These objectives are inter-related and of equal importance. We will strive for:

#### 1. **Sustained environmental improvement**

Government is held to account for delivery of environmental goals and targets, and its plans for environmental improvement.

#### 2. **Better environmental law, better implemented**

The environment is protected and improved, and people are protected from the effects of human activity on the natural environment, through better design and implementation of environmental laws.

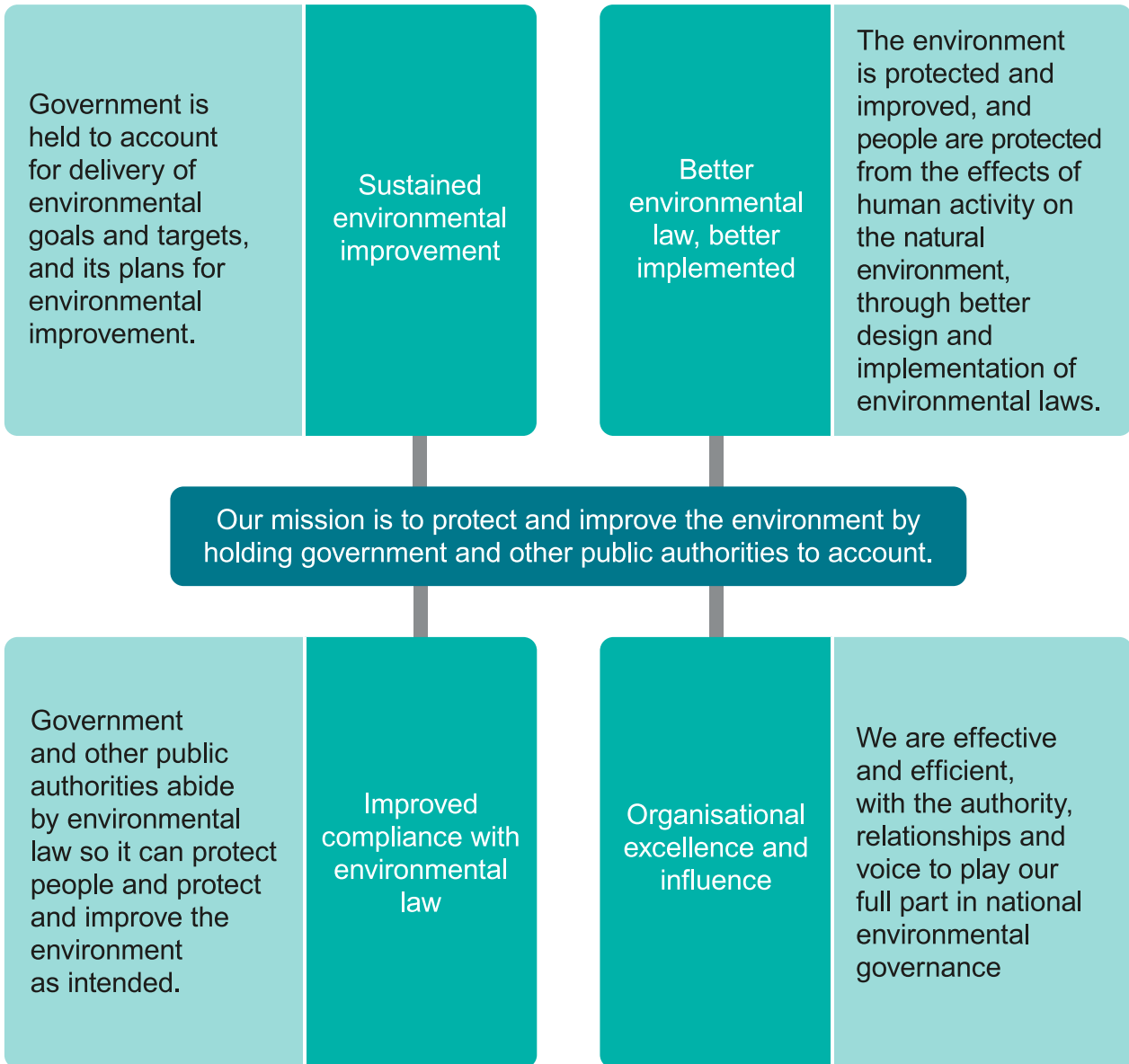
### 3. Improved compliance with environmental law

Government and other public authorities abide by environmental law so it can protect people and protect and improve the environment as intended.

### 4. Organisational excellence and influence

We are effective and efficient, with the authority, relationships, expertise, and voice to play our full part in national environmental governance.

Figure 1. Our strategic objectives



We have four main functions that will contribute to these objectives:

### 1. **Scrutinising Environmental Improvement Plans and targets**

We review and report on progress in delivering environmental improvement plans (EIPs), goals, and targets.

### 2. **Scrutinising environmental law**

We monitor and report on the implementation of environmental law.

### 3. **Advice**

We advise government on proposed changes to environmental law and other matters related to the natural environment.

### 4. **Enforcement**

We investigate suspected serious failures to comply with environmental law by public authorities and enforce compliance where needed.

Figure 2. Our four main functions





## 1.3 Our role and resources

The OEP was established by the Environment Act 2021. We are an independent public body, with powers to advise ministers and government departments and to hold them and other public authorities to account against their environmental responsibilities and the law.

Our work covers England, [Northern Ireland,]<sup>1</sup> and environmental matters reserved to the UK government. This includes matters in the marine environment where these are dealt with in environmental law or government targets and EIPs.

Like the environment, our work is of importance to many government departments. We are funded by the Department for Environment, Food and Rural Affairs (Defra) which has oversight of our use of public money. Defra ministers are accountable in Parliament for this, along with our work. [In Northern Ireland, the Department of Agriculture, Environment and Rural Affairs (DAERA) has the same role]. However, we pursue our objectives and implement our functions independently and impartially, separately from government. Our judgements are our own, formed independently.

We will publish a corporate plan each business year, setting out the resources we have available, and how we plan to make the best use of them through our activities and programmes. We are newly established and small. We will act strategically and selectively and must make hard choices about how we will make the most difference.

We anticipate that our financial resources will be reviewed in our first year, with the benefit of experience in delivering this strategy and our first corporate plan.

In our annual report we will demonstrate how we have used our resources, and what we have achieved. This will include our assessment of whether we have been provided with sufficient sums to carry out our functions.

## 1.4 About this strategy

This strategy sets out how our work will contribute to improvement in the natural environment and environmental protection, including the protection of people from the effects of environmental harm.

In this first part, we have explained who we are, and introduced our mission, objectives and the functions we have.

---

<sup>1</sup> Inclusion of this, and other, square-bracketed text in the final strategy is subject to Northern Ireland Assembly approval of the OEP's remit extending to devolved matters in Northern Ireland.

Part two describes how we will pursue our strategic objectives, our ambitions, and the approaches we will take to achieve them.

Part three gives information about the way we will work. We explain how we will deliver each of our four main functions, prioritise our activities, and work with others. We also set out our approach to objectivity, impartiality, proportionality, and transparency.

Part four then sets out how we intend to measure our success and review this strategy.

Annex A sets out our enforcement policy and provides detailed information about the way we will exercise this function, expanding on the summary provided in part three.

In this strategy, we give particular meaning to some of the words we use. This includes important expressions defined in the Environment Act 2021.

Figure 3. Key terms in this strategy

## The natural environment



This means living things like plants and wild animals, the habitats in which they live, land, air and water, and the natural systems, cycles, and processes through which they interact.

## Environmental protection



This means protecting the natural environment from the effects of human activity and protecting people from the effects of human activity on the natural environment. It also includes maintaining, restoring or enhancing the natural environment, and monitoring, assessing, considering, advising or reporting on any of these.

## Environmental law



This means any legislative provision that is mainly concerned with environmental protection, unless it deals with certain excluded subjects such as national security or those devolved to the Scottish or Welsh governments.

A legislative provision can include, for example, a law (such as an Act of Parliament or Regulations) or part of a law.

[Environmental law generally means both UK and Northern Ireland environmental law, unless we refer to either individually.]

## Public Authority



This means any person or organisation carrying out any function of a public nature. It includes the government, agencies of government, local authorities and similar organisations. In some circumstances it includes others, for example private companies, when they are carrying out public functions. These could be water companies, harbour authorities or other similar bodies.

Authorities carrying out devolved functions in Scotland and Wales, and certain specific authorities such as the courts and Parliament, are excluded.

## Government



Where we refer to government, we mean the UK government acting on matters for England or where they are reserved [and the Northern Ireland government, unless we refer to either individually].

## Environmental improvement plan



An environmental improvement plan (EIP) is a plan for significantly improving the natural environment that government is required to prepare under the Environment Act 2021. EIPs must include the steps government intends to take to improve the natural environment and can include other matters.

## Targets



Targets are those relating to the natural environment, or people's enjoyment of it, that are to be set by the UK government under the Environment Act 2021.

The UK government may set any target in these areas. It must however set targets in some specific areas – a long-term target for each of air quality, water, biodiversity, and resource efficiency and waste reduction, and targets for fine particulate matter in the air and the abundance of species. The targets must set a standard to be achieved, and a date by which it is to be met.

## Reserved matters



Reserved matters are those where the ability to create legislation rests with the UK Parliament in Westminster and has not been devolved to the parliaments and assemblies in Scotland, Wales or Northern Ireland.

Devolution legislation sets out which matters are reserved and devolved. The environment is largely a devolved matter with few areas reserved. There is no single, exhaustive list of reserved legislation.

# Part 2. Delivering our strategic objectives

## 2.1 Introduction

This part describes our four strategic objectives in more detail. For each we set out what we aim to achieve and how. We describe our approach to each of our functions in greater depth in part three.

## 2.2 Sustained environmental improvement

### **Strategic Objective 1: Government is held to account for delivery of environmental goals and targets, and its plans for environmental improvement**

Government is uniquely placed to protect and improve the environment, through its own activities and its ability to influence others. Our aim is that government sets ambitious national environmental plans, goals and targets, and makes sure they are delivered effectively.

The [UK] government set out a long-term approach to environmental protection and improvement in its 25 year environment plan (25 YEP) in 2018. This is the first EIP and covers 10 goals relating to the natural environment. The [UK] government is also to set long-term targets in four priority areas – air quality, water, biodiversity, and resource efficiency and waste reduction, as well as specific targets on fine particulate matter in air and on species abundance. The UK government will review the 25 YEP in 2023 and every five years thereafter.

[Similarly, the Northern Ireland government is to prepare its own EIP. This will set out goals relating to the natural environment in Northern Ireland. The Northern Ireland government will also review its plan every five years.]

### **What we aim to achieve**

Ambitious national plans, goals and targets are fundamental to environmental protection and improvement. We will critically assess, report, and advise on the development and delivery of these national measures, holding government to account for its ambition, progress and delivery. In this way, we aim for sustained improvement in the natural environment through government's delivery of its plans and goals, and compliance with targets.

## **How we aim to achieve this objective**

We will independently assess government's progress towards environmental improvement, the state of the natural environment and the trajectory of environmental change.

We will pursue this objective mainly by scrutinising the EIPs and targets, as described in section 3.5. Through independent analyses we will critically assess and report on what is being achieved, what is working and the issues that need addressing. We will publish our findings for government, Parliament and others to see and act upon. We will make recommendations for improving progress where policies or action fall short or where there are gaps. Our analysis will extend across the EIP and target areas. We will prioritise some matters and consider them in greater depth.

We will identify and report on gaps in monitoring and press government to fill them. We will conduct selected research on how gaps might be filled to encourage and stimulate improvement.

Through our advice and scrutiny of environmental law functions (sections 3.7 and 3.6 respectively) we will recommend how changes to the law, its implementation or other actions could help deliver government's plans for environmental improvement. Under our enforcement functions (section 3.4), we will challenge and remedy any serious failures to comply with the law that undermine environmental improvement, where we prioritise those failures in our enforcement activities.

## **Our first actions to achieve this objective**

We will publish our first EIP monitoring report in early 2022. It will critically assess the [UK] government's current plan and its latest annual progress report. The main aims of our first report, however, will be to press for ambitious environmental targets, to seek improvements to the plan when the EIP is reviewed by government, and to propose better governance and better monitoring, to improve the prospects of success. Our report will also identify building blocks for a better future plan suited to the scale of the challenge, in protecting and improving the environment.

We will develop our capability to scrutinise performance against the goals in the EIP in future years, defining and testing approaches, and learning from our impact.

[We will give advice to DAERA as they develop the first Northern Ireland EIP and will make preparations to scrutinise and report on progress against it.]

We will set out an indicative three-year programme for our research to investigate critical gaps in evidence, working with others where appropriate.

## 2.3 Better environmental law, better implemented

### **Strategic Objective 2: The environment is protected and improved, and people are protected from the effects of human activity on the natural environment, through better design and implementation of environmental laws**

Environmental law is developed to achieve environmental outcomes or benefits. These include outcomes for the natural environment, for example by protecting wildlife, and for people's health and wellbeing, such as achieving safe air quality standards.

To be effective, environmental law must be designed well to require or incentivise behaviours that can deliver the intended outcomes. It also needs to be implemented well to achieve these outcomes in practice.

Law that is badly designed will not deliver the desired outcome and may have unintended consequences. Different laws can pull in different directions. To be most effective, laws should work together coherently, for all outcomes to be achieved.

Even well-designed law may fail to achieve its outcomes or have harmful effects if implementation plans are not well thought through or executed.

#### **What we aim to achieve**

Our objective is for environmental law and its implementation to be well designed and delivered, so that positive outcomes for the environment and people's health and wellbeing are achieved. We aim to increase the effectiveness of existing environmental laws and support the good design and implementation of new ones.

#### **How we aim to achieve this objective**

The design and implementation of environmental law are matters for government, legislatures and public authorities. We will pursue this objective mainly by scrutinising environmental law (section 3.6) and giving advice (section 3.7). Our approach will be built on engagement and influence, and providing independent analysis, advice, and recommendations to those who design and implement environmental law.

The implementation of law goes beyond its introduction and compliance to the wider context and framework in which the law is applied in practice. Resourcing, other laws and incentives, and the choices made in administering and enforcing the law can all work against outcomes being delivered effectively.

We will independently scrutinise the implementation of selected environmental laws to determine if they are achieving their intended outcomes and make recommendations for improvements through changes in practical application.

We will also make recommendations in areas where the design of current law could be improved and where it should inform the development of new environmental laws. We may also make recommendations where legislative, policy or other gaps or barriers limit the effectiveness of environmental law.

We will critically assess and advise on changes to environmental law proposed by government, with the aim of ensuring high standards of protection and improvement, and an effective basis for implementation. We will give independent advice on other environmental matters when government requests it.

We will also contribute to this objective through our enforcement functions (section 3.4), where we will challenge non-compliance and assess its root cause. By drawing wider conclusions from individual or groups of cases, we will aim to inform effective changes in the law and its implementation.

### **Our first actions to achieve this objective**

We will set out how we will identify our first priority subjects for scrutinising environmental law in our corporate plan. In selecting these, we will consult with practitioners, public authorities and others who implement the law or are affected by it.

We will commence our monitoring work and engage with relevant stakeholders, including public authorities and legal experts, to gather evidence on the subjects we decide to monitor.

We will determine how to monitor and record relevant information. We will establish and maintain an overview of upcoming reviews and changes to environmental law. We will give targeted advice to government where we believe it will make most difference.

## **2.4 Improved compliance with environmental law**

### **Strategic Objective 3: Government and other public authorities abide by environmental law so it can protect people and protect and improve the environment as intended**

Environmental law exists to achieve environmental outcomes and benefits. We expect government and other public authorities to comply with their obligations under environmental law so that the expected outcomes are realised.

Effective implementation of the law often depends on the actions of public authorities. Public authorities should always meet all their obligations in environmental law. This does not always happen, however, yet failure to comply can have significant implications for the environment and people's health and wellbeing. It can also undermine public confidence in the delivery of environmental policy.

## What we aim to achieve

Our objective is to hold government and other public authorities to account for their compliance with environmental law, and to challenge and remedy serious failings. This will enable the law to protect and improve the environment and protect people as intended.

## How we aim to achieve this objective

We will pursue this objective mainly through our enforcement function (section 3.4). This will include receiving and assessing complaints, conducting investigations, and using the full range of our enforcement powers to identify, address and resolve serious failures in public authorities' compliance with environmental law in prioritised cases. In challenging and remedying serious failures, we will aim to give full effect to the law.

We aim to increase compliance with environmental law overall, rather than just in relation to individual cases. For each case we resolve, we will aim to achieve wider benefits through the lessons and precedents our work creates. We will make careful choices to target our finite capacity to where it will have most effect.

Our scrutiny of environmental law (section 3.6) may also identify systemic issues of non-compliance and their root cause, and we will take enforcement action where appropriate. We may also contribute to compliance by supporting better design and implementation of environmental law (section 3.6 and 3.7).

## Our first actions to achieve this objective

We have published our complaints procedure and set out our approach to our enforcement functions in the enforcement policy that forms part of this strategy (see annex A).

We will select our initial subjects for investigation based on our assessment of the relevant facts that we gather through complaints and other activities, and our prioritisation process. We will trial and refine our approach to investigation through these initial cases.

We will also develop our capability to draw and communicate our findings to drive compliance with the law among the wider community of public authorities, including through building networks and channels with different types of authorities.

### Complaints

An important part of our role involves receiving and assessing complaints about potential breaches of environmental law by public authorities. We welcome complaints as they allow people to provide us with information on issues of concern that can inform all our functions.

Our service is free to use. We have published our complaints procedure on our website [www.theoep.org.uk](http://www.theoep.org.uk). This sets out what people can complain to us about, how they can



complain and what they can expect of us. It also explains how to provide the information we need so we can do our job well.

The OEP is not an ombudsman, although we will work with those organisations (see section 3.8). Our role is not to investigate or act on every complaint we receive, nor to seek redress for those who complain to us.

Rather, we must assess the issues concerned and will analyse the evidence to ensure we focus on serious breaches and cases where we can make the most difference. Where we investigate a serious case, this is to determine if the public authority has complied with the law, and if it has not, to establish what it should do to correct the failure.

## 2.5 Organisational excellence and influence

### **Strategic Objective 4: We are effective and efficient, with the authority, relationships, expertise, and voice to play our full part in national environmental governance**

We are a new organisation, with a broad remit and powerful tools. The environment and people's health and wellbeing will be best served when we use these to their greatest effect – strategically, expertly, and independently. We will have 53 staff initially. We will keep our resources under review, but will always face hard choices about how and where we act, so that we make the most difference.

#### **What we aim to achieve**

Our objective is to operate as effectively and efficiently as we can, both internally and in our wider relationships and external engagement, so we deliver the most we can for environmental protection and improvement.

#### **How we aim to achieve this objective**

We have designed our organisation to be efficient, responsive and flexible. We will work hard to ensure we use public money wisely, and to lever our resources in every sensible way we can, so that we make the most difference.

We are located in Worcester with technology to work well remotely. We have our own corporate services to be responsive to our needs. We will be independent in our approach and judgements. We will draw on specialist support and economies of scale from across government where these are most effective and efficient.

We will attract and retain a high-quality workforce, creating a working culture in which our staff can thrive. We will provide them with access to the systems, training and tools they need to work effectively.

We aim to be influential, authoritative, and respected. We will establish our authority so that our actions have the widest impact. We recognise that our reputation is to be earned. We will develop the power of our voice and use it wisely so that people understand our work, listen to what we say, and act to protect and improve the environment. When we speak, we will speak with purpose and say things as they need to be said.

We will act strategically, with expert evidence, and with full independence of judgement. Our most important judgements will be made using the expertise of our Board. We will develop and continually improve our access to the best available science, knowledge and expertise, for example through short-term secondments, expert panels and evidence commissions.

All our staff will be responsible for engaging and listening to others. We will consciously and consistently seek out the views and perspectives of those with whom we work. This will include the public authorities we oversee, those who influence others, and those affected by failures in environmental law or by failures to improve the environment. We will engage to add insight, diversity of experience and challenge to our work, and to augment and amplify its results. We set out the ways we will listen and work with others in section 3.8.

We know our ability to succeed will depend on how we work as much as what we do. We aim for the OEP to be an enviable place to work. We will clearly define the values and behaviours we will uphold to develop the culture needed to deliver our objectives. We will evaluate our culture regularly with all those who work for us, and those with whom we work.

## **Our first actions to deliver this objective**

In this, our first strategy, we will complete and embed our work to establish the OEP. We will test our approaches and learn from our delivery, make changes where needed, and review our effectiveness and the resources needed to deliver this strategy within our first year.

We will complete recruitment of a chief executive and other staff and develop the culture and values to enable our team to succeed. We will further develop and establish our approach to access wide and diverse expertise, reflecting our role and remit.

Wide and active engagement through a range of forums and approaches will support how we actively listen. We will work with others to understand if the approaches that have supported our establishment will serve us best as we deliver our role.

We will develop our approach to how we use and store data and intelligence, and the systems that enable this.

# Part 3. Our approach to delivering our functions

## 3.1 Introduction

Here we provide information about the way we will work. We describe how we will prioritise our work and allocate resources across our functions, as well as how we will consider which particular function or combination of functions to apply to specific issues or opportunities. We explain how we will exercise each of our four main functions, how we will work with others, and our approaches to objectivity, impartiality, proportionality and transparency.

## 3.2 How we will prioritise

### Why we will prioritise

We have important new functions and a wide remit. Through our actions we will make a meaningful difference to protecting and improving the environment, but we cannot address every issue. Where we act, we will act strategically and with purpose.

There are important things that, by law, we must do each year or must always do when needed. Beyond this, we will prioritise to act selectively and strategically, and to target our capability and resources to have the most impact.

We will choose priorities that provide value for the public money that funds us.

### Our approach to prioritisation

Our prioritisation approach is founded on four principles:

1. We will prioritise by outcome and across our functions so that our work makes the most difference
2. We will prioritise by judgement, supported by the evidence available at the time
3. Our judgements on what we prioritise, and when, will be guided by four main questions:
  - a. how large an effect could our action have?
  - b. how likely is our ability to have that effect?
  - c. what is the strategic fit?
  - d. what is our capacity and capability to deliver?

4. We will be transparent about the matters we prioritise, and those we do not.

Our Board and senior leaders will make our judgements on prioritisation. They will be supported by our business processes, which will enable these judgements to be consistent with our principles, and to take account of relevant and available information.

We will be transparent about our judgements, the reasons for them and their overall outcome in the outline work plan we set out in our corporate plan, published at the start of each business year in April. We will explain in our annual reports and accounts how we have prioritised in light of any issues we have experienced.

## **Prioritisation underpinned by analysis**

We will analyse all relevant available information to reach our judgements on prioritisation, based on a range of factors outlined below. We will consistently consider these factors, where they are relevant, in making our judgements.

We recognise that good judgements are both evidence-based and timely. As such, our judgements will be based on the information that is reasonably available to us at the time we decide. We will not normally conduct our own detailed technical assessments to generate new evidence as the basis for prioritisation, but may do so where the available evidence is particularly limited or divided.

### **A. How large an effect could our action have?**

To make this judgement, we will assess the seriousness of harm, or the extent of the opportunity for improvement, in relation to the natural environment or protecting people.

We will make this assessment by considering a range of factors as set out in our enforcement policy at annex A. These include the systemic or singular nature of harm to the environment, or people, or the opportunity for improvement, and its likelihood, degree, and duration.

Where appropriate, we will also consider the context in which the public and others, view the matter, as well as the attitude, approach and response of public authorities as factors when deciding its gravity or relative importance. We will then assess the extent to which these conditions could change, following our intervention.

We recognise that issues of harm and opportunities for improvement will not always be single or isolated events. We will take a broad and strategic view. We will recognise and take account of common, cumulative and related issues or opportunities as we make our assessment.

### **B. How likely is our ability to have that effect?**

The environment is a complex system, and the effect of our actions will not always be certain. Our programme of work will therefore balance where we judge we might have

greatest effect, and where we can be most confident of a positive impact. In this way, we will aim to achieve the most difference overall.

We will make judgements about the likelihood of our actions being successful by understanding how they may lead to environmental protection or improvement and assessing confidence that these outcomes will happen. We will consider the broader context, including other influences and actors, as we do this.

Where we cannot be certain about the effect of our actions, we will take a risk-based approach. For example, the greater the significance of the environmental feature potentially impacted or the greater the potential impact on human health, the greater the case there will be to act, even in the face of uncertainty.

### **C. What is the strategic fit?**

Sometimes we will be the only organisation able to act. At other times we will assess that others may be better placed to have effect. There will also be times when our work could complement or add to that of others. We will consider these factors in our prioritisation.

Our judgement about the strategic fit will also consider the risk of acting or not acting, the extent to which our actions add to other work we are doing, and the balance of all our activities across our remit.

### **D. What is our capacity and capability to deliver?**

Our prioritisation will take account of the resources and capabilities needed for our work to make a difference, and the time and scale of the activity involved. This will be especially important in our first period of operation as we build our experience.

We will ensure we retain capacity and flexibility to respond to external events, enabling us to be influential and take opportunities when they arise.

## **3.3 Deciding how to act: an issue-based approach**

Many environmental issues fall within the OEP's remit. Each issue of harm and each opportunity for improvement will be different and the specific contribution we can make will vary.

When deciding how to act, we will consider which of our functions can contribute to an improvement for any issue that we identify. This will mean that the balance of what we do will change over time. For example, in some years, we may produce more reports under our function to scrutinise environmental law (see section 3.6); in others we may undertake more investigations under our enforcement function (section 3.4).

Our functions complement each other and may have more effect together. For example, we may scrutinise progress against an area of the EIP or targets, and implementation of associated environmental law, in concert. We may also decide to prioritise issues in that same area in our advice and enforcement functions.

In other situations, we may use our functions sequentially. For example, our reports scrutinising environmental targets may indicate that government is making insufficient progress, requiring corrective action to be taken to meet the targets by the relevant dates set in law. If targets were then missed, we might initiate an investigation.

We will not work in narrow, functional siloes. We will identify how what we do under one function can support and reinforce our other activities to lead to better outcomes. This means using information from one area of activity to provide insight into related issues and opportunities in another. For example, we will review complaints from the public for evidence of areas of environmental law that can be improved. Similarly, we will consider whether our scrutiny of EIPs provides intelligence that suggests environmental law is not being properly implemented or delivering its intended outcomes, and act accordingly.

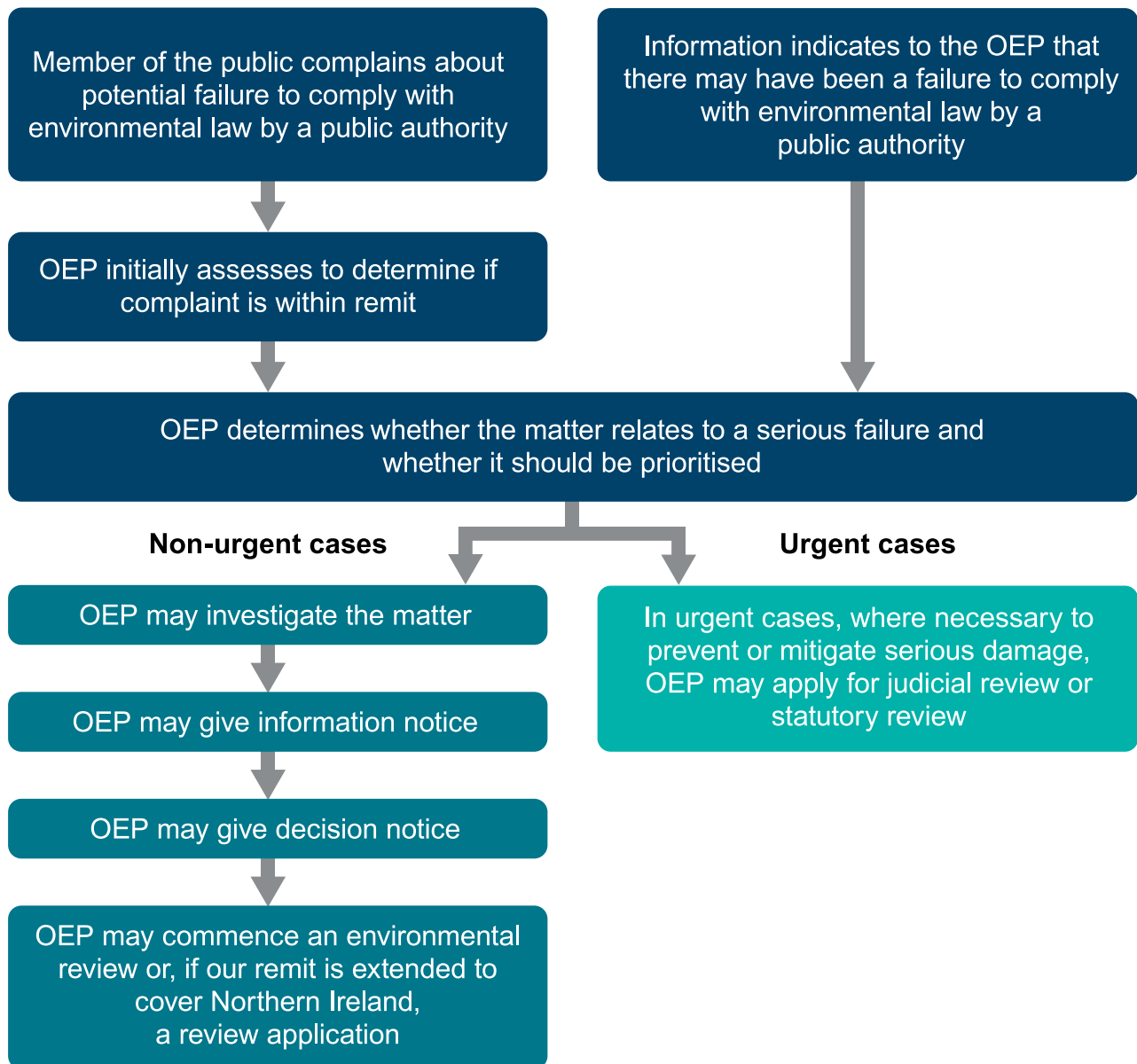
[Our functions in England and those we have in Northern Ireland are very similar, although the contribution the OEP could make to environmental improvement in each may differ. We will implement our functions as a single, integrated organisation, taking account of any specific differences in each jurisdiction.]

We will consider the different environmental issues, and any other particular circumstances, in determining where and how to act in each of England and Northern Ireland. We might sometimes scrutinise the same issues in England and Northern Ireland, but only where we judge this to make the most difference overall.]

### **3.4 Enforcement: How we will investigate suspected serious failures to comply with environmental law by government and other public authorities and enforce compliance where needed**

Our enforcement functions encompass a range of powers and duties including receiving and assessing complaints, conducting investigations and commencing legal proceedings. These functions are aimed at identifying and responding to serious failures to comply with environmental law by government and other public authorities.

Figure 4. Summary of our enforcement function



## Our approach

Our approach is set out in detail in our enforcement policy in annex A.

We will operate a free-to-use public complaints service through which people can alert us to suspected failures of public authorities to comply with environmental law. This can be accessed through our website [www.theoep.org.uk](http://www.theoep.org.uk). We will also use other sources of information, including our scrutiny of the implementation of environmental law (section 3.6) to identify possible failures. We will consider and prioritise between cases where information, from complaints or other sources, indicates there may have been a serious failure to comply.

We will focus strategically and on the most significant matters, such as failures to comply with environmental law that are systemic, recurrent or may cause serious harm. We will be intelligent in our choices, knowing that sometimes the law may not be designed well or

conflict with other laws (as discussed in Section 2.3). We will take this into account in determining how best to respond, and which of our functions are the most appropriate.

Where we respond through our enforcement functions, our approach is designed to challenge and resolve failures without recourse to formal court processes where we can. We will normally first try to resolve the issue at an early stage through dialogue and agreement. This may include commencing an investigation and seeking information from the public authority, where we regard the matter as serious. Where a resolution is reached, we will normally publish the results.

We will be ready to turn to our further enforcement powers, including court proceedings, to remedy serious failures and to enable environmental law to have its full intended effect. We can take proceedings in the English High Court through a process called environmental review, [and in the Northern Ireland High Court through a review application].

We can take cases to court using judicial review if urgent action is needed to prevent or mitigate serious damage to the natural environment or to human health. We can also apply to intervene in a judicial review or statutory review brought by someone else. We will seek to do this when our prioritisation indicates this is the most suitable course of action and we consider that our intervention would assist the court. It will be for the court to determine whether our intervention is permitted.

To take the steps that make up our enforcement functions, we must judge that a case meets certain legal tests – including whether a public authority's conduct amounts to a serious failure to comply with environmental law. We set out how we will judge this in our enforcement policy (annex A). In making our assessments, there may be situations of uncertainty. In such cases, we will take a risk-based approach. The greater the importance of the natural environment feature at risk, or the more significant the potential human health impact, the greater the scope for adopting a proactive approach that addresses the risk of harm through proportionate investigation and enforcement action.

To bring public authorities into compliance we will work to identify the causes of serious breaches, and actions to correct them, prevent their recurrence, and remedy or mitigate their consequences. Where we make recommendations, we will take steps to monitor that they are taken up.

We will expect the wider community of public authorities to learn from the matters we progress to better protect and improve the environment through their own compliance with the law. We will work to ensure our findings are heard and understood so this happens.

## **Prioritising our enforcement activity**

Our approach to prioritising all our work is considered in section 3.2. This applies to enforcement as it does to other functions.



There are specific factors to which we must have regard in prioritising enforcement cases. The Environment Act 2021 requires us to have regard to the particular importance of prioritising cases that have or may have national implications. We must also have regard to the importance of prioritising cases that relate to ongoing or recurrent conduct, that we consider may cause or have caused serious damage, or that raise points of environmental law of general public importance. These factors are reflected in our enforcement policy in annex A.

### **3.5 Scrutinising EIPs and targets: How we will review and report on government's progress in meeting environmental goals and targets**

We will monitor, critically assess, and report on government's progress in improving the natural environment in accordance with the EIPs, goals and targets.

Government must report its own assessment of progress annually and review its plans periodically. We will hold government to account against these obligations and for its delivery of the EIPs, goals and targets. Government must respond to our report and specifically address our recommendations. This cycle of assessment and scrutiny underpins in law delivery of the EIPs and targets.

#### **Our approach**

We will respond to government assessments in our own, independent monitoring reports within six months of government's reports.

Through these reports and our work that informs them, we will develop insights that we will deploy when analysing government's assessments of progress. We will also make recommendations on how progress could be improved across the goals, targets and plans, and the adequacy of the published data.

To inform our independent assessments of government's progress, we will aim to take a system-wide approach to examine the full range of drivers and pressures that act on the environment. We will therefore aim to assess progress against the goals and targets holistically by considering the wider environment, as well as those aspects of society that interact with the natural environment.

We will adopt a transparent approach to monitoring progress against goals and targets, focusing on the use of existing data and information, and making our insights available to others. Where monitoring progress is constrained by the accessibility or quality of data and information we will say so, and work with others to improve it.

We will be strategic in where and how we scrutinise progress, considering policy, delivery plans and environmental datasets, as well as governance and accountability for these matters. We expect that identifying the gaps in each will be just as important as analysing

what is available for scrutiny. We will take different geographies and periods of time into account.

We will assess the potential future trajectories of environmental improvements and make recommendations for government to adapt monitoring, targets, milestones, delivery plans and policies to fulfil their ambitions more effectively, sustain progress and further improve the environment.

Alongside comprehensive monitoring of progress across the areas covered by the EIPs, we will also monitor selected areas of the environment in greater depth each year. We believe we will make the most difference by having a scheduled programme of detailed assessments and maintain capacity to respond to external events where our findings can be influential. This will allow us to increase our insights in priority areas, encouraging and informing government action where environmental improvements are needed most.

We will develop a research programme to identify critical gaps in evidence and understanding of the natural environment, policy, and delivery plans, which will inform our progress monitoring. We will work with others to stimulate activity to fill these gaps by those best placed to do this. We will develop expert and independent panels to support our work.

## **3.6 Scrutinising environmental law: How we will monitor and report on the implementation of environmental law**

The OEP must monitor the implementation of environmental law. We can report on any matter concerned with the implementation of environmental law, at any time.

We must publish our reports and arrange for them to be laid before Parliament [or the Northern Ireland Assembly]. Government must respond to our reports within three months and publish and lay their responses before Parliament [or the Assembly].

### **Our approach**

Through our stakeholder engagement and management of intelligence, we will maintain an overview of the implementation of environmental law. Each year, we will also target in depth monitoring on a smaller number of environmental laws. This will allow us to get to the root of how these laws are implemented, their effectiveness, and what improvements might be made. We will produce authoritative reports and recommendations from these studies.

Through our in-depth monitoring, we will assess and report on how existing environmental laws work in practice. This will help to establish if these laws work well and produce the desired benefits. It will enable us to hold government and other public authorities to account on their current environmental obligations, and build expertise on ways in which environmental law and its application can be improved.

We will look beyond questions of legal compliance to cover the wider context and framework of implementation. Our approach will consider other relevant matters such as: design of the law and how different laws interact; the set-up of responsible institutions and their resourcing, skills, and capacity; co-ordination of delivery actions among different bodies; the role and use of guidance in implementing the law; identification of good practice; and approaches to enforcement and sanctioning by regulators.

We will focus primarily on issues associated with the implementation of laws by government and other public authorities. This will allow the greatest synergy with our other work. However, we will also look at implementation by other parties, if necessary, to inform our assessment of how well the public administration of environmental law is working overall.

We will also consider the design of environmental law. For example, we will examine whether the law is fit for purpose, still relevant and delivering the policy intention, and where laws may exist in tension with each other or where there are gaps or inconsistencies.

We will seek information from those who design, implement and are affected by environmental law so we can objectively assess and report on where it is working well and where improvements could be made. Whilst our reports are primarily addressed to government, we will also direct recommendations to others, including to other public authorities, where appropriate. In this manner, we will aim to drive a more consistent and effective implementation of environmental law.

We will set out a planned programme for this work to keep stakeholders informed and enable them to plan to provide evidence or seek to input. We may also ask public authorities to provide information to us on a cyclical basis. This will enable us to identify where there may be practical difficulties in the implementation of certain laws, or where things are working well, why this is so and whether there are lessons that can apply elsewhere.

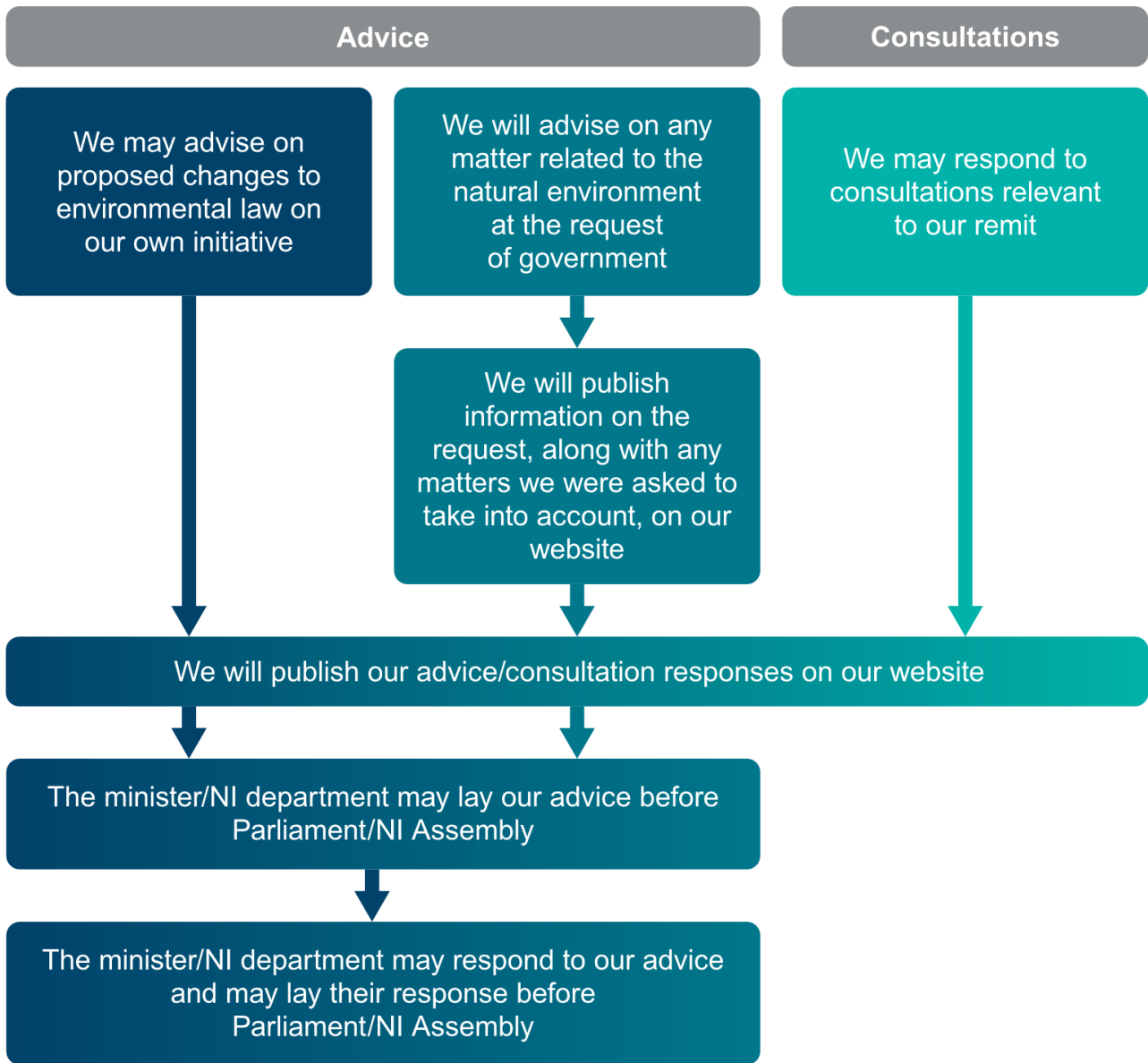
We will use complaints received under our enforcement functions (see section 3.4) as a source of information in our monitoring of the implementation of environmental law. We will also monitor other sources of information including reports from government and delivery bodies, Parliament [and the Assembly], academia, and the media. We will seek broad views on the implementation of environmental law in areas beyond those we have chosen to focus on in most depth.

### **3.7 Advice: How we will advise government on proposed changes to the law and other environmental matters**

The OEP can give advice on any changes to environmental law proposed by government. This could be in response to draft legislation published by government, or a white paper

setting out proposals for future law. Additionally, we must give advice about such changes or any other matter relating to the natural environment if government asks us to.

Figure 5. Summary of our advice function



### Our approach

Where we have discretion, we will carefully select where we provide advice to ensure we are addressing subjects of strategic importance. We will apply the process of prioritisation set out in section 3.2.

We must respond to government requests for advice. We will work with ministers and government departments on a ‘no surprises’ basis, so that our advice can effectively inform and influence delivery of environmental protection and improvement. To support transparency, we expect most requests for our advice to be set out in writing.

Our advice will always be objective, impartial and evidence-based, regardless of whether it is provided at the request of ministers or on our own initiative.

We believe we can make a significant difference if we provide advice not only to environmental ministers and officials, but also to those in other government departments. We will aim to identify synergies across government, as well as areas where there could be better join-up across policy areas.

We may also respond to consultations relevant to our remit, where doing so supports our objectives. Given our strategic nature, our input is normally likely to be most appropriate and more effective as advice. This will allow us to take a broader view in line with our remit. We will therefore work with officials to scope such requests for our advice, as appropriate.

We must publish the advice that we produce, alongside information associated with a request from government, which we will do on our website [www.theoep.org.uk](http://www.theoep.org.uk). We will periodically review the action taken in response to the advice we have given.

### **3.8 How we will work with others**

The natural environment is complex and diverse. Many organisations within and outside government play a role in its protection and improvement, including public authorities, businesses, the scientific community, academics, and the voluntary sector.

We cannot act effectively in a vacuum, nor make the most difference without the evidence and perspectives of these others. Many have a rich and deep understanding of the environment in their areas of expertise, and insight into the world on the ground. We will engage, listen, and learn from these stakeholders, drawing on and respecting the deep technical expertise of specialist bodies, including those in government.

We will take a wide view of the evidence we seek and use in reaching our judgements. We will not always generate our own evidence but instead will work with technical, scientific, and legal experts from a range of disciplines to properly inform our approach, our work, and our decisions.

We will seek to earn the trust and respect of all organisations we work with through being independent, objective, impartial and reliable. Establishing and maintaining appropriate relationships with other organisations will also help us to exchange relevant information securely and minimise duplication of efforts.

We recognise the value of transparency in working with others. We will communicate openly wherever this is appropriate. At the same time, we will guard our independence of judgement and action and be cautious where there are risks of conflict. These issues are discussed in more detail in section 3.9.

## **How we will work with other public authorities**

We will work with public authorities in different ways, as we undertake our different functions.

We have an important role in overseeing the actions of public authorities, including government, and holding them to account. Public authorities have responsibilities for implementing environmental law, with on-the-ground experience of dealing with environmental and operational challenges. They also have data and established networks that will provide intelligence on issues we may prioritise, as well as evidence to support solutions, or comprehensive technical expertise. Where relevant, we will seek to draw on this expertise in undertaking our work.

There are some organisations with which our functions may overlap. We set out below how we will work with those organisations, in the interests of pursuing our objectives and good value for public money.

We will aim to understand the priorities and plans of others so that we act where we are more likely to be effective. We will not normally duplicate or pre-empt where other public authorities are acting, but hold them to account for what they do.

Written agreements such as Memoranda of Understanding (MoUs) can be valuable in ensuring transparency, clarity and consistency. Where appropriate, we will seek to set out in writing the nature of our relationships with those with whom we will work most closely.

## **The duty of co-operation**

The Environment Act creates a duty on public authorities to co-operate with us and give us any reasonable assistance that we request as we fulfil our role to protect and improve the environment.

This duty is cast widely and requires public authorities to provide us with a high level of co-operation and assistance as we undertake each of our functions, including our enforcement activities. We therefore expect public authorities to work with us co-operatively, in a spirit of partnership and in pursuit of the wider public interest in all but the most exceptional circumstances.

Where they do not co-operate with us, we will raise the matter with them in the expectation that they should swiftly rectify the issue. If necessary, however, we may also take non-cooperation into account in determining how and when to exercise our enforcement functions (see our enforcement policy at annex A).

## **Working with the Climate Change Committee (CCC)**

The Environment Act recognises the particular importance of avoiding any overlap between the exercise of our functions and those of the CCC.

The CCC has a similar function to us in monitoring and reporting on progress within a specific area of environmental law – the Climate Change Act 2008. Under that Act, the CCC is required to provide advice, including on the setting of UK greenhouse gas emissions targets and risks to the UK from climate change. The CCC also fulfils a similar set of duties under devolved climate legislation in Scotland and Wales.

The CCC and we have already begun to work closely. It is essential that we maintain a close, collaborative relationship.

We will agree an MoU with the CCC to provide an effective framework for this relationship. This will set out our roles and responsibilities relative to one another, areas of common interest and principles for joint working. Under the MoU, we will work to develop common and consistent terminology, indicators, and datasets for use by both bodies. We will also seek to agree consistent reporting processes that allow each organisation's analysis to feed into the other's work, and we will share relevant data and information where we can.

Our relationship will support us to avoid overlap. For example, we will not monitor the implementation of, or report on, certain matters within the CCC's remit.

The CCC does not have an enforcement role, whereas we can enforce against legislation concerning climate change that falls within our remit as environmental law. For example, where we intend to issue an information notice concerned with greenhouse gas emissions under our enforcement functions (section 3.4), we will notify the CCC and provide appropriate details. This will ensure that the CCC is aware of cases of suspected non-compliance within its areas of interest.

The CCC may also wish to bring to our attention any matters relevant to our remit. For example, where it considers it may be appropriate for us to monitor the implementation of an area of environmental law, or investigate an issue under our enforcement functions.

## **Working with the ombudsman services**

Our work with the relevant ombudsman services – the Parliamentary and Health Service Ombudsman and the Local Government and Social Care Ombudsman [in England, and the Northern Ireland Public Services Ombudsman in Northern Ireland] – will take different forms depending on the context. To support clarity and transparency, we will seek to agree MoUs with the relevant ombudsman services that set out our mutual objectives and intentions in working together.

The Environment Act recognises the particular importance of avoiding any overlap between our complaints and investigation functions and those of the relevant ombudsman services. We and the ombudsman services each have a role in handling complaints from members of the public. The ombudsman services receive and consider complaints about maladministration that can include, for example, poor service or miscommunication. Although maladministration can also cover failures to comply with the law, the ombudsman services do not have an enforcement role.

In contrast, we have a distinct role to consider allegations of failures of public authorities to comply with environmental law, with powers to investigate and enforce in serious cases (section 3.4).

We will work with the ombudsman services to develop arrangements that help complainants approach the right organisation in the first place. We have made information to complainants clearly available on our website. We will direct complainants to, and share information with, one another where this is needed and permissible. We will also work to ensure that information we each hold can inform the other's investigations, where it should.

As a public authority ourselves, the OEP is within the jurisdiction of the Parliamentary and Health Service Ombudsman in respect of any complaints about our services.

## **Working with devolved environmental governance bodies**

We will build and maintain strong working relationships with our counterparts in Scotland and Wales. Although there are differences between our specific remit and those of Environmental Standards Scotland (ESS) and the Interim Environmental Protection Assessor for Wales (the Wales Interim Assessor) we have common cause and interest.

We already meet regularly with ESS and the Wales Interim Assessor and have established relationships at official, executive and non-executive levels.

We will co-operate on specific subjects where appropriate. For instance, we may jointly consider thematic matters arising across our shared functions or subjects resulting from specific public complaints or issues in law. Through such co-operation, we can agree the appropriate next steps and who is best placed to progress them. Where we consider that a particular exercise of our functions may be relevant to those of a devolved environmental governance body, we will consult them.

We will exchange certain information with ESS and the Wales Interim Assessor, for example in respect of the details of complaints that provide a basis of co-operation or can inform one another's functions. We will put in place a robust framework to support this co-operation and sharing of information. As part of this, we have agreed a regular programme of engagement and to develop an MoU that will set out how all three organisations work together.

## **Working with Parliament, [the Northern Ireland Assembly,] and committees**

We will work with others, such as select committees and special interest groups in Parliament [and the Northern Ireland Assembly], to inform their assessments, amplify our messages, share lessons learned and feed into other initiatives.



Many of our reports will be laid before Parliament [or the Assembly]. We will welcome the opportunity to present our reports and give evidence to select committees in Parliament, [and the Assembly].

We will be attentive to the timetabling of new legislation in Parliament [and the Assembly], and the inquiries and other committee activities. These may create opportunities for our work to add to that of others and deliver better effect. We will listen to the concerns and views of Parliament [and the Assembly] in relation to environmental issues, as part of our wider assessment of priorities and approaches to our work.

## **Working with ministers and government departments**

Our advice, and our scrutiny of EIPs, targets and environmental law, can support policy development across government departments. We will therefore direct our recommendations to those departments best placed to effect change. We will seek to work with established governance and delivery structures where these exist. We will develop our relationships with officials and delivery teams across government, where appropriate for our work and objectives.

We will work closely with Defra, reflecting its role explained at section 1.3 above, and our role of oversight and scrutiny in holding Defra and its ministers to account. The arrangements for this working relationship will be set out in a framework document, which we will develop and agree between us. [We will apply the same approach to our interaction with DAERA.]

We already meet regularly with Defra senior officials and their ministers to discuss progress in our work and key areas of concern, and have begun to establish effective relationships with officials and delivery teams in several policy areas. We will continue to develop and sustain these in a way that supports effective delivery while maintaining our independence.

## **[Working in Northern Ireland with public authorities in the Republic of Ireland and the European Union**

Northern Ireland has a land border with the Republic of Ireland. This will give rise to trans-boundary issues similar to those that may arise between England and Scotland or Wales. In contrast with ESS in Scotland and the Wales Interim Assessor, however, there is no similarly equivalent body to the OEP in the Republic of Ireland. We will therefore explore the most effective ways to consider the wider environmental context and any trans-boundary issues as we implement our functions.

Under the Northern Ireland Protocol between the UK and the European Union, certain EU environmental legislation continues to apply in Northern Ireland. The European Commission could take an interest in, or enforcement action against, the implementation of this legislation. We will therefore seek to establish dialogue and arrangements with the Commission, to manage situations where our roles could overlap.

Under the Northern Ireland Protocol, the ability of one party to act does not affect the other. We will make our own decisions in accordance with our legal framework independently of any action the Commission may take. We will, however, consider the relevance of any issues under the Protocol or any action taken by the Commission as one of the factors in deciding how to prioritise our activity in Northern Ireland.]

## **3.9 Objectivity, impartiality, proportionality, and transparency**

The Environment Act 2021 requires us to act objectively and impartially, and to have regard to the need to act proportionately and transparently.

### **Objectivity**

Objectivity is about making decisions on the observable facts without bias.

We will base our decisions on our analysis of the relevant circumstances, including the science, knowledge and evidence available at the time we decide. We will consider the availability, exhaustiveness, quality and reliability of the information we receive. If information is scarce, ambiguous, or otherwise imperfect, we may need to make reasoned judgements on the best information available or develop the evidence where we can. We will also remain alert to new information or circumstances that may mean we should reassess previous conclusions.

We will consider public concern about environmental matters as one factor within our wider judgement about where and how to act (see section 3.2). We will not be unduly driven by these concerns, however. We wish to avoid those matters with particularly vocal supporters inappropriately taking precedence over matters that the broader facts and evidence suggest are more important when viewed objectively.

### **Impartiality**

Impartiality is about being independent and fairly giving all sides equal consideration without bias.

Our decisions will be our own, made without prejudice or bias. We will protect the independence of our thinking and action, careful to avoid undue influence from any individual or organisation, including the government of the day. Our views on specific matters may accord with others' where our assessment of the facts and evidence leads to that outcome. We may agree with a particular organisation in some areas and differ in others.

We will consider the views of government where appropriate, alongside those of others. We are legally separate from departments of government and will act independently in exercising our functions. We will not act to the direction or guidance of government except as the law requires.

## **Proportionality**

Proportionality is about action being in proper balance in size, quantity, degree, and severity against its consequences.

We must have regard to the need to act proportionately when exercising our functions. Our principal objective in law is to contribute to protection of the environment, including human health, and to improving the natural environment. This is therefore our main concern.

This means that we will aim to ensure that the impact of our actions is justified by the anticipated benefits to environmental protection or improvement, particularly where our activity affects others. It also means that any impact or burden should not be excessive or unreasonable in the context of what is necessary in pursuit of our principal objective.

The opposite is also true. Proportionality involves properly valuing the natural environment and human health and making decisions that reflect those values. For example, if a serious failure of a public authority to comply with environmental law requires correction, we will pursue resolution that is proportionate to the nature of the failure and its consequences. We will not be satisfied, therefore, with only confirming that there has been a failure, or with partial remedies, where such outcomes are inadequate relative to the scale and impacts of the failure.

More broadly, we will have regard to the need to be proportionate in all our work. We will do this through our approach to prioritisation as discussed in section 3.2, in choosing the issues where we believe we can make the most difference and in determining how we approach them.

## **Transparency**

Transparency is about explaining actions to citizens and stakeholders and providing them with information.

We must have regard to the need to act transparently. We will act as transparently as we reasonably can. This means that we will seek to be clear and open about what we are doing and why.

We will comply readily with our duties under the law, including the provisions of the Environmental Information Regulations 2004. We will regularly publish information about our work, including how we prioritise it and the evidence we use. This will include providing key information in a range of formats to make it easy to navigate and understand. We will seek and act on feedback to improve how we provide information.

As part of this and where the law allows us:

- we will make the evidence we use available to others, by publishing material and reports on our website

- we will explain the basis of our significant decisions, by publishing agendas, minutes and papers of our Board meetings, subject to removal of sensitive material (for example relating to staff issues or enforcement cases)
- we will explain the significant prioritisation choices we have made and what we plan to do, by publishing our corporate plan
- we will publish summary information on the complaints we have received and what we have done about them
- we will explain our work and the impact we have had by publishing an annual report, and appearing before the relevant committees in Parliament [and the Northern Ireland Assembly]
- we will meet regularly with others to discuss our work

There are some occasions when we will need to limit the information we make available. These include where the confidentiality provisions in the Environment Act 2021 prevent disclosure of information relating to our enforcement activity. In respect of enforcement, we will aim to be as open and transparent with all relevant parties as we reasonably can, within the limits of what is permitted under the law.

## **Part 4. How we will measure success**

This, our first strategy, sets out how we intend to deliver our role. We expect to review it within the first 18 months of its adoption.

We will develop a structured approach to review our impact, so that review of our strategy, and its impact and effectiveness, is underpinned by understanding. We will complete our review in an outward-facing way so that it is informed by engagement with those who inform, and are affected by, our work.

We will also develop a performance framework to monitor and strengthen our work. This will include measures of our activity, and indicators of the outcomes and impact we have had, where this is possible. We recognise the environment is a complex system and will not seek to oversimplify it through this framework.

We will set out and report on this framework – which we will develop over time - in our yearly corporate plan, and annual reports.