



Environment Act 2021

2021 CHAPTER 30

PART 1

ENVIRONMENTAL GOVERNANCE

CHAPTER 2

THE OFFICE FOR ENVIRONMENTAL PROTECTION

The Office for Environmental Protection

22 The Office for Environmental Protection

- (1) A body corporate called the Office for Environmental Protection is established.
- (2) In this Act that body is referred to as “the OEP”.
- (3) Schedule 1 makes further provision about the OEP.

23 Principal objective of the OEP and exercise of its functions

- (1) The principal objective of the OEP in exercising its functions is to contribute to—
 - (a) environmental protection, and
 - (b) the improvement of the natural environment.
- (2) The OEP must—
 - (a) act objectively and impartially, and
 - (b) have regard to the need to act proportionately and transparently.
- (3) The OEP must prepare a strategy that sets out how it intends to exercise its functions.
- (4) In particular, the strategy must set out—
 - (a) how the OEP will further its principal objective,

Status: This is the original version (as it was originally enacted).

- (b) how the OEP will act objectively and impartially, and
 - (c) how the OEP will have regard to the need to act proportionately and transparently.
- (5) The strategy must also set out—
- (a) how the OEP intends to avoid any overlap between the exercise of its functions and the exercise by the Committee on Climate Change of that committee’s functions, and
 - (b) how the OEP intends to co-operate with devolved environmental governance bodies.
- (6) The strategy must contain an enforcement policy that sets out—
- (a) how the OEP intends to determine whether failures to comply with environmental law are serious for the purposes of sections 33(1)(b) and (2)(b), 35(1)(b), 36(1)(b), 38(1)(b) and 39(1)(a) and (7),
 - (b) how the OEP intends to determine whether damage to the natural environment or to human health is serious for the purposes of section 39(2),
 - (c) how the OEP intends to exercise its enforcement functions in a way that respects the integrity of other statutory regimes (including statutory provision for appeals),
 - (d) how the OEP intends to avoid any overlap between the exercise of its functions under sections 32 to 34 (complaints) and the exercise by each relevant ombudsman of their functions, and
 - (e) how the OEP intends to prioritise cases.
- (7) In considering its enforcement policy the OEP must have regard to the particular importance of prioritising cases that it considers have or may have national implications, and the importance of prioritising cases—
- (a) that relate to ongoing or recurrent conduct,
 - (b) that relate to conduct that the OEP considers may cause (or has caused) serious damage to the natural environment or to human health, or
 - (c) that the OEP considers may raise a point of environmental law of general public importance.
- (8) The OEP’s “enforcement functions” are its functions under sections 32 to 41.
- (9) For the purposes of this Part, each of the following is a “relevant ombudsman”—
- (a) the Commission for Local Administration in England;
 - (b) the Parliamentary Commissioner for Administration.

24 The OEP’s strategy: process

- (1) The OEP must—
- (a) arrange for the strategy prepared under section 23 to be laid before Parliament, and
 - (b) publish it.
- (2) The OEP may revise the strategy at any time (and subsection (1) applies to any revised strategy).
- (3) The OEP must review the strategy at least once in every review period.
- (4) “Review period” means—

Status: This is the original version (as it was originally enacted).

- (a) in relation to the first review, the period of 3 years beginning with the day on which the strategy was first published, and
 - (b) in relation to subsequent reviews, the period of 3 years beginning with the day on which the previous review was completed.
- (5) Before preparing, revising or reviewing the strategy, the OEP must consult such persons as it considers appropriate.

25 Guidance on the OEP’s enforcement policy and functions

- (1) The Secretary of State may issue guidance to the OEP on the matters listed in section 23(6) (OEP’s enforcement policy).
- (2) The OEP must have regard to the guidance in—
- (a) preparing its enforcement policy, and
 - (b) exercising its enforcement functions.
- (3) The OEP’s “enforcement functions” are its functions under sections 32 to 41.
- (4) Before issuing the guidance, the Secretary of State must—
- (a) prepare a draft, and
 - (b) lay the draft before Parliament.
- (5) If before the end of the 21 day period—
- (a) either House of Parliament passes a resolution in respect of the draft guidance, or
 - (b) a committee of either House of Parliament, or a joint committee of both Houses, makes recommendations in respect of the draft guidance,
- the Secretary of State must produce a response and lay it before Parliament.
- (6) The Secretary of State may prepare and lay before Parliament the final guidance, but not before—
- (a) if subsection (5) applies, the day on which the Secretary of State lays the response required by that subsection, or
 - (b) otherwise, the end of the 21 day period.
- (7) The final guidance has effect when it is laid before Parliament.
- (8) The Secretary of State must publish the guidance when it comes into effect.
- (9) The “21 day period” is the period of 21 sitting days beginning with the first sitting day after the day on which the draft guidance is laid under subsection (4).
- (10) “Sitting day” means a day on which both Houses of Parliament sit.
- (11) The Secretary of State may revise the guidance at any time (and subsections (4) to (10) apply in relation to any revised guidance).

26 Memorandum of understanding

- (1) The OEP and the Committee on Climate Change must prepare a memorandum of understanding.

Status: This is the original version (as it was originally enacted).

- (2) The memorandum must set out how the OEP and the Committee intend to co-operate with one another and avoid overlap between the exercise by the OEP of its functions and the exercise by the Committee of its functions.

27 Co-operation duties of public authorities and the OEP

- (1) A person whose functions include functions of a public nature must co-operate with the OEP, and give it such reasonable assistance as it requests (including the provision of information), in connection with the exercise of its functions under this Act.
- (2) Subsection (1) does not apply to—
- (a) a court or tribunal,
 - (b) either House of Parliament,
 - (c) a devolved legislature,
 - (d) the Scottish Ministers, the Welsh Ministers, a Northern Ireland department or a Minister within the meaning of the Northern Ireland Act 1998,
 - (e) a person exercising a parliamentary function, or
 - (f) a person whose only public functions are devolved functions.
- (3) A person whose public functions include devolved functions is only required to co-operate with the OEP by virtue of subsection (1) to the extent that co-operation is in relation to functions that are not devolved functions.
- (4) If the OEP considers that a particular exercise of its functions may be relevant to the exercise of a devolved environmental governance function by a devolved environmental governance body, the OEP must consult that body.