

## CONSULTATION ON THE DRAFT POLICY STATEMENT ON ENVIRONMENTAL PRINCIPLES

Aldersgate Group written evidence June 2021

### BACKGROUND

1. The Aldersgate Group is an alliance of major businesses, academic institutions, professional institutes, and civil society organisations driving action for a sustainable and competitive economy. Our corporate members, who have a collective turnover in excess of £550bn, believe that ambitious and stable low carbon and environmental policies make clear economic sense for the UK.<sup>1</sup> They have operations across the UK economy and include companies such as Associated British Ports, Aviva Investors, BT, CEMEX, Co-op, the John Lewis Partnership, Johnson Matthey, Michelin, Siemens, SUEZ, Tesco and Willmott Dixon.
2. We develop independent policy solutions based on research and the expertise and diversity of our members. Through our broad membership, we advocate change that delivers benefits to an ever-growing spectrum of the economy.

### EXECUTIVE SUMMARY

3. The environmental principles set forth in the policy statement are crucial levers in incorporating nature into domestic policy decision making. If designed and implemented correctly, the principles will be able to ensure that environment is at the heart of policy making and supports the Government's agenda to reverse the decline of the natural environment across all departments. The publication of the policy statement is a first step towards this crucial aim. However, the Aldersgate Group believes that the **policy statement must set forth a much stronger ambition for the application and interpretation of the environmental principles**. As currently written, the policy statement does not establish a clear framework that provides confidence in how environmental principles will be applied by policy makers and Ministers of the Crown.
4. To strengthen the ambition and instil confidence in the application of principles, the policy statement **needs to remove the statement's excessive caution and embrace a much more straightforward approach to describing the use of environmental principles**. The statement is filled with caveats and words of caution, on multiple occasions referencing 'proportionality', to the point where it is not clear precisely how these principles can be enacted. Whilst the statement clearly expresses when environmental principles *do not apply*, it is not clear to the reader when environmental principles actually *do apply* in practice. Beyond the exemptions that are established in law (matters related to taxation, natural security and Wales), the document provides further caveats to their use, including when costs outweigh the benefits, when there is no evidence of significant environmental harm, and so forth.
5. Having a clear and ambitious approach to applying the environmental principles will **provide clear policy direction and a stable environment in which businesses can invest, support innovation in new green solutions and products, and provide a level playing field across the economy**. This is because having clearly understood

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<sup>1</sup> Individual recommendations cannot be attributed to any single member and the Aldersgate Group takes full responsibility for the views expressed.

and implemented principles means that they will be acted upon in a consistent way across all departments and public authorities, thereby increasing the chances of consistent policy across all sectors of the economy. Consequently, if implemented correctly, environmental principles will deliver both environmental improvements and economic growth, including the development of high-quality products and services, and an increase in business competitiveness – resulting in job creation and enhanced research, development and skills.<sup>2</sup> The excessively cautious caveats surrounding the applicability of the environmental principles risk undermining this potential. Clear, ambitious and consistent applications of the environmental principles can in fact deliver significant economic benefits, whilst also protecting the environment.

6. Additionally, there is a risk that the overly cautious interpretation and application of the principles will lead to uneven application, resulting in different interpretations on the principles, and therefore undermine the Government's vision for the natural environment. Conversely, if the statement puts forward a clear guide to the principles, it can result in much more joined up policy across Government, lead to significant environmental improvement, and unlock significant investment within the private sector. Businesses are looking at ways in which they can respond to environmental and climate concerns, and if the principles are clear, it can incentivise further positive action.
7. There must also be further information on each of the principles to guide policy makers sufficiently. Several of them are underdeveloped, and it is not clear when they will be applied in practice. As our response sets out, the polluter pays principle can serve as a helpful indicator of the level of detail that must be provided. By contrast, other principles are not outlined in a satisfactory manner and fall short of the level of ambition, detail and clarity that is needed for policy makers to use them effectively. This is in particular the case for the integration principle.
8. **The policy statement is also predominantly concerned with preventing, mitigating or limiting environmental harm. This focus is out of kilter with the 25 Year Environment Plan's and the Environment Bill's joint ambition to overturn the decline of the natural environment within a generation and deliver significant improvements to it.** The policy statement does not identify opportunities for principles to facilitate environmental improvements. As such, the Aldersgate Group believes that the policy statement should also refer to environmental improvements, in addition to harm, to ensure that policy can generate positive environmental outcomes. **To reach the UK's targets under the Environment Bill, it will be vital that policy not only seek to limit or prevent environmental harm, it must also drive significant environmental improvements and do so in a coherent, integrated and holistic way.**
9. We have some concern regarding the policy statement's descriptions of the precautionary principle. As it stands, the policy statement is unclear and potentially contradictory about how the precautionary principle can be positively understood and applied. The additional caveats around innovation risks undermine the intention behind the principle, imposes unnecessary and unrelated restrictions on it, and makes it extremely confusing to business as to when the precautionary principle would actually apply in practice. Clarifying this will be of outmost importance to ensure the principle is well understood.

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<sup>2</sup> Buro Happold (2021) *Fostering Prosperity*, commissioned by the Aldersgate Group

10. The policy statement also makes little reference to the implementation of the statement. Given the importance of ensuring sufficient understanding of the environmental principles, it is crucial that further details are given on how these principles will be embedded and acted upon with government departments. By doing so, it will ensure consistency which in turn will generate a stable environment for businesses to invest in, support innovation in new green solutions and products, and provide a level playing field across the economy.
11. **It will be vital for the environmental principles policy statement to clarify the level of research that is required** to adequately understand and apply the principles. While the policy statement says it “does not place any obligation on policy-makers to commission detailed research to inform an assessment”, the degree to which a principle might apply or be considered proportionate depends entirely on the understanding of actual or potential harm. Particularly as some principles in the document are less well defined than others, there may be a need for additional research to be undertaken as part of the initial process. Unless addressed, this ambiguity can limit the appropriate application of the principles.
12. Finally, given the importance of taxation policies and departmental budgets in delivering environmental targets in practice, their exclusion in the policy statement may limit the real-life effectiveness of the principles. The Aldersgate Group would therefore recommend that these exemptions are restricted to a clearly specified and material set of circumstances.

### About you

**Question 1. Would you like your response to be confidential?** No

**Question 2. What is your name?** Signe Norberg

**Question 3. Are you responding:** On behalf of an organisation

### About your organisation

**Question 4. What type of organisation are you responding on behalf of?**

- Industry association

**Please provide your organisation's name:** Aldersgate Group

### Environmental Principles - An overview

**Question 5. Do you think the overview section provides an adequate foundation for policy makers to apply the environmental principles in policy-making?**

**Other** – Please provide any additional information in support of your answer

13. As written, the policy statement has the right building blocks, but for it to act as a strong foundation for policy makers to understand and apply the principles, **it needs to be bolder and set forth a more affirmative view of when principles should apply.** Most of the statement is concerned with proportionality and where there may be

exemptions to applying them. It needs to be much clearer on when the principles apply and signal opportunities to embed them from the beginning.

14. The document details a process whereby it assumes the existence of a policy proposal, rather than encouraging policy makers to bear in mind the principles from the beginning. The one exception to this is the prevention principle, where it acknowledges that the “principle is most effective when considered at an early stage, ideally before any environmental harm has occurred”. **This approach should be applied, as much as it is possible, to all environmental principles. The earlier they are considered in the policy design process, the more embedded and transformational they will be.**
15. The encouragement for policy makers in the policy statement to think creatively is much welcomed. By considering and applying the principles at the earliest opportunity and in innovative and forward-thinking ways, it increases the likelihood of the policies being drafted by policy makers having a truly transformational impact.
16. However, **the statement is not clear on the level of research which might need to be undertaken as part of considering the principles.** The overview section makes clear that it “does not place any obligation on policy-makers to commission detailed research to inform an assessment”. However, elsewhere in the statement, the degree to which a principle might apply or be considered proportionate depends entirely on the understanding of actual or potential harm. To ensure that policies are informed by the appropriate level of research, **we would strongly advise the policy statement elaborates on this in the overview section.** This will help clarify what level of research will be required to understand the level of environmental impact.
17. The overview section further highlights the fact that the policy statement should be considered “alongside other relevant government documents, such as National Policy Statements, and any relevant international commitments”. While the intention behind this is clear, **it becomes less obvious how Ministers or policy makers might resolve potential conflicts between two conflicting policy directives.** Many current policy documents do not explicitly incorporate these environmental policies, so there may be occasions where there are opposing priorities. While the statement cannot establish a perspective on a case-by-case basis, this will be an important area to clarify.
18. **Overall, the overview section and the statement as a whole need to set out a stronger, more ambitious case for the application of environmental principles.** Government has rightly set ambitious domestic and international commitments in relation to nature, but the vision underpinning the introduction of environmental principles in domestic policy making does not come through sufficiently. The document needs to more clearly set out the opportunity that embedding environmental principles offers presents. Interpreting and applying environmental principles creatively and in innovative ways, at the earliest opportunity, are opportunities to achieve these objectives.

### Process for applying the policy statement

**Question 6. Do you think step one allows policy-makers to correctly assess the potential environmental effects of their policy?**

**Other** - Please provide any additional information in support of your answer

19. Step one, as set out in the policy statement, highlights the importance of understanding the environmental impact of a proposed policy, and emphasises that it is “the responsibility of Ministers, or those acting on their behalf, to assess whether a policy will have an environmental impact”. In addition to defining key concepts, the section establishes that they should assess whether there is an environmental impact, whether it is a domestic or international issue, and that considering the principles should be done “proportionately and within reason”. There is also a section within step one which stresses the need for a proportionate approach.
20. Step one is a very crucial part of the process, and much of the subsequent application of the policy statement depends on the understanding of the new policy’s environmental impact. As our response has made clear, it is not clear how much research is expected when government departments are considering the application of environmental principles when developing new policy. While it may not always warrant an impact assessment, it is important that the level of information required is clearly set out, and the document provides a varying picture in this regard. Furthermore, if it is not possible to know if a proposed policy will cause environmental harm, the document is not clear on what steps should be taken to avoid unintended consequences.
21. Additionally, the degree to which step one allows for a correct assessment of potential environmental effects is complicated by **the excessive reference to proportionality across the document**. It is understandable and wise to include the sub-section on proportionality in step one, but there are multiple cautions and caveats regarding the potential application of environmental principles beyond the initial proportionality assessment in the first step. This results in a very cautious tone for the relevance and application of environmental principles when making policy - to the point where it becomes clearer when they do *not* apply, rather than when they do.
22. The Environment Bill makes clear in Clause 16(2) that “the environmental principles should be interpreted and *proportionately applied* by Ministers of the Crown when making policy” (emphasis is our own). Between the legislative assurance and the section in step one, we believe this sufficiently guarantees that the principles will be considered in a proportionate way. Subsequent references should therefore be removed to ensure that they do not needlessly hinder an effective, ambitious, and creative application of the environmental principles by policy makers.
23. The Aldersgate Group **warmly welcomes the inclusion of both domestic and international environmental impacts as part of the definition for ‘environmental impact’**. Taking this holistic, international approach to environmental protection has the possibility of promoting more comprehensive understandings of environmental impact and benefits. The meaning is robustly articulated and a welcomed section of the paper.

**Question 7. Do you think step one ensures that policy-making will address the most important environmental effects?**

**No** - Please provide any additional information in support of your answer

24. Step one does have a strong focus on environmental harm, and it is a concern which rightly runs through the document. However, the document does not satisfactorily identify opportunities for the environmental principles to be applied to promote environmental enhancement. **To deliver the overall ambition of the 25 Year Environment Plan and reach the UK's future targets under the Environment Bill, it will be vital that policy not only seek to limit or prevent environmental harm, but that it also looks to drive integrated and significant environmental improvements.** As currently written, the policy statement does not achieve this outcome. If the statement only concerns itself with the avoidance or minimisation of environmental harm, it will miss opportunities where an effective application of environmental principles could drive environmental improvements.
25. Consequently, we do not believe that step one sufficiently enables policy makers to address the most important environmental effects. Effects should also be considered in a positive, proactive manner where more joined-up policy design can result in better outcomes for the natural environment.

**Question 8. Will step two assist policy-makers in selecting the appropriate environmental principles?**

**No** - Please provide any additional information in support of your answer

26. Step two in the policy statement is focused on supporting policy makers in identifying which environmental principles are relevant to the policy being developed. We believe that step two as currently written constitutes an initial step towards assisting policy makers in selecting the appropriate environmental principles, but it needs to be expanded upon to help policy makers identify the appropriate environmental principles. As an example, the statement makes clear that policies "serve different purposes and will focus the policy in different ways", without providing consistent clarification as to their purpose.
27. Occasionally this section provides a mention as to whether a principle would be relevant, e.g. "[the integration principle] is an overarching objective which is relevant in all circumstances where the legal duty to have due regard to the policy statement applies". These indicators are helpful, and **we would encourage more explicit and ambitious references for when principles are relevant** – for example with the precautionary principle and the polluter pays principle. Some of that information is expanded upon in step three, but their inclusion would really strengthen the second step in the policy statement. Otherwise, it is unclear which principle applies when.
28. Additionally, **to crystallise when principles can be used, the Aldersgate Group would strongly encourage the inclusion of case studies in step two.** Providing practical, real-life examples of when the environmental principles have been used and what their outcomes were is useful and essential in ensuring policy makers fully understand the opportunities to embed these principles. As set out below in paragraph 33, there are good case studies and examples that should be drawn upon to ensure the most comprehensive understanding possible.

**Question 9. Do you think step three provides a robust and sufficient framework for the application of each individual environmental principle?**

a. Integration (**No**)

- b. Prevention (**Other**)
- c. Rectification (**Other**)
- d. Polluter pays (**Yes**)
- e. Precautionary (**No**)

29. **The integration principle** is a principle which contains significant potential to ensure that environmental considerations are incorporated into a wide range of policy measures and results in holistic improvements. Whilst we agree that the integration principle should be relevant in all circumstances where there is a legal duty, the policy statement does not satisfactorily set out an ambitious approach to policy making. Further information on how it can be proactively applied should be provided.
30. Additionally, the policy statement appears to minimise the importance of the principle when compared to the legislation. In the Environment Bill, Clause 16(5a) says that environmental protection “should be integrated into the making of policies”. Furthermore, the explanatory notes in paragraph 186 states that “environmental protection must be integrated into the making of policy”. These stand in sharp contrast to the policy statement where it says “policy-makers should look for opportunities to embed environmental protection”. To ensure consistency with the Environment Bill, **we strongly urge that the policy statement is amended to say that policy makers must embed environmental protection in fields of policy that have impacts on the environment.** Otherwise, the policy statement risks undermining ambition set forth in the Bill and provides a limited explanation of the integration principle. For these principles to be effective, they need to be integrated in areas of policy which have an environmental impact.
31. **The prevention principle** is a well-established international norm for environmental protection, and it is welcome that the policy statement encourages it to be used in preference. After all, if considered at an early stage, it is possible to avoid environmental damage in the first place. However, as currently written, the statement places equal emphasis on the prevention, reduction, and mitigation of environmental harm. **To be true to its intentions, we believe the policy statement should make it clear that the primary purpose is to prevent harm, and that mitigation and reduction of environmental harm are secondary objectives where harm cannot be prevented.**
32. The policy statement rightly highlights that **rectification at source** should be used as a priority to address environmental impacts at its origins. We support the notion that this can result in “more cost-effective, efficient, and equitable” outcomes in the long-run. If done correctly, it can develop innovative approaches and create new services.
33. This can for example be noted by several initiatives in the private sector, where innovative approaches have emerged from tackling environmental concerns at source. Using one example, Suez entered into a 25-year partnership with Cemex in 2012 to provide Climafuel, a solid recovered fuel made from domestic, commercial and industrial waste. The fuel heats CEMEX’s cement kiln and replaces traditional fossil fuels, with a tonne and a half of Climafuel producing the same amount of energy as a tonne of coal.<sup>3</sup> Climafuel now typically represents 50-60% of CEMEX’s input fuel requirements in their Rugby site kiln, meaning CEMEX consumes 80 times more waste

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<sup>3</sup> <https://www.cemex.co.uk/-/cemex-and-suez-open-new-facility-which-turns-waste-into-high-specification-fuel>

than it sends to landfill.<sup>4</sup> This provides financial savings to SUEZ, which has diverted a significant quantity of waste away from landfill, while CEMEX has a reliable supply of fuel for its kilns, which helps it to comply with the Industrial Emissions Directive and Emissions Trading Scheme. For every tonne of Climafuel used, CEMEX reduces carbon dioxide emissions by 1.2 tonnes and the use of Climafuel has reduced oxides of nitrogen, a key pollutant for thermal processes, by over 50%.<sup>5</sup>

34. That said, **it is worth noting that the policy statement here too deviates from language in the Environment Bill.** The explanatory notes for the Bill state that damage should be rectified by “targeting its original cause and taking preventative action at source”. In contrast, the policy statement only refers to the principle which “addresses or manages” environmental damage. We would encourage the Department to revert to the wording set out in the Environment Bill explanatory notes to ensure consistency, as this principle plays an importing role in preventing damage.
35. **The polluter pays principle** is arguably the most developed of the five principles in the statement, setting out comprehensively what it entails, its different functions, when it can be used, and its application. We believe this can serve as a helpful guide for the other principles as to the level of detail required to help the policymaker understand the use of the principle.
36. **The wording in the policy statement surrounding the precautionary principle is the area of most concern to Aldersgate Group members.** As it stands, the policy statement is unclear and potentially contradictory about how the precautionary principle should be understood and applied. While complex, it establishes that the lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. However, the current drafting turns the principle on its head by including innovation as part of its remit, stating that “the principle should not unnecessarily hinder innovation due to novelty, without plausible evidence of a risk of serious or irreversible harm”. This undermines the intention behind the principle, imposes unnecessary and unrelated restrictions on it, and makes it confusing to businesses as to when the precautionary principle would apply in practice.
37. Including innovation as part of the precautionary principle is problematic for two reasons. Firstly, it assumes that innovation is hindered by a precautionary approach. Secondly, feedback from our business members has highlighted the fact that they do not consider that innovation is currently held back because of the precautionary principle in the UK or the EU. Rather, having a clearly defined and unambiguous precautionary principle will actually enhance innovation. As such, **we would strongly urge the Department to remove the innovation paragraph from the precautionary principle as it undermines its effectiveness.**

**Question 10. Do you think the process for applying the policy statement (the three steps) provides a robust and sufficient framework for the application of the environmental principles as a whole?**

**Other** - Please provide any additional information in support of your answer

38. The three-step model is a helpful illustration of the process to apply environmental principles. However, we suggest that there should be a step added before the first one

<sup>4</sup> <https://www.cemex.co.uk/-/cemex-uk-the-waste-eaters->

<sup>5</sup> Aldersgate Group (2018) *No Time to Waste*

which seeks to establish whether the policy can prevent environmental harm, promote environmental improvements, or do both. Clearly understanding the intent behind the policy which is being designed may help inform and improve the entire policy design process. It will be important that these principles are considered throughout the policy making journey, resulting in an iterative process rather than a tick box exercise.

39. Another aspect which is missing in the policy statement is the importance of implementation. Implementation is a crucial aspect of ensuring these principles are taken on board and well understood in practice. **Having consistent and complementary enforcement of environmental principles across England and the devolved administrations should generate a stable environment for businesses to invest in, support innovation in new green solutions and products, and provide a level playing field across the economy.** As such, clear and ambitious environmental principles have the potential to deliver both environmental improvements and economic growth, including the development of high-quality products and services, and an increase in business competitiveness – resulting in job creation and enhanced research, development and skills.
40. Additionally, **there must be a strong emphasis on training** to ensure that these principles are commonly understood across Government. Varying understandings or interpretations in departments can lead to unintended consequences, such as ineffective environmental protection and undermining of business competitiveness, and as such, there needs to be a comprehensive training programme available for policy makers to ensure they understand the environmental principles.

## Final thoughts

**Question 11. Do you have any other comments on the draft policy statement which are not covered by the previous questions?**

**Yes**

41. The end of the policy statement provides general application options for the environmental principles. The statement lists a number of options available to policy makers (such as reframing, amending or postponing a policy), but **it fails to properly establish a fifth option – abandoning a policy.** Whilst the final option - postponing a policy - makes a reference to “discontinuing” the policy, it should be an explicit option to not pursue a policy if applying the principles finds the environmental impact to be too great or disproportionate to any additional benefits generated. This will only be applicable in rare circumstances, but it would be remiss to leave it out.
42. **The policy statement effectively establishes a hierarchy within the principles,** clearly highlighting some as more favourable in certain situations. However, the description of these different priorities and preferences is uneven throughout the document. In addition to providing further details on the other policies (paragraphs 26-28), the description of the hierarchy (“Interaction between the principles”) is incomplete. It fails to adequately describe the prioritisation of the precautionary principle within the framework it describes. Unless it is rectified, there is a concern that this may lead to inadequate application of the precautionary principle (see also our other related concerns above).

43. Finally, it is important to recognise that this is a policy statement which will be applicable to England. As such, it will be important to ensure that the policy statement maintains at least the same level of ambition as elsewhere in the UK. In Wales, for example, the Well-being of Future Generations (Wales) Act 2015 establishes that Ministers and public bodies “must” carry out sustainable development that “maintains and enhances a biodiverse natural environment”. As part of that work, the public body must take an integrated approach, balance short-term needs with long-term needs, and deploy resources to prevent environmental harms. There is also an independent Future Generations Commissioner for Wales who promotes sustainable development and monitors and assesses progress. **We believe there is a lot that can be learned from the Welsh experience, and it will be vital that the English policy statement maintains at least the same level of ambition as devolved approaches.** This is especially important as businesses operating in the UK and the EU will move potentially from one approach to environmental protection to five different approaches.
44. The Environment Bill establishes several exemptions in relation to the environmental principles, saying that they should not be considered for taxation and spending or allocation of government resources. They also do not apply to the armed forces, defence or national security, or Wales. **Given the importance of taxation policies and departmental budgets in delivering environmental targets in practice, this may limit the real-life effectiveness of the principles.** The Aldersgate Group would therefore recommend that these exemptions are restricted to a clearly specified and material set of circumstances.