

Why Scotland needs an Environment Watchdog

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies working towards a more environmentally sustainable society. This briefing sets out why the UK's exit from the EU would require the creation of an Environment Watchdog to ensure the proper enforcement of environmental legislation in Scotland.

Why Scotland needs an Environment Watchdog

The Scottish Government has made welcome and progressive commitments to protect our environment, but to live up to this ambition we need the support of strong institutions. The Scottish Parliament unanimously supported such measures. [The Scottish Government's Expert Roundtable](#) made the case for a new independent statutory body. **It is now critically important for Scotland to bring forward robust proposals for an Environment Watchdog which would ensure that Scotland can continue to be an environmental world leader in the future.**



Environmental governance and leaving the EU

Effective environmental governance turns laws and protections into action: it determines who keeps governments accountable and how. EU institutions currently play a major role in this, in particular the European Commission:

- Has systematic oversight of environmental protections
- Provides a freely accessible complaints mechanism to civil society
- Investigates potential breaches of environmental law
- Takes action when environmental protections are not being upheld
- Can refer cases to the Court of Justice which can apply penalties and sanctions

Evidence suggests that the very existence of this oversight and the potential for enforcement action has led governments, businesses and organisations to deliver better environmental outcomes. Leaving the EU would mean losing this oversight and would create an 'environmental governance gap' in Scotland and the UK.

The Scottish Government is currently deciding how to address the governance gap and has committed to *maintain or exceed EU standards*. Environmental governance is in and of itself an environmental protection and standard. **We need new governance arrangements if we leave the EU, as our current arrangements do not meet EU governance standards.**

What is an 'Environment Watchdog' and what should it do?

At its simplest, this is a body that provides systematic oversight of the way the environment is protected and tells the public when things are going wrong. In practice a Watchdog could come in various different forms, for example an Environmental Ombudsman or an Environment Commissioner. Many countries already have bodies like this, for example the Environment Commissioner in New Zealand. The crucial thing is that it is truly independent of government, so it will have to be appointed by and accountable to the Scottish Parliament.

An Environment Watchdog would:

- **Oversee and scrutinise at a high-level**, for example picking up systematic failures of the government and agencies to apply protections or fund key priorities
- **Give everyone a say in environmental matters**, providing a freely accessible complaints mechanism about potential breaches of environmental law
- **Investigate and take action** if protections are not being properly applied or upheld
- **Refer cases to the Courts**, but only as a last resort if other options have failed

Why do we need it?

It's not possible to replicate supranational EU institutions so what are we really trying to do?

Evidence tells us that the functions EU institutions perform are effective in ensuring the environment is protected. We can learn from this. By identifying the most effective governance functions that EU institutions perform we can start to define what effective governance should look like in Scotland in order to bring about a more sustainable nature-rich future.

Even if we leave the EU, we already have regulators, agencies and parliament in Scotland, so why should we spend time and money funding a new body?

We do already have institutions that cover environmental matters in Scotland. For example:

- The Scottish Government and its agencies apply and regulate environmental law
- The Scottish Parliament and its Committees provide scrutiny of central government and agencies on environmental matters
- Scotland's Public Services Ombudsman (SPSO) receive public complaints about the Scottish Government, its agencies and other public authorities.

These are all vital but are **not equivalent** to functions carried out by EU institutions:

- The environmental agencies in Scotland are not independent of government. Taking on a scrutinising and investigations role would mean the government 'marking its own homework'.
- Parliamentary scrutiny, whilst hugely valuable, is partial and lacks powers to carry out detailed investigations or to enforce decisions.
- Complaints mechanisms focus on maladministration – we need a body to receive substantive complaints about how we protect our environment. The SPSO does not have the technical expertise or resources to deal with complex environmental cases.

If the Scottish Government wants to honour its commitment to 'maintain or exceed' EU environmental standards, then new governance arrangements are needed. This is the view of environmental NGOs, academics including the [Royal Society of Edinburgh](#) as well as professional bodies such as the Institute of Environmental Management and Assessment (IEMA), the largest professional body for environmental practitioners in the UK and worldwide, with nearly 15,000 members.

The Scottish Government's Expert Roundtable on Environmental Governance also made the case for a new body. They said:

- *"In Scotland there are well established systems and procedures for holding public bodies to account for their performance However, these are not as well developed nor as extensive as those that apply at EU level."*
- *"There is therefore a valid case to consider additional measures to increase the levels of scrutiny and challenge that are available after leaving the EU (should that proceed)."*
- *"A new independent statutory body such as an 'Office of environmental scrutiny and audit' could be established, reporting directly to Parliament."*

For more detailed information on this topic:

- Environmental governance in Scotland after Brexit report: <https://www.gov.scot/publications/report-roundtable-environment-climate-change-environmental-governance-scotland-uks-withdrawal/>
- Scottish Parliament evidence on the 'Environmental governance in Scotland after Brexit' report: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11580&i=104971>
- LINK Response to Environmental Principles and Governance Consultation: www.scotlink.org/wp/files/documents/SG-EPG-consultation_LINK-response_As-submitted-1.pdf

For more information contact:

- Isobel Mercer, RSPB Scotland Senior Policy Officer: Isobel.Mercer@rspb.org.uk, 0131 317 4113
- Daphne Vlastari, Scottish Environment LINK Advocacy Manager: daphne@scotlink.org, 0131 225 4345

www.scotlink.org | www.fightforscotlandsnature.scot | www.savescottishseas.org