

SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE
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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE

BIODIVERSITY

SUBMISSION FROM SCOTTISH ENVIRONMENT LINK

A) The current funding context, outlook and impacts: key funding pressures and challenges faced by stakeholders that deliver environmental outcomes (especially biodiversity targets), covering:

Scottish Environment LINK members are often involved in the delivery of environmental and biodiversity targets particularly with respect to the Scottish Biodiversity Route Map and 2020 Challenge.

- What those challenges mean in real terms for what can be delivered on the ground?

LINK members have shared evidence regarding the challenges of funding decreases in previous calls for evidence and have indicated how this creates challenges¹. A further example that illustrates concerns regarding funding mechanisms are Forestry Grant Schemes (FGS). These are not well suited for habitat restoration, or for allowing natural regeneration in the case of woodlands. For example, these grants do not deliver enough for Caledonian Pine Woodland restoration. FGS money need to be more supportive of native woodland creation, woodland restoration, and natural regeneration.

As also mentioned in previous evidence, LINK members have ongoing concerns regarding the requirements attached to SNH grants, particularly where those restrict activity to the Central Belt whereas environmental needs are located in more remote and rural areas. In addition, as also previously specified, grants are now allocated for a period of one year. LINK members consider that having longer funding cycles would be beneficial from an environmental point of view and would provide greater certainty about the available funding for the environment. We understand that this is common practice in other areas, e.g. the NHS. EU grants can also be multiannual depending on the project which has been very beneficial.

In the 2018/19 Programme for Government there is a welcome commitment to a Biodiversity Challenge Fund², of up to £2 million, to support projects across Scotland focused on creating and improving habitats for key species and, where appropriate, encourage increased access to nature. It is unclear to LINK members how this fund will be run, over what timeframe and with what priorities. Recent Parliamentary Questions have not been answered in a substantive way by Scottish Government indicating that more information will be provided soon³.

¹ <http://www.scotlink.org/public-documents/scottish-environment-link-response-to-the-environment-climate-change-and-land-reform-committee-call-for-evidence-on-the-draft-budget-2018-2019/> & <http://www.scotlink.org/wp/files/documents/SEL-evidence-to-ECCLR-on-Biodiversity-interim-report-and-Aichi-Targets.pdf>

² <https://www.gov.scot/publications/delivering-today-investing-tomorrow-governments-programme-scotland-2018-19/>

³ Question S5W-19247:

<http://www.parliament.scot/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S5W-19247&ResultsPerPage=10>

- Impacts of EU exit?

LINK is not in receipt of EU funds directly; there is however an expectation that the absence of EU funding will impact the ability of environmental charities to deliver biodiversity outcomes on the ground. EU funds have supported a variety of Scottish Government and NDPBs policies and actions that have benefitted the environment and have created opportunities for environmental projects involving a variety of stakeholders, including ENGOs. For example, one such project is [EcoCo LIFE](#) which provided funding of £2.3 million for improving ecological coherence within the Central Scotland Green Network. This research will provide useful insights for meeting Scotland's Biodiversity Route Map "Priority project 10: improving ecological connection". The project is led by SNH with the support of several civil society organisations, including several LINK members. Another project is the [Pearls in Peril LIFE project](#) – which ran from 2012 to 2017 – to save and restore populations in 19 rivers in Scotland, all Special Areas of Conservation. This project too, alongside other EU funded projects, is directly mentioned as delivering towards Scotland's domestic biodiversity strategy. Through the LIFE programme, Scotland has received around €25.5M over 25 years, this is 21% of the total UK budget. It is important to note that the EU LIFE programme will receive a 60% increase according to European Commission proposals for the next EU budget⁴.

- Consideration of issues for different types and levels of participant?

LINK members have worked with SNH to deliver on Scottish biodiversity outcomes. Key issues that members have faced is a) the impact of decreasing budgets, b) requirements attached to SNH grants with respect to local/community engagement which cannot always be met when action is needed in remote areas, and c) lack of multi-annual certainty with respect to some funding arrangements.

B) Funding models and strategy. What work the Government and stakeholders doing in this area:

- What new models for resourcing environmental policies are being discussed or trialled? Are we using all of the 'tools in the box' in Scotland?

It is important to stress that in terms of the management of protected areas, there is clear evidence that when legislation is well-implemented alongside funding, there are positive environmental results. Tracking results and reporting on progress in an accurate way is critical, as has been previously highlighted in LINK submissions⁵. It is important to have a clear understanding of the baseline data for the purposes of a monitoring strategy particularly as it appears that site condition monitoring will be discontinued in its current form.

⁴ <http://ec.europa.eu/environment/life/news/press/index.htm#pr2018>

⁵ For example, there are significant issues with how the data is reported under the national Site Condition Monitoring indicator for protected areas. Specifically, an increased proportion of 'unfavourable' features are re-categorised as 'unfavourable recovering due to management' and are therefore summarised as favourable under the indicator, without evidence of actual recovery or delivery of management measures on the ground. More information: <http://www.scotlink.org/public-documents/scottish-environment-link-response-to-the-environment-climate-change-and-land-reform-committee-call-for-evidence-on-the-draft-budget-2018-2019/> [

LINK members believe that one innovative way of streamlining and targeting funding for environmental outcomes is through the [introduction of a National Ecological Network \(NEN\)](#), mandated through the [third National Planning Framework](#) and [Scotland's Biodiversity-a Route Map to 2020](#). The NEN is a strategy to protect and build ecological resilience throughout Scotland, and once in place it will provide habitat connectivity, species diversity and ecosystem services. The NEN would help protect and restore Scotland's nature, so that it continues to provide the life support systems we all depend on, particularly in terms of our health, wellbeing and economic prosperity. It could do this by providing an overriding, holistic policy approach that integrates the enhancement and protection of nature into policies, proposals and funding streams, so that they can deliver multiple public benefits more effectively. It is an approach that can ensure policy cohesion and a spatial expression to environmental outcomes. It is not a mechanism for designating land or protected areas. For the NEN to be a successful strategy it should have cross cutting themes and objectives, delivering key policy priorities in climate change, land use and national planning, by being embedded across Scotland's Land Use Strategy, Marine Plan, Scotland's Biodiversity Route Map, and the National Planning Framework. We believe that the introduction of the Scottish Environment Strategy is a good opportunity to take this forward (see responses below).

Another funding stream the outcomes of which can be optimised is agriculture and land use payments. LINK members have long supported that CAP support should be recalibrated to deliver on public goods, including environmental outcomes. Detailed views are presented [here](#) and in responses further below. While there is growing support for such an approach from a number of stakeholders, it is unclear whether this is the policy direction which the Scottish Government will support. This is an important issue as these funds have the potential to greatly enhance our environment and rural areas.

LINK recommends adequate investment in the health of Scotland's seas to 2020 and beyond. Safeguarded, and where necessary increased funding is required to support the monitoring, enforcement and completion of Scotland's MPA network, and development of Regional Marine Plans to meet national and international commitments to sustainably develop and enhance Scotland's marine environment. To ensure the long-term benefits Scotland's seas provide, and the health and stability of Scotland's maritime industries, sustainable practices need to be underpinned and encouraged with sufficient resources. Governments should take advantage of European Maritime Fisheries Fund (EMFF) while it remains available and when this is no longer the case, should seek innovative ways of funding fisheries management, science and enforcement. Given budgetary constraints, any future funding must be directed strategically to support and incentivise a 'race to the top'.

- How can funding be most effectively applied/prioritised?

In the first place, it is important that policies do not promote contradictory policy outcomes. This is very often the case, leading to difficulties in implementation as well as use of funding to remedy negative outcomes generated by other policies. For example, as indicated by SNH "there are incentives for activities which conflict with biodiversity leading to its deterioration and sometimes loss"⁶.

⁶ <https://www.snhpresscentre.com/resources/3lfef-0uagk-5qmqq-3b8t0-41k91>

Funding for conservation must be safeguarded and allocated on the basis of environmental need rather than other considerations such as community engagement. We firmly agree that there is a case for engaging with local communities, particularly in terms of supporting less affluent communities. However, such projects are likely to deliver different outcomes in which case there might be a case for separate funding streams. It could also be that other Government departments support projects that are geared more towards community engagement.

The NEN would also provide a useful mechanism for prioritising funding but also ensuring policy consistency and the delivery of multiple benefits, beyond the environmental.

- What should the role of Scottish Government and SNH be?

Scottish Government should develop science-based policy-making for biodiversity with input from relevant bodies such as SNH and stakeholders, such as ENGOs, land managers etc. Scottish Government should ensure policies include clear targets, measurable actions and provide a clear long-term trajectory. Policies should be supported with adequate funding⁷.

SNH should support the delivery of biodiversity policies through partners and champion the environment. SNH should be ensuring there is independent advice on environmental policy across portfolios.

- Role of local authorities and models such as City Deals?

There is an important role for local authorities, not least in terms of their obligations towards their legal biodiversity duty. However, much progress needs to be made in terms of local authorities embedding this duty across their work. This is why LINK welcomed the PAPLS post-legislative review of the biodiversity duty and we are eagerly awaiting the next steps Scottish Government and SNH will propose to enhance the duty's implementation.

In terms of City Deals, LINK is concerned that the ambition of City Deals to generate inclusive growth has too narrow a focus and should be looking more to directing investment towards the transition to sustainable and equitable low-carbon economies. Environment, biodiversity and climate change ambitions are not adequately considered in City Deal plans overall. LINK members also note there is a lack of a transparent approach in terms of statutory environmental assessments that City Deals have to adhere to while early engagement in the formulation of those deals is not always possible therefore limiting the opportunity to 'green' any plans put in place. LINK members believe that all City Deals should contribute to the implementation of the National Ecological Network.

- Are we looking to other countries for examples of good practice?

LINK members have looked at positive examples from other countries. For example, in the Netherlands, the Government rolled out a policy which seeks to minimise fragmentation of habitats; this is similar to Scottish aspirations for an NEN. The multi-year defragmentation programme (Meerjarenprogramma Ontsnippering or MJPO) in the Netherlands was set up to

⁷ As detailed in LINK's response to the Environment Strategy consultation:
http://www.scotlink.org/wp/files/documents/SEL_Submission_Environment-Strategy.pdf

address issues of ecological fragmentation and enhance ecological connectivity. Within the MJPO project, 215 areas of action were identified; the programme has a target of addressing these by 2018. Interventions include measures such as green bridges, wildlife underpasses, eco-culverts, wildlife overpasses at tree crown level and hop-overs. Already in 2013, 32% of the 215 actions identified were addressed, while 26% had been partially addressed.

C) Linkages to current policy environment and international context:

- Impacts of EU exit and stakeholder analysis?

LINK members have long supported that the prospect of EU exit creates a number of risks from an environmental point of view. This view has been supported by a variety of reports commissioned by think tanks and academics across the UK⁸. Overall, there are four ways in which are our environment risks being impacted by EU exit:

1. Loss of existing EU legislation: around 80% of environmental laws in Scotland today originate at the EU level. There is overwhelming evidence that those laws, when well implemented at the national level, have created multiple benefits. For example, two of the most fundamental EU Directives, the Birds and Habitats Directives, recently underwent a fitness review at the EU level which concluded that there are the multiple benefits to these Directives, estimated at 200-300 billion euros per year, significantly exceeding identified costs⁹. A similar exercise at the UK level concluded the same¹⁰.

There is therefore a concern among LINK members about the future of EU laws, particularly as the provisions of the EU Withdrawal Act¹¹ do not provide for the rectification of existing transposition gaps. For a number of EU Directives and other laws which need to be transposed to domestic statute to be operational, we have sometimes failed to bring over provisions in an appropriate way. This has led to transposition gaps which so far have been addressed by having recourse to the original EU Directive. This is unlikely to be the case in the future as our domestic statute book would be determined solely on the basis of retained EU law. What is more, the future status of retained EU law will be determined by the Statutory Instruments (SIs) that will be brought forward to ensure they are part of domestic law post-Brexit day as well as future governance mechanisms.

⁸ Examples of studies:

- [“The potential policy and environmental consequences for the UK of a departure from the European Union”](#), by the Institute for European Environmental Policy, which concluded that: “it is likely that a UK departure from the EU would leave the British environment in a more vulnerable and uncertain position than if the country were to remain as a member of the EU”;
- [“UK environmental policy post-Brexit: A risk analysis”](#), by the academic network Brexit and the Environment, which concluded that while “in general, the Norwegian model poses the least risk to current levels of environmental protection, whereas the chaotic ‘no deal’ model poses the highest risk”, nature protection policies were judged to be especially vulnerable as they are at risk under all Brexit scenarios;
- [“The implications of Brexit for environmental law in Scotland”](#), by the Scottish Universities Legal Network on Europe (SULNE).

⁹ http://ec.europa.eu/environment/nature/legislation/fitness_check/docs/study_evaluation_support_fitness_check_nature_directives.pdf

¹⁰ It is important to note that at the time of this fitness review, the Scottish Government indicated that it did not wish to see the Directives renegotiated, highlighting that “Scotland provides the largest component of the UK’s contribution to the European Union’s Natura 2000 network” - S4W-29255 - http://www.parliament.scot/S4_ChamberDesk/WA20160126.pdf

¹¹ We understand that the Scottish Continuity Bill provides for some different provisions, however, given the ongoing Supreme Court challenge our submission focuses on the provisions of the EU Withdrawal Act.

II. Loss of EU governance mechanisms: EU bodies perform a number of functions across the spectrum of environmental policy, from monitoring and reporting to ensuring implementation of EU law. These functions are at risk with the prospect of Brexit. The risks have been captured in previous LINK position papers as well as the Environment and Climate Change Roundtable report on environmental governance post-Brexit commissioned on behalf of the Cabinet Secretary for Environment, Climate Change and Land Reform¹².

III. Loss of EU funds and access to EU-wide projects: there are a number of EU funds that can be used to deliver on environmental outcomes. For example, the EU LIFE programme is the EU's dedicated funding stream for the environmental and climate action. EU CAP funds can also be used to better support farmers to deliver environmental outcomes through farming. Pillar 2 funds, while significantly lower compared to Pillar 1, support Agri-Environment, Forestry and other schemes. It is important to note that Scottish Government has not provided any clarity on Pillar 2 payments during the transition period for which they consulted over the summer (Simplicity and Stability Consultation). Government has only provided clarification that Agri-Environment-Climate Scheme (AECS), which supports environmentally friendly farming methods, will be open for applications in 2019. AECS and other critical SRDP schemes including woodland grants and advisory services should continue to be funded and effectively rolled forward during any transition period.

In the marine environment loss of funding support from the European Maritime Fisheries Fund (EMFF) could have a detrimental effect on supporting the fishing industry toward a more sustainable future. Innovative approaches need to be looked at for supporting transition to a more sustainable future for fishing. Any UK-wide approach to replace the EMFF fund must also ensure that resource follows need and with two thirds of the UK fishing industry, Scotland must be effectively engaged in such an approach.

IV. Loss of key forum for the exchange of best practice, development of innovative regulatory mechanisms and joint action for the environment.

It is important to note that on many occasions it has been the combination of strong legislation, funding for implementation and clear governance mechanisms to ensure compliance that have led to successful EU environmental outcomes.

- Preparedness for exit and short and longer-term priorities?

Based on the above, LINK members believe that there is urgent need to ensure appropriate statutory instruments are brought forward to ensure that if and when Brexit happens our domestic statute book is in order. We understand that the Environment and Forestry Directorate of Scottish Government and Marine Scotland have been working constructively with DEFRA colleagues and collaborating on SIs as well as developing SSIs.

Work is focusing on priority instruments required under a 'no deal scenario' as well as others under the operating assumption of a transition period, in line with the proposed Withdrawal Agreement. Inevitably, given the amount of work that the civil service needs to complete,

¹² <https://www.gov.scot/publications/report-roundtable-environment-climate-change-environmental-governance-scotland-uks-withdrawal/>

there will be gaps under a 'no deal' scenario, while even with a transition period there would be substantive amounts of secondary legislation to develop and adopt.

However, there are equally critical issues which require attention: with just four months till exit day, there is uncertainty about future environmental governance mechanisms. This pertains not only to the functions of monitoring and reporting, but also the more critical roles played by the European Commission and European Court of Justice. Even with a proposed transition period till end of 2020, should the proposed Withdrawal Agreement be ratified, LINK members believe that there will be a need for legislation to provide solutions to the environmental governance gap. As has been previously stated¹³, LINK members support the creation of an independent and well-resourced body or bodies to ensure the proper implementation of environmental legislation. We note that similar provisions will be required in the Withdrawal Agreement should the Irish backstop protocol be triggered¹⁴.

In addition, the prospect of EU exit poses a question as to how EU environmental principles will be reflected in Scottish policy and law. The Environment, Climate Change and Land Reform Cabinet Secretary has provided reassurance that it is the Scottish Government's preferred policy approach to continue to abide by those principles¹⁵. However, currently EU environmental principles are referenced in EU Treaties which ensures that all EU environmental policy is based on those principles. This allows for addressing gaps in legislation and formulating approaches for future legislation as well as seeking legal action.

We also note that the Roundtable on Environment and Climate Change report on "[Environmental Governance in Scotland](#)" provided recommendations to addressing the governance gap. The Scottish Government have yet to react to its recommendations and publish the much-anticipated public consultation on principles and governance.

- Where and how should funding feature in current debates on environmental governance, the Scottish Government-proposed environment strategy, NGO calls for a new Scottish Environment Act?

Funding is critical to the realisation of environmental ambitions. In terms of addressing the environmental governance gap it important to ensure that functions carried out by EU bodies and transferred to domestic bodies such as SNH and SEPA are accompanied by an increase in funding and resources so that those bodies are able to carry out these new functions. In terms of the roles of the EC and ECJ those would require the set-up of different bodies which would also require additional resources, so they are able to maintain expertise and independence. Similarly, a Scottish Environment Strategy in addition to being binding, set out goals, provide timelines for achieving them and indicators for tracking progress, needs to be adequately funded. As mentioned in LINK's submission to the Scottish Government consultation, the NEN could be the mechanism enables the realisation of the Strategy as it would also be able to ensure coordination with more specific policy areas. In terms a Scottish

¹³ <http://www.scotlink.org/wp/files/documents/LINK-response-to-Call-for-Evidence-EU-Environmental-and-Animal-Welfare-Principles.pdf>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759019/25_November_Agreement_on_the_withdrawal_of_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_from_the_European_Union_and_the_European_Atomic_Energy_Community.pdf

¹⁵ <https://blogs.gov.scot/rural-environment/2017/11/06/commitment-environmental-principles/>

Environment Act, this would not require any additional funding for its implementation. This is because LINK members support the introduction of an Act that puts EU environmental principles in domestic law, sets up an independent watchdog to address governance gaps and sets future policy goals in line with an Environment Strategy. Funding implications for these are already captured.

- Implications of approaching 2020 – UN Convention on Biodiversity COP and potentially updated targets (Aichi targets)?

LINK members have expressed concerns over the lack of progress on the 2020 Aichi Targets, where Scotland is on track with only 7 out of 20 targets, according to the [SNH report on Scotland's progress](#). As the SNH report highlights “unless we increase our efforts the target[s] will not be met by [the] deadline”. More particularly, the target tracking financial resources provided for biodiversity is moving away from targets¹⁶. Limiting funding creates additional challenges which will act as barriers towards achieving 2020 targets. More worryingly, the report does not provide any solutions or further actions that Scottish Government or SNH will undertake to ensure that Scotland's progress improves ahead of 2020¹⁷. Key to the success of protecting and enhancing biodiversity at sea is the emerging Marine Protected Area network, and wider requirement under the National Marine Plan to ensure anthropogenic activities do not significantly impact the national status of Priority Marine Features (PMFs), which requires sufficiently resourcing compliance capacity at sea, concerns over which have recently been raised with reported incursions of scallop dredgers into some existing protected sites, and effective monitoring of marine life within sites to gauge if protection is working, recovery happening and wider sea use is sustainable. More funding is also needed on gathering baseline data so that SNH can address knowledge gaps on the location and status of Scotland's PMFs, such as fan mussel aggregations, spiny lobsters and sea trout, which are often at the pressure 'pinch points' for anthropogenic activities at sea, to further inform marine conservation policy and action.

Looking beyond 2020, LINK members consider that Scottish biodiversity policy should be based on a) well-managed protected areas b) completion of Scotland's emerging MPA network, and c) the development and roll out of an NEN. There is ongoing work within SNH regarding the role and function of protected areas while there is an agreed joint SNH/LINK statement on a vision for the NEN. LINK members feel that real progress can be made in those areas ahead of 2020 to set Scotland in a positive trajectory in terms of nature recovery. We are hoping that the Scottish Government will commit to the roll-out of an NEN. In terms of developing policies for nature, it will also be important to acknowledge and build upon the interactions with climate change.

- Linkages to wider land reform agenda – do we need new approaches to resourcing environmental outcomes to complement land reform ambitions? Do current funding

¹⁶ SNH has noted a decline in funding over the last 5 years for most Scottish organisation, which have some biodiversity remit.

¹⁷ For more details see LINK's previous submission to ECCLR on progress towards the Aichi targets: <http://www.scotlink.org/wp/files/documents/SEL-evidence-to-ECCLR-on-Biodiversity-interim-report-and-Aichi-Targets.pdf>

models include the full range of potential 'providers' of environmental outcomes? Are groups being excluded?

It has been a longstanding position from ENGOs across the EU that better environmental outcomes could be achieved by ensuring that support to farming and the land use sector is better provided and targeted. From a domestic point of view, Scotland's land reform agenda would be better supported by a recalibration of how we support our land use and farming sectors. It is critical to engage all farmers and land managers in this effort. As mentioned above, LINK members support an approach whereby public money is used to deliver public goods. Under such a system, farmers and land managers would be supported by enhanced advisory services, could opt in to different programmes rewarding them for the delivery of public goods, such as environmental goods (e.g. actions to enhance biodiversity, support climate action) and benefit from opportunities to modernise their business as well as work collectively. According to a study jointly commissioned by the RSPB, the National Trust for Scotland and the Wildlife Trusts, the current levels of CAP funding could be effectively recalibrated to deliver towards environmental land management¹⁸.

This submission is supported by the following Scottish Environment LINK Wildlife subgroup members:

- Buglife Scotland
- Bumblebee Conservation Trust
- Froglife Scotland
- Marine Conservation Society Scotland
- RSPB Scotland
- Scottish Wildlife Trust
- Scottish Wild Land Group
- Woodland Trust Scotland

¹⁸ Assessing the costs of Environmental Land Management in the UK,