

Department for Environment, Food and Rural Affairs

**Terms of Reference for Smarter
Environmental Legislation:**

**Phase 2 of the Smarter Environmental Regulation
Review**

April 2014

Rationale

Over recent decades, successive governments have built a framework of environmental legislation which has transformed the way we treat and value our environment in England. However, this framework has evolved in a piecemeal way, often in response to single issues, and it now consists of hundreds of sometimes overlapping legal instruments. Evidence shows that this framework can be fragmented, overlapping, inconsistent and complex from the perspective of those who need to comply, eroding the efficiency and effectiveness of reaching desired outcomes. This raises questions over whether a new approach could provide a step change improvement.

Furthermore, many regulations were introduced at a time when the general assumption was that people did not consider or manage the environment responsibly. However, awareness and social norms of behaviour towards the environment have shifted so there is now far higher awareness, motivation and appetite for rising levels of environmental performance. At the same time there is greater need to make sure constrained public resources are properly targeted on genuine risks and where wilful damage to the environment is caused.

Objectives

The first phase of the Smarter Environmental Regulation Review (SERR) has made recommendations to improve environmental guidance and information obligations. The second phase considers the scope to reform environmental legislation. It provides a once-in-a-generation opportunity to set a clearer direction for environmental legislation for the next decades. The challenge is to achieve the environmental ambition set for example in the Natural Environment White Paper while better reflecting the realities of tomorrow's, rather than yesterday's, society. A new design framework for environmental legislation may be better equipped to anticipate and deliver the needs of responsible business, society and the environment with no tolerance towards irresponsible environmental behaviour.

Only options that meet all of the following five objectives will be considered:

- 1) deliver environmental policy outcomes more effectively and efficiently;
- 2) reduce unnecessary burdens, costs and process and free up capacity for responsible business to innovate and grow;
- 3) are practical and feasible in either the short or longer term;
- 4) aid the efficiency and effectiveness of regulators who enforce the environmental legislation; and
- 5) deliver clear overall benefits taking account of risks to the environment, business or other key stakeholders.

Scope

The scope is initially environmental legislation for which Defra is responsible though the project will seek to work with other Government Departments and the Devolved Administrations, with a view to developing a common agenda for reform of environmental legislation.

Another important part of the project will be to influence the EU. Defra is working with the Netherlands which is introducing a major environmental legislation reform exercise and is seeking to bring together a 'like-minded' group of member states to influence the EU with a programme of activities planned for 2014-2017. The findings from this work are therefore expected to feed into those discussions, including informing the EU where there are constraints on domestic reform and influencing the longer term EU reform agenda.

Approach

The project will propose initial options, taking account of the potential scale of problems, benefits and resources required for:

- a new long-term direction and framework for environmental legislation;
- potential reform measures for legislation and steps required for next 5-10 years.

As well as looking across environmental themes, the project will take a user perspective, building on the government's industrial strategy to understand how environmental legislation can better work with the grain of sectors' long term strategies and competitiveness. It will use three carefully chosen sectors of waste, residential development and automotive manufacturing to formulate proposals and then test findings with other sectors. Specific attention will also be given to reforming the approach for regulating the natural environment which impacts across the economy and, where there is an opportunity to take better account of the increasingly understood public and non-market benefits of the environment.

Project Team

The work will primarily be undertaken by a Defra team with support from a high level external panel that will access experience and expertise, especially within the sectors and areas initially selected for study.

Getting involved

Success will also be dependent on significant input from stakeholders, and building on experience from researchers and practitioners in the field. The project team and the Panel will look for all available opportunities to draw on stakeholders' experience and expertise. This will include working with existing business, regulators, NGOs and legal and academic bodies. It will also include seeking public views more widely.

If you have any comments, views or ideas or would like further information on the review, please contact SERR@defra.gsi.gov.uk.

Timetable

The project will report to Ministers in late 2014.

External Panel

The Panel consists of business, academic, regulator and NGO leaders to provide direction and external challenge to the project. It includes:



Peter Young (Chair)

Peter is Chair of the Aldersgate Group and a member of Defra's Strategic Regulatory Scrutiny Panel.



Terry A'Hearn

Terry is Chief Executive of the Northern Ireland Environment Agency and Deputy Secretary of the Department of Environment.



Prof Andy Gouldson

Andy is Director of the ESRC Centre for Climate Change Economics and Policy.



Stephanie Hilborne, OBE.

Stephanie is Chief Executive of the Wildlife Trusts



Robert Hunt

Robert is Executive Director at Veolia Environmental Services



Rob Pannell

Rob is Managing Director of the Zero Carbon Hub



Robert Walker

Robert is Senior Technical Manager at the Society of Motor Manufacturers and Traders.



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Any enquiries regarding this publication should be sent to us at:

SERR@defra.gsi.gov.uk

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