

Final Report: Evaluation of the Implementation of the Environmental Principles Policy Statement

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Final Report: Environmental Principles Policy Statement

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Disclaimer

The views and propositions expressed herein are, unless otherwise stated, those of Risk & Policy Analysts and do not necessarily represent any official view of the OEP or any other organisation mentioned in this report.

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Executive Summary

The Environment Act 2021 (the Act) introduced four new pillars of environmental governance: environmental targets, environmental improvement plans, a policy statement on environmental principles and the Office for Environmental Protection (OEP). Section 19 of the Act requires ministers to have ‘due regard’ to a policy statement on environmental principles (EPPS). The duty came into force on 1 November 2023.

Risk & Policy Analysts Ltd (RPA) were commissioned by the OEP to design and apply a monitoring and evaluation framework to scrutinise the implementation of the duty to have due regard in its initial period of operation. The findings support the OEP in independently monitoring and holding the UK Government to account in their implementation and application of the EPPS and inform the OEP’s own, later Environmental Law report (under s.29 of the Act) to Government and Parliament. The study also assessed whether the potential risks highlighted by the interim OEP to Defra on the draft EPPS were realised, and whether the changes suggested by the interim OEP were beneficial.

RPA created a Theory of Change (ToC) to guide the development of a process and impact evaluation framework which sought to understand how departments had prepared for the duty to have due regard and what the early impacts of the duty were. The ToC had 13 assumptions that were tested during the study. The study team worked with the OEP in an iterative manner to develop the ToC and evaluation framework.

RPA interviewed civil servants from eight departments, six of which also provided data, and one arms’ length body (ALB). These departments were categorised into three types by their degree of environmental policy remit – whether a high, medium, or low degree. In total, 30 civil servants were interviewed. The evaluation is thus prepared using information gathered from this sample of departments. Data was analysed using process tracing to assess the extent to which the evidence supported the assumptions made in the ToC. Information gathered from both documents provided and interviews was recorded in a framework matrix and coded using a systematic approach against the evaluation questions.

Findings from the process evaluation were centred around a number of themes. All eight departments and the ALB explicitly mentioned the importance of awareness-raising about the duty, with four (of 9) specifically stating they had been working to prepare for the duty for a number of years. Awareness-raising took multiple formats, including in-person meetings, online presentations, information shared to intranet sites, briefing notes and emails.

Departments also changed their processes to comply with the new duty, using new internal templates, with a new section added to their ministerial submission templates. These completed templates provide an internal record of how the EPPS was considered for a policy.

Defra provided a toolkit of resources, with all eight departments interviewed opting to use this as the basis for their training and processes. Three (of 8) of departments highlighted specific issues with the toolkit, surrounding scope, the toolkit’s non-statutory nature, and whether some of the language in it could have been clearer. Two (of 8) departments would have liked more guidance from Defra, unrelated to the toolkit. One department only used the toolkit and the materials within it, and created no further training or guidance materials. A Civil Service Learning training module on the EPPS was also available for civil servants, which was received positively, with four (of 8) departments providing positive feedback.

All eight departments pointed out the value in the Defra-organised cross-governmental working group on the EPPS. This group shared knowledge and allowed departments to work together, whether in the group or bilaterally, to resolve common queries relating to the duty.

Five departments (of 8) raised questions about the scope of the EPPS and what constitutes a policy, and referred colleagues to the toolkit and to their departments’ legal teams for advice. Two departments (of 8) erred on the side of caution, complying with the duty if there is doubt, with one taking the approach of assuming that everything is in scope. This did not include specifically excluded policy under section 19(3) of the Act, but related to different discussions of what constitutes a policy.

Significant engagement was held with ministers’ private offices with six (of 8) departments having held direct discussions on the duty. Three had attempted to engage directly with ministers.

Findings from the impact evaluation were more limited (due to the duty only being in force a short while), but it was found that attitudes and mindsets towards the consideration of the environment during policymaking are changing and increasing.

None of the interviewees felt the duty to have due regard had made a difference to policy to date, but it is still very early to assess the impact of the duty with such a small number of examples available. However, seven departments (of 8) did report that there has been a change to considering positive environmental effects rather than just avoiding negative environmental effects. Of these, five considered that the EPPS was formalising what they were already doing in this regard. Six departments (of 8) felt more time was needed when developing policy in light of the duty .

Table 1 provides a summary of our conclusion in terms of whether the assumptions from the theory of change were found to hold, and hence whether the duty will fulfil its role¹ .

Table 1: Process tracing testing assumptions from the Theory of Change					
Assumption	Strength and summary of evidence				Justification
	Limited	Some	Good	Strong	
A1: Government’s framework for application of the principles is clear and transparent				Y	STRONG EVIDENCE with all departments interviewed explicitly stating how important awareness-raising of the EPPS was
A2: Government officials and ministers understand the requirement to have due regard to EPPS and look at the EPPS		Y			GOOD EVIDENCE based on level of information produced and used across all departments but with one legal challenge suggesting there may still be some further work needed to ensure there is

¹ *‘The purpose of the principles is to guide ministers and policymakers towards opportunities to prevent environmental damage and enhance the environment as required by section 17(4) of the Act... Application of the environmental principles to policymaking and by policymakers will enhance environmental protection and promote sustainable development.’*

Table 1: Process tracing testing assumptions from the Theory of Change

Assumption	Strength and summary of evidence				Justification
	Limited	Some	Good	Strong	
					complete understanding of the need to have due regard
A3: Toolkit and training contain the necessary guidance to help policymakers apply the EPPS appropriately				Y	STRONG EVIDENCE from feedback on uptake and usefulness of processes that have been developed, and ability of departments to tailor them to their specific needs
A4: Toolkit is considered and used as intended				Y	STRONG EVIDENCE from feedback that toolkit has been an important resource; feedback being incorporated to enable improvements over time with experience from using it
A5: Government puts in place effective framework of tools and processes				Y	STRONG EVIDENCE from the extent to which legal teams and comms have enabled the guidance to be effectively developed
A6: Effective governance across government				Y	STRONG EVIDENCE due to value of the cross-governmental group in enabling collaboration, gathering feedback and sharing best practice
A7: Framework is applied effectively and meaningfully				Y	STRONG EVIDENCE with processes and additional support enable effective and meaningful application (Sections 4.1, 4.2)
A8: Environmental principles have been proportionately applied when making policy		Y			GOOD EVIDENCE due to frequency of concerns over resource needs, but recognition this may reduce over time (
A9: Application and interpretation of principles are robust, objective and consistent with intended meaning			Y		SOME EVIDENCE based on feedback on how process has been applied but with some questions over comprehensiveness of application
A10: Application and interpretation of principles have usefully informed policymaking			Y		SOME EVIDENCE based on examples provided which show how the principles have been used to inform policymaking
A11: Application and interpretation in individual cases is clear and transparent			Y		SOME EVIDENCE based on examples provided
A12: Principles make a demonstrable and positive difference (where appropriate)		Y			GOOD EVIDENCE based on change in attitudes already reported but with more time needed for changes to become embedded and full behaviour change to be observed
A13: Application and interpretation of principles, result in opportunities for positive effects in terms of environmental outcomes	Y				LIMITED EVIDENCE based on discussion more generally around changes made and actions taken which provide some indication that there will be positive environmental outcomes. More evidence is needed however to demonstrate this

In conclusion, the overall findings of the evaluation show that significant effort and resources have been put in to preparing departments for when the EPPS came into effect. As a result, the departments have been able to increase awareness of the environment in policymaking. The preparation began two to three years in advance and included significant communications and awareness raising activities as well as training. Defra opted to create a toolkit of resources to help departments understand what is needed, why, and what it means to have due regard to the EPPS. This was tested with the Department for Education, with feedback provided, prior to being shared with other departments. Opportunities for enhancing knowledge and experience were also set up and these continue, with the majority of departments included in this review reporting how useful materials such as the toolkit and policymakers' template have been, including how receptive Defra have been to feedback and making improvements.

There is little evidence currently on how the principles themselves have been considered and only limited information from departments on the way that records are being kept to demonstrate how the duty to have due regard has been applied. As such, it is difficult to draw firm conclusions around the impact of the EPPS and the extent to which the EPPS "will contribute to the improvement of environmental protection and sustainable development" (s.17(4) of the Environment Act). Despite this, there is evidence that attitudes and mindset towards the environment have improved in the Civil Service as a result of the EPPS, promoting consideration in policymaking of delivering positive environmental benefits and avoiding negative environmental effects.

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Glossary

ALBs	Arm's Length Bodies
CS	Civil Service
CSL	Civil Service Learning
DCMS	Department for Digital, Culture, Media and Sport of the United Kingdom
Defra	Department for Environment, Food and Rural Affairs
DESNZ	Department for Energy Security and Net Zero
DfE	Department for Education
DfT	Department for Transport
DLUHC	Department for Levelling Up, Housing and Communities
DWP	Department for Work and Pensions
EEAP	European Environmental Action Plan
EEC	European Economic Community
EIP	Environmental Improvement Plan
ENCA	Enabling a Natural Capital Approach
EP	Environmental Principles
EPA	Environmental Principles Assessment
EPApp	Environmental Principles Application
EPSP	Environmental Principles Policy Statement
FMP	Fisheries Management Plan
EQ	Evaluation Question
HMT	HM Treasury
HSE	Health and Safety Executive
IA	Impact Assessment
MHCLG	Ministry for Housing, Communities and Local Government

NPPF	National Planning Policy Framework
OA	Options Assessment
OGDs	Other Government Department(s)
OEP	Office for Environmental Protection
PSED	Public Sector Equality Duty
ROAMEF	Rationale, Objectives, Appraisal, Monitoring, Evaluation and Feedback
SCS	Senior Civil Servants
SRO	Senior Responsible Officer
TFEU	Treaty on the Functioning of the European Union
The Act	The Environment Act 2021
ToC	Theory of Change
ToR	Terms of Reference

1 Introduction to the project

1.1 Introduction to the Environmental Principles Policy Statement

1.1.1 International context

The environmental principles date back to the 1970s in European environmental law. In 1973, the year the UK joined the European Economic Community (EEC), the first European Environmental Action Programme (EAP) listed 11 principles (including, for instance, the prevention principle and polluter pays principle). EU environmental law is based on the precautionary, prevention, rectification at source and polluter pays principles contained in Article 191(2) of the Treaty on the Functioning of the European Union (TFEU). The TFEU applied in the UK, and there was no need for the UK's own version of the environmental principles, until EU-exit. The UK's exit from the EU thus provided an opportunity to review historic EU rules and processes to ensure the regulations worked in the UK as intended by the government.

1.1.2 UK context

In June 2011, the Conservative and Liberal Democrat coalition government published a Natural Environment white paper, with the ambition to be the first generation to leave the natural environment of England in a better state than it inherited². This ambition was echoed by successive Conservative administrations. In January 2015, the Natural Capital Committee³ recommended that government, working with business, non-governmental organisations, and other parts of society produce a 25-year plan to protect and improve natural capital for the next generation. The government published *A Green Future: Our 25 Year Plan to Improve the Environment*⁴ setting out these plans in January 2018. The Environment Bill was introduced to Parliament in January 2020 and received Royal Assent as the Environment Act ('the Act') in November 2021.

The Act was designed to enhance environmental protections and biodiversity in the EU-exit UK. Leaving the European Union, in the words of the statement, "has opened the door to a new opportunity for reviewing historic EU rules and processes to ensure our regulations work⁵". The Act introduced four new pillars of environmental governance: environmental targets, environmental

² HM government (2011): The Natural Choice: Securing the value of nature. Report by HM Government. Available at: <https://assets.publishing.service.gov.uk/media/5a7cb8fce5274a38e57565a4/8082.pdf> on 18 July 2024.

³ An independent advisory committee which ran from 2012 to 2020, with many of its functions transferring to the OEP. Between 2016 to 2020, the committee focused on helping the government develop its 25 Year Environment Plan.

⁴ HM government (2018): A Green Future: Our 25 Year Plan to Improve the Environment. Report by HM Government. Available at: https://assets.publishing.service.gov.uk/media/65fd713d65ca2f00117da89e/CD1.H_HM_Government_A_Green_Future_Our_25_Year_Plan_to_Improve_the_Environment.pdf, on 18 July 2024.

⁵ HM Government (2023): Environmental Principles Policy Statement. Policy paper by the Department for Environment Food and Rural Affairs for HM Government. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> on 19 July 2024.

improvement plans, a policy statement on environmental principles and the Office for Environmental Protection (OEP). Section 19 of the Act requires ministers to have 'due regard' to a policy statement on environmental principles, the EPPS.

1.1.3 The Environmental Principles Policy Statement

After the commitment to its introduction in the Act, the Department for Environment, Food and Rural Affairs (Defra) led the development of a draft EPPS which was then subject to a public consultation process, during which feedback was requested from the public, environmental organisations, industry stakeholders and other interested parties. This process ran from 10 March 2021 to 2 June 2021. The interim OEP gave advice to Defra in July 2021⁶. Following the consultation and parliamentary scrutiny, revisions were made to address some of the concerns and suggestions raised⁷. The duty came into force on 1 November 2023.

The legal duty to have due regard to the EPPS applies to ministers when making policy, under Section 19 (s.19) of the Act. S.19 also sets out the various policy areas exempted from the duty, which relate to the armed forces, defence, national security policy, taxation, spending and the allocation of resources within government. The duty does not apply to policy so far as it relates to Wales and applies when making policy in relation to Scotland only so far as that policy relates to reserved matters⁸.

The role of the EPPS is to contribute to the improvement of environmental protection and sustainable development, helping the government⁹ to meet its vision of being the first generation to leave the environment in a better state than it inherited it. The EPPS aims to ensure that environmental considerations are embedded, consistently, within policy development. It was anticipated by the government that the principles themselves will help to guide ministers and those making policy on their behalf towards opportunities to prevent environmental damage and to enhance the environment¹⁰.

⁶ OEP (2021): Advice on the draft Environmental Principles Policy Statement. Available at <https://www.theoep.org.uk/news/advice-draft-environmental-principles-policy-statement> on 20 August 2024.

⁷ Defra (2022): Summary of responses and government response. Consultation outcome by the Department for Environment Food and Rural Affairs. Available at: <https://www.gov.uk/government/consultations/environmental-principles-draft-policy-statement/outcome/summary-of-responses-and-government-response> on 20 August 2024.

⁸ Defra (2023a): Explanatory memorandum to the Environmental Principles Policy Statement, 31 January 2023. Policy paper by the Department for Environment Food and Rural Affairs. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/explanatory-memorandum-to-the-environmental-principles-policy-statement> on 31 January 2024.

⁹ The 2019-2022 Johnson Conservative government.

¹⁰ HM Government (2023): Environmental Principles Policy Statement. Policy paper by the Department for Environment Food and Rural Affairs for HM Government. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> on 19 July 2024.

As defined in section 45 of the Act, “environmental protection” means¹¹:

- a) protection of the natural environment from the effects of human activity;
- b) protection of people from the effects of human activity on the natural environment;
- c) maintenance, restoration or enhancement of the natural environment; and
- d) monitoring, assessing, considering or reporting on anything in paragraphs (a) to (c).

Sustainable development is “development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs¹²”. It involves trying to achieve environmental benefit alongside economic growth and social progress and should be considered in a global context¹³.

1.2 The environmental principles

The EPPS is not prescriptive in dictating the outcome of any application of the environmental principles, and instead “aims to provide ministers and those developing policy on their behalf with the space to use the principles to enable and encourage innovation¹⁴”. They are as follows:

- Integration principle;
- Prevention principle;
- Rectification at source principle;
- Polluter pays principle; and
- Precautionary principle.

Below is a summary of text from the EPPS on each of the individual principles.

1.2.1 The integration principle

This is the principle that environmental protection should be integrated into the making of policies. Policymakers should look for opportunities to embed environmental protection and/or enhancement into all policy. Applying the integration principle involves considering whether the policy has the

¹¹ HM Government (2021): Environment Act 2021: Section 45. Public General Act by the UK Government. Available at: <https://www.legislation.gov.uk/ukpga/2021/30/contents> on 19 July 2024.

¹² UN World Commission on Environment and Development (1987): Our Common Future. Report of the World Commission on Environment and Development. pg. 41. Available at: <https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf> on 20 August 2024.

¹³ HM Government (2023): Environmental Principles Policy Statement. Policy paper by the Department for Environment Food and Rural Affairs for HM Government. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> on 19 July 2024.

¹⁴ HM Government (2023): Environmental Principles Policy Statement. Policy paper by the Department for Environment Food and Rural Affairs for HM Government. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> on 19 July 2024.

potential to cause a negative environmental effect which could be avoided, minimised or reduced through alteration to the policy in proportion to other policy aims. It also provides an opportunity to build environmental protection, maintenance, restoration or enhancement into policies from the outset. Policymakers should take a holistic view about how best to deliver policy objectives when applying the integration principle.

1.2.2 The prevention principle

This is the principle that government policy should aim to prevent environmental harm, ensuring that environmental damages such as CO₂ emissions, pollution or biodiversity loss are avoided. Prevention should be used in preference to the rectification at source or polluter pays principle since these are used where prevention cannot be achieved. When applying this principle, policymakers should consider habitats and species that are endangered or vulnerable, and national environmental priorities such as those set out in the Environmental Improvement Plan (EIP), environmental targets and net zero. The prevention principle should be applied as early as possible to avoid negative environmental effects. Where damage has already occurred, the principle should be used to prevent further damage from occurring and ensure that damage does not spread. Consideration should include: the potential environmental harm identified (for example to air, water, land), the extent to which that harm could be prevented (including whether it is short- or long-term and how widespread the damage would be), and ways the harm could be prevented as well as costs and benefits of either preventing or not preventing the damage. A natural capital approach is suggested to support the analysis.

1.2.3 The rectification at source principle

This is the principle that environmental damage should, as a priority, be addressed at its origin to avoid the need to remedy the effects later. It should be used to guide the design of policy towards addressing or managing environmental damage or the potential for that damage to occur. Where damage cannot be rectified at source, consideration should be given to containing or limiting environmental harm as much as possible. Application of the principle involves understanding what the environmental damage (or potential damage) is, where it originates from, considering the feasibility of rectifying the issue at source versus other options, and the cost and benefits of doing so, with efforts to pursue solutions at source if this is proportionate.

1.2.4 The polluter pays principle

This is the principle that the costs of pollution should be borne by those causing it, rather than the person or community who suffers the effects. This principle serves several functions and can be used in design of policy before damage has occurred to prevent or deter environmental damages, or where pollution cannot not be avoided or is caused by accident, to restore or redistribute the costs of environmental damage. Applying this principle should incentivise individuals or groups to avoid causing environmental damage and encourage sustainable practice. Application involves identifying the driver for pollution and who is responsible, allocating responsibility to bring about the most environmental benefit; identifying who it is fair to ask to pay for the pollution. Then there needs to be consideration of how much the polluter should pay, with the principle to be applied proportionately, and how they should pay (including considering whether how they pay could be an incentive or disincentive for action). In some cases, it may be decided that the consumer should pay more for goods and services to reflect the cost of their environmental damage.

1.2.5 The precautionary principle

This is the principle intended to help a decision-maker in the face of uncertainty, and with risks that are not precisely calculable in advance. The principle seeks to manage the likelihood and severity of environmental harm occurring based on exposure to a specific hazard. The principle is used when there is plausible evidence of a risk that a policy could cause serious or irreversible damage to the environment, alongside scientific uncertainty on the likelihood or severity of the damage. Application involves making a reasonable assessment of the risks, using the best available scientific evidence. However, if there are gaps in the scientific evidence base this should not be used as a reason for inaction. This principle requires consideration of the plausible risk of serious or irreversible environmental harm and where inaction could increase the risk of damage occurring or could cause or worsen the potential damage. There must be sufficient evidence that the risk of serious or irreversible damage is plausible and real, and that any choices to prevent or reduce environmental degradation are cost-effective. This means the principle should not be applied speculatively and there is not a need to prove a policy is without risk. Where a risk has been identified of serious or irreversible environmental harm, it is necessary to manage the risk, which could include exercising caution and preventing or limiting an activity until sufficient evidence to support a decision becomes available. The principle should incentivise innovation by encouraging alternative options that reduce risk and uncertainty, whilst weighing up the risks and benefits for environmental effects of a specific innovation.

1.3 When is due regard to EPPS required?

The legal requirement to have due regard to the EPPS applies to Ministers when making policy, which is understood as an intended course of action taken to achieve an objective. Section 47(1) of the Environment Act refers to making policy as including “developing, adopting or revising policy”, and “policy” including proposals for legislation, but does not include an administrative decision taken in relation to a particular person or case (for example, a decision on an application for planning permission, funding or a licence, or a decision about regulatory enforcement). The EPPS¹⁵ itself gives examples of policy, including:

- Proposals that lead to legislation;
- National policy statements, strategies and frameworks;
- Ministerial statements setting out the government’s formal position on an issue;
- Documents, strategies and frameworks prepared by public bodies that ministers are required by statute to approve; and
- Any other document that sets out a substantial change in approach to an established position.

The duty does not cover individual regulatory, planning or licensing decisions made by ministers or authorities acting on their behalf.

¹⁵ HM Government (2023): Environmental Principles Policy Statement. Policy paper by the Department for Environment Food and Rural Affairs for HM Government. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> on 31 January 2024.

Policymaking encompasses a development process, often including numerous decision-making points, and the environmental principles should be considered appropriately and repeatedly throughout the process of policy development.

In most instances, arm's length bodies (ALBs) are not in scope of the duty. However, in the case of ALBs developing policy for a minister(s) then the EPPS would require consideration. For some policy areas it may be clear from the start that the principles are not relevant, for other areas or departments the principles may be more consistently relevant. As such consideration will need to be assigned proportionally, based on the individual policy.

Once it has been concluded that the policy in question is in scope of the duty policymakers will need to determine which principles are relevant. It is required that all principles are considered, but it will not be the case that all principles are always applicable.

1.4 The policymaking process and the incorporation of the duty to have due regard

A number of sources from government departments were used to build a detailed understanding of the nuance of the policy development process, including the following:

- Cabinet Office's Open Policy Making toolkit¹⁶;
- Evaluation Task Force's Evaluating policy in government¹⁷;
- Department for Business and Trade's Better Regulation Framework: Interim guidance¹⁸;
- HM Treasury's Green Book¹⁹;
- The Institute for Government's Better Policy Making²⁰; and

¹⁶ Cabinet Office (2017): Open Policy Making toolkit. Available at: <https://www.gov.uk/guidance/open-policy-making-toolkit> on 10 September 2024.

¹⁷ Evaluation Task Force (2023): Evaluating policy in government. Available at: <https://www.gov.uk/government/publications/guidance-and-resources-for-evaluating-policy-in-government> on 10 September 2024.

¹⁸ Department for Business and Trade (2023): Better Regulation Framework, Interim guidance. Guidance by the Department for Business and Trade. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916918/better-regulation-guidance.pdf on 20 August 2024.

¹⁹ HM Treasury (2022): The Green Book, updated 27 October 2023. Guidance by HM Treasury. Available at: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020> on 20 August 2024.

²⁰ For example, Institute for Government (2022): Better Policy Making. Available at: <https://www.instituteforgovernment.org.uk/sites/default/files/publications/better-policymaking.pdf> on 14 March 2024.

- The Delivery Book²¹.

Using these, RPA developed a diagram outlining the policymaking process (Figure 1-1 below). This approach is based on the ROAMEF²² policy cycle set out in the Treasury Green Book. The policymaking process can be summarised as a seven point cycle which functions continuously. The Department for Business and Trade identified the need to consider impacts on natural capital and decarbonisation at the Options Assessment (OA) stage and the importance of documenting environmental impacts in an Impact Assessment (IA) when a regulatory provision has been identified as a preferred option.

1.4.1 How the duty to have due regard to EPPS fits into the ROAMEF cycle

The EPPS is intended to enhance environmental protection and promote sustainable development²³. It requires the five principles to be taken into account when taking policy decisions. The principles need to be considered during the policymaking process. This is to help ensure that environmental protection is integral to policy development in all government departments.

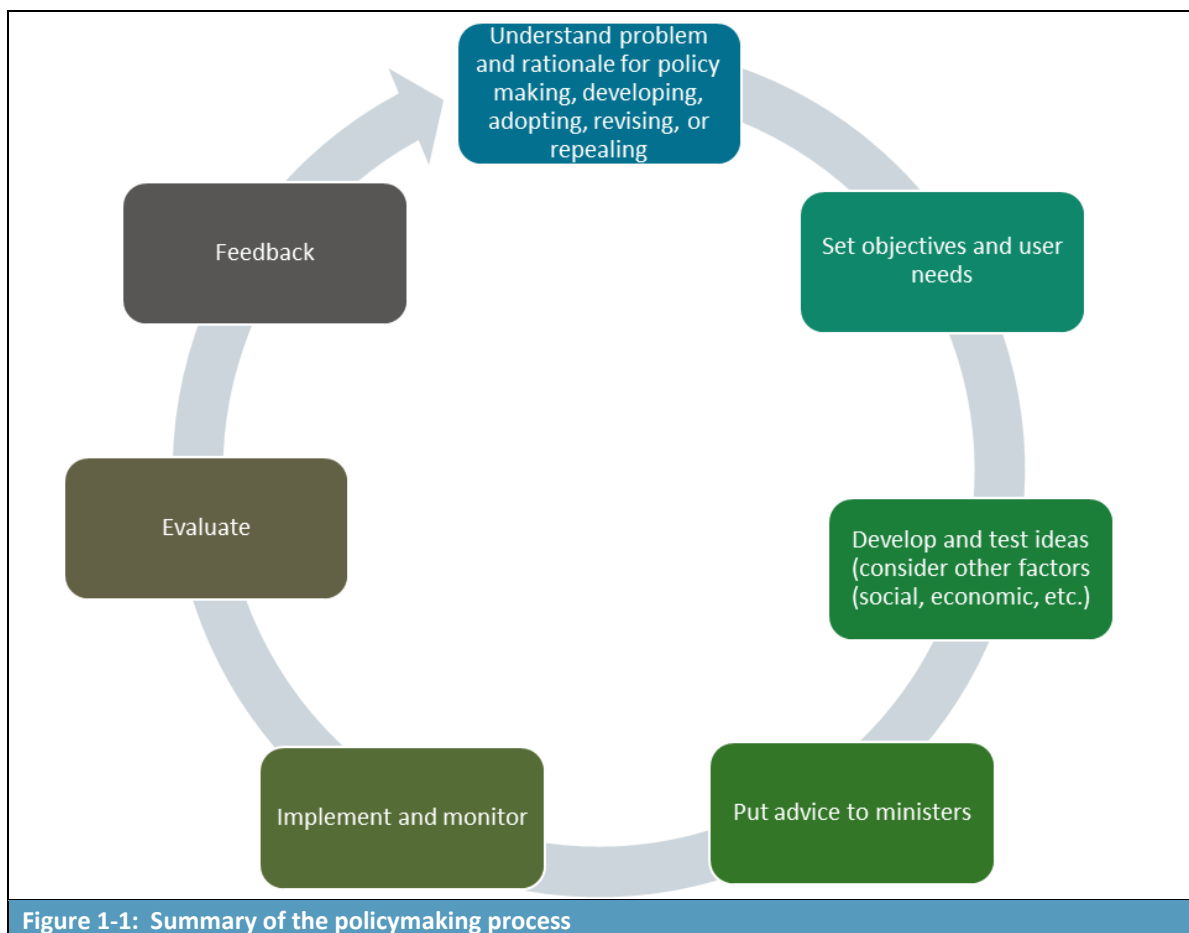
The EPPS and the principles need to be applied iteratively throughout the ROAMEF cycle. A number of documents were created to build knowledge across the Civil Service and support civil servants in considering the statement during policy development. There are three key sets of documents:

- Defra's toolkit of EPPS resources, which was distributed across government;
- An EPPS Civil Service Learning Training Course; and
- Departmental specific guidance and amended templates.

²¹ Andrew Knight (2023): The Delivery Book. Department for Education. Available at <https://www.deliverybook.uk/> on 18 March 2024.

²² Rationale, Objectives, Appraisal, Monitoring, Evaluation, Feedback.

²³ HM Government (2023): Environmental Principles Policy Statement. Policy paper by the Department for Environment Food and Rural Affairs for HM Government. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> on 31 January 2024.



1.4.2 Defra’s toolkit

Prior to the duty to have due regard to the EPPS coming into force on the 1 November 2023, Defra designed, tested, and then made available across government a non-statutory ‘toolkit’ of resources. This included an EPPS assessment template for policymakers, case studies, and information on topics such as what action should be taken (to have due regard) and the scope of the duty. A full descriptive analysis of the documents within the toolkit can be found in Annex 1.

The toolkit was not required legally by either the Act or the EPPS, but Defra’s EPPS team decided it was needed to support departments through the implementation and early operational phase of the EPPS. This decision was taken as it became apparent that people in Defra and other departments needed more advice on how to interpret the duty and how to apply it. The toolkit went through several iterations internally before being sent to departments prior to the EPPS coming into force.

The toolkit emphasises the need to consider the EPPS repeatedly from the outset before a policy decision is made. It also highlights best practice and the need to keep records to show that ministers and those making policy on their behalf have considered the duty to pay regard with substance, rigour and an open mind. There is particular emphasis on the need for this record where it is concluded that the policy has no environmental effects or where the effect is limited and so a ‘lighter touch’ approach has been used. The communications and engagement section of the toolkit provides advice on how to embed the duty into key gateways in the policy cycle to assist with record keeping. The toolkit highlights the importance of departments considering the best way to develop an audit trail.

This toolkit resource also refers to the Brown Principles²⁴ to guide policymakers on demonstrating that an appropriate level of regard has been given. These principles refer to a set of guidelines established by the UK courts to ensure lawful and fair public decision-making. They cover due regard, and how to apply it, and how that operates as part of the Public Sector Equality Duty (PSED) as contained in section 149 of the Equality Act 2010. For instance, some of the Brown Principles say that a body subject to the duty to have 'due regard' cannot satisfy the duty by justifying a decision after it has been taken, and that it is good practice for those exercising this function to keep an accurate record.

The toolkit also includes a section on assessing environmental effects, which refers to the Green Book²⁵ and the Enabling a Natural Capital Approach (ENCA) guidance²⁶. Environmental effects are linked to a change in the environment resulting from the policy and which can:

- Be primary or secondary effect;
- Occur once, repeatedly or be cumulative;
- Be local, regional, national or transboundary;
- Be short, medium or long-term;
- Be permanent or temporary; or
- Be positive or negative.

It also highlights that environmental effects are intrinsically linked to societal and economic effects and that these should also be fed into decision-making processes. This section of the toolkit highlights the importance of involving analysts as valuable sources of support through all stages of the policy cycle.

1.4.3 EPPS Civil Service Learning course

The Civil Service Learning course was another piece of guidance created to support civil servants' learning about the EPPS and their responsibilities under the duty. It was led by Defra, in conjunction with KPMG. A full summary of the Civil Service Learning course can be found in Annex 2. The course consists of three modules:

- **Module 1: An online tutorial** designed to help civil servants understand the statement and the five principles, the need to have due regard to the statement and principles within the context of policymaking, and how to apply the duty in policymaking;

²⁴ Equality Commission for Northern Ireland (nd.). R (Brown) -v- Secretary of State for Work & Pensions & the Secretary of State for Business, Enterprise and Regulatory Reform [2008] EWHC 3158. Available at: <https://www.equalityni.org/Employers-Service-Providers/Public-Authorities/Section75/Case-Law/Legal-Case-2#:~:text=The%20final%20outcome,with%20the%20duties%20in%20substance> on 20 August 2024.

²⁵ HM Treasury (2024) : The Green Book (2022), guidance updated 16 May 2024. Guidance by HM Treasury. Available at: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020> on 20 August 2024.

²⁶ Defra (2023): Enabling a Natural Capital Approach guidance, guidance updated 19 July 2023. Guidance by the Department for Environment Food and Rural Affairs. Available at: <https://www.gov.uk/government/publications/enabling-a-natural-capital-approach-enca-guidance/enabling-a-natural-capital-approach-guidance> on 20 August 2024.

- **Module 2: An interactive exercise** providing an opportunity for users to apply what is learned in the online tutorial through development of an extinct species revival strategy; and
- **Module 3: A downloadable checklist** serving as a reference guide for civil servants to use when considering how to apply the EPPS to policy within their department.

Module 1's tutorial uses a fictionalised case study of a new government's hydroelectricity strategy as an example. As part of this, examples of methods that the government have adopted to reduce impact to the environment and residents are listed. Following this text, the reader is asked to consider how these methods could go further and to consider ways in which the needs of energy production and the environment can be protected, which forms the basis for the rest of the tutorial. The tutorial outlines how each of the five principles could be applied to this case study, through the use of the fictionalised case study referenced above, and also through additional examples of real-life applications of the five principles.

Module 2's interactive exercise regarding an extinct species revival strategy sees the user consider the principles and statement as part of developing the strategy. The exercise highlights that ensuring due regard is paid to the EPPS can be done in more than one way, and also provides scenarios where consideration is not required of specific principles.

Module 3 provides resources for civil servants to refer to if they are undertaking work that falls within the scope of the EPPS. The resources provide further information for them to make informed decisions, serving as a guide for how and when to have due regard to the EPPS when developing or updating policy.

1.4.4 Departmental-specific guidance and amended templates

Departments all used the Defra toolkit in developing their own internal processes. This may be through adopting the toolkit without making changes, or using the toolkit as a base from which to make substantive changes. The degree of change varies between departments, and is often based on the extent to which a department's policy remit typically impacts the environment. The key document used by every department is an amended ministerial submission template, bespoke to each department and used to ensure that a private office and/or minister can see where due regard has been paid to the EPPS, and the outcomes of this consideration.

1.5 Overview of the evaluation

1.5.1 Aims of this evaluation

Risk & Policy Analysts Ltd (RPA) was commissioned by the Office for Environmental Protection (OEP) to design and apply a monitoring and evaluation framework to scrutinise the implementation of the duty to have due regard in the initial period of its operation. The findings support the OEP in independently monitoring and holding the UK Government to account in their implementation and application of the EPPS, and inform the OEP's own, later Environmental Law report (under s.29 of the Act) to Government and Parliament. This project used process and impact evaluation to understand how effectively the EPPS has been implemented across government with regard to policymaking, and what the impacts of the EPPS' application were.

This early period of scrutiny, undertaken as the EPPS entered force, aims to provide the OEP with information on how the EPPS is being implemented, whether this is consistent and compliant with the law, and whether it results in policymaking that better protects and improves the environment.

The evaluation considered whether risks previously identified by the OEP²⁷ during the development of the EPPS were being realised in key areas. For instance, the level of ambition, integration of environmental considerations (including natural capital) into other policy areas, proportionality, and the consideration of innovation in relation to the application of the precautionary principle. This part of the analysis sought to discover whether these risks remained after Defra amended the EPPS following the OEP's advice. This evaluation makes recommendations for what the OEP should aim to do, in terms of work surrounding the EPPS, in the future, and makes recommendation for the evaluation being carried out by Defra on the implementation of the EPPS.

1.5.2 Objectives of this evaluation

This study collated primary and secondary data for two purposes. Firstly, an objective to evaluate the implementation of the duty to have due regard to the EPPS into the policymaking processes of departments during the implementation period²⁸ and assess how well the processes put in place to enable due regard are functioning. Secondly, an objective to evaluate the impact of the duty to have due regard on policymaking during the operational period²⁹. The evidence collected included interviews with civil servants of varying seniority and professions (to gather views on how the EPPS is being implemented across government) and information provided by departments which demonstrated the processes, training and guidance used.

Data received was triangulated against the process and impact evaluation questions, which were derived in part from RPA's work developing a Theory of Change (ToC), to assess how departments implemented the EPPS, and how impactful the EPPS was during its initial period of application. Key themes were drawn out through analysis, with reporting on these.

1.5.3 Aims of this report

The report supports the OEP in independently monitoring and holding the UK Government to account in their application of the EPPS, and to report to Government and Parliament. It provides analysis of the key themes identified in a number of departments' implementation of the EPPS into their policymaking, and the impacts the EPPS is having. The report does not cover every single government department, and does not look at every single policy decision announced since the duty came into effect.

²⁷ The Office for Environmental Protection (2021). Advice on the draft environmental principles policy statement. Webpage from the website of the Office for Environmental Protection. Available at: <https://www.theoep.org.uk/report/advice-draft-environmental-principles-policy-statement> on 20 August 2024.

²⁸ The "implementation period" is the period prior to the 1 November 2023, during which departments set up their internal processes to ensure due regard is paid to the EPPS.

²⁹ The "operational period" refers to the 1 November 2023 onwards, when the legal duty to have due regard to the EPPS is in force.

1.5.4 Structure of this report

The rest of the report encompasses the following:

- Section 2 covers an overview of the study's methodology;
- Section 3 covers findings from the process evaluation;
- Section 4 covers findings from the impact evaluation;
- Section 5 covers conclusions and recommendations for future evaluations of the EPPS;
- Annex 1 covers the Defra toolkit of EPPS resources;
- Annex 2 covers the Civil Service Learning course on the EPPS; and
- Annex 3 covers the study methodology; including summary of interviews and departments.

2 Methodology summary

2.1 Overview

This section provides a summary of the study’s methodology, which can be found in full in Annex 3. It covers the Theory of Change evaluation framework, and approaches to engagement, data requests and analysis.

2.2 Theory of Change

A Theory of Change (ToC) serves as a structured and evidence-based framework which outlines the rationale and expected outcomes of the implementation of an intervention, policy, or policy change. Here, the ToC outlines how the EPPS is intended to influence policymaking to enable positive environmental effects to be delivered, or to avoid, reduce or mitigate negative outcomes. The ToC has been developed by the study team, and therefore should not be considered to represent the government’s rationale or expectations behind the EPPS.

The theory is presented in the form of a diagram (Figure 2-1) showing the connections and causal pathways between interventions and impacts. It is read from the top down, starting with inputs, and linking these to activities, then outputs, outcomes to the impacts, and in turn, to achieving the overarching vision of the EPPC. The ToC therefore demonstrates what *should* happen for the vision of the EPPS to be met, where this vision is that:

‘The purpose of the principles is to guide ministers and policymakers towards opportunities to prevent environmental damage and enhance the environment as required by section 17(4) of the Act... Application of the environmental principles to policymaking and by policymakers will enhance environmental protection and promote sustainable development.’³⁰

There are 13 assumptions underpinning the ToC, presented in Table 2-1 below.

Assumption	Description	Location in ToC
A1	Government’s frameworks for application of the principles are clear and transparent	Inputs to Activities
A2	Government officials and ministers understand the requirement to have due regard to EPPS and look at the EPPS	Inputs to Activities
A3	Toolkit and training contain the necessary guidance to help policymakers apply the EPPS appropriately	Inputs to Activities
A4	Toolkit is considered and used as intended	Inputs to Activities
A5	Government puts in place effective framework of tools and processes	Inputs to Activities
A6	Effective governance across government	Inputs to Activities

³⁰ HM Government (2023): Environmental Principles Policy Statement. Policy paper by the Department for Environment Food and Rural Affairs for HM Government. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> on 19 July 2024.

Table 2-1: Theory of Change Assumptions		
Assumption	Description	Location in ToC
A7	Framework is applied effectively and meaningfully	Activities
A8	Environmental principles have been proportionately applied in accordance with the EPPS when making policy	Activities
A9	Application and interpretation of principles are robust, objective, and consistent with intended meaning	Activities to Outputs
A10	Application and interpretation of principles have usefully informed policymaking (where appropriate)	Activities to Outputs
A11	Application and interpretation in individual cases is clear and transparent	Activities to Outputs
A12	Principles make a demonstrable and positive difference (where appropriate) to the substance/content of policies	Outputs to Outcomes
A13	Application and interpretation of principles result in opportunities for positive effects in terms of environmental outcomes	Outcomes to Impacts

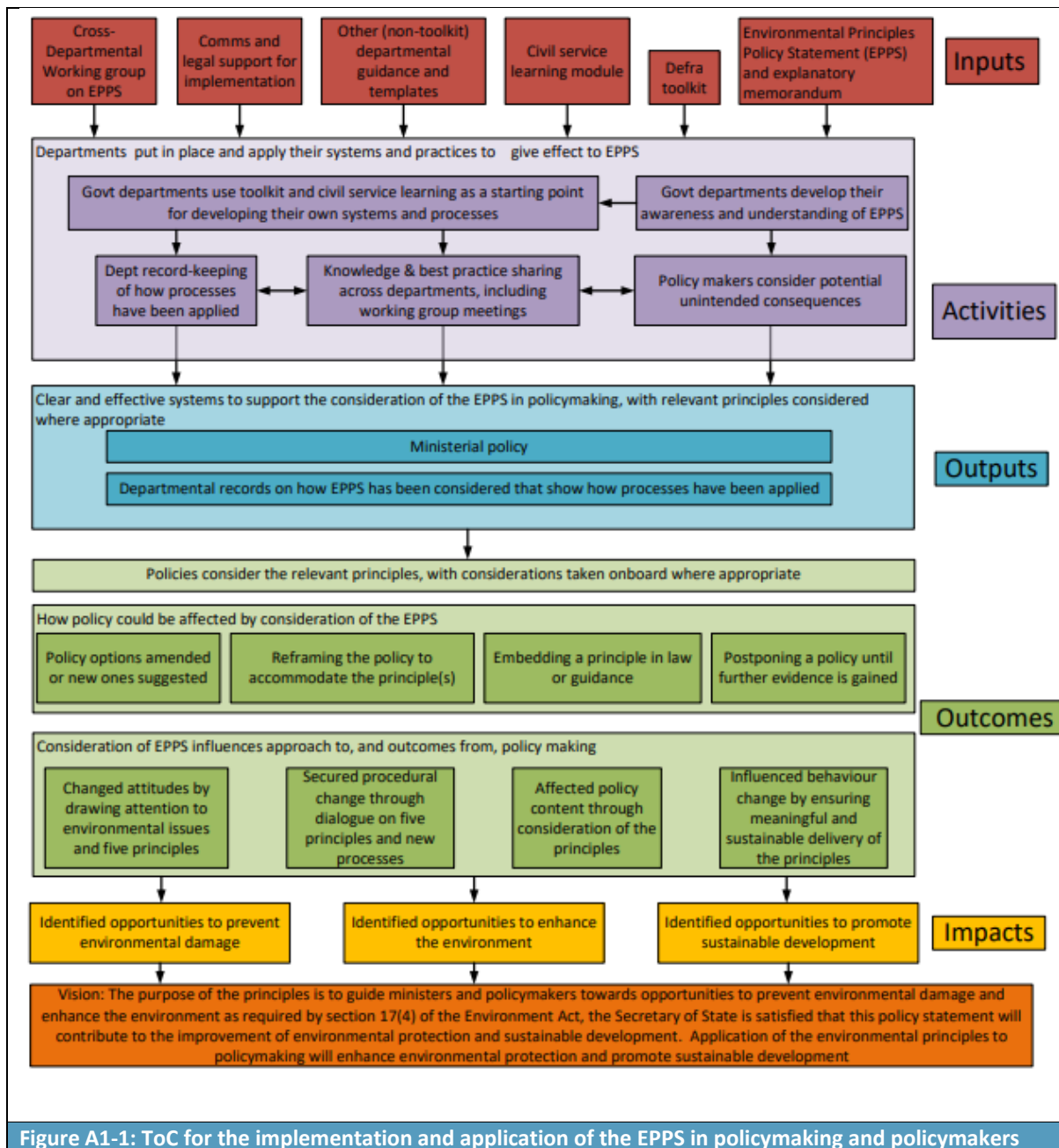
2.3 Evaluation framework

An evaluation framework was developed to clarify the objectives of the study, to guide the evaluation itself, and to provide a transparent methodology that can be replicated or adjusted in the future. The evaluation framework includes the evaluation questions and how they will be answered, including how evidence will be collected and analysed to inform each question. The ToC provided the starting point for the development of the evaluation questions. The process evaluation questions are as follows:

- P1: How successfully have departments prepared for the need to have due regard to the EPPS?
- P2: To what extent, and how, are ministers and departments interpreting and applying the principles differently (including differences in the same departments)?
- P3: Whether, and how consistently, the legal requirement to have due regard to the EPPS is being met?
- P4: How are the individual principles being considered?
- P5: What initial learning, from the first six months of the need to have due regard, is there to inform future consideration of the principles and potential future reviews and revisions of the EPPS, and how is it being shared and acted on?

The impact evaluation questions are as follows:

- I1: To what extent did the introduction of the need to have due regard to the EPPS lead to greater consideration of the environment within policymaking and by policymakers?
- I2: To what degree is the statement achieving its intended impact (enhancing environmental protection and promoting sustainable)?
- I3: To what extent has consideration of the EPPS in policymaking resulted in unintended consequences?
- I4: How has the introduction of the EPPS influenced policymaking and policymakers?



2.4 Engagement

The study team engaged with eight departments and one ALB identified by the OEP to cover the listed criteria. These departments were of the following three categories:

- Departments with a high degree of environmental policy remit
 - Department for Environment, Food and Rural Affairs (Defra)
 - Department for Energy Security and Net Zero (DESNZ)
- Departments that have a medium degree of environmental policy remit
 - Department for Transport (DfT)
- Departments that do not have a traditionally large environmental policy remit, but for whom it is important to assess whether the EPPS is encouraging more consideration of the environment than prior to the implementation of the EPPS

- Department for Culture, Media and Sport (DCMS)
- Department for Work and Pensions (DWP)
- Department for Education (DfE)
- His Majesty's Treasury (HMT)
- Department for Business and Trade (DBT)

The Department for Levelling Up, Housing and Communities (DLUHC)³¹ was also interviewed with to discuss how the EPPS affected a specific policy, but too late into the study to feed into this report. One ALB, the Health and Safety Executive (HSE), was engaged with, as the OEP understood that HSE, unlike many other ALBs, is responsible for the development of its own policy. The discussions with HSE focused on the extent to which they engaged with the EPPS during the provision of guidance to their minister, and how their inputs into the policymaking process consider the EPPS.

The study team also engaged with the OEP's EPPS advisory group, the Defra-OEP working group, and the cross-governmental EPPS working group on a regular basis throughout the project, to discuss the study's progress, seek feedback on evaluation questions, and undertake introductions of the study team to departments.

The OEP's advisory group was a selected group of experts in environmental law who provided expert review of the study team's work and provided advice to the study team and OEP. This included advice on the ToC, evaluation questions, interview questions and approach to engaging with departments.

The Defra-OEP group sought to discuss the study, the statement, and Defra's work surrounding the EPPS. It also regularly covered the data requests that would be sent to government departments as part of this study. Defra's EPPS team provided feedback on the study's ToC and the monitoring and evaluation strategy.

The cross-governmental EPPS working group was set up by Defra to bring together those responsible across departments for the implementation of the statement into policymaking. Discussions focused on knowledge sharing (i.e. best practice) and discussions about the EPPS. The study team engaged directly with this group, presenting the approach to the study and introducing themselves ahead of later engagement.

Interviewees fell into one of three broad categories:

- those responsible for the implementation of the EPPS in their department;
- communications officials who created and shared materials on the duty; and
- policy officials who used processes to ensure due regard was paid to the EPPS.

Meetings were first held with the implementation leads in each department, before moving on to communications and policy interviewees. A snowball sampling methodology was used, with implementation leads suggesting policy colleagues within their departments that had engaged with the EPPS. An acknowledged risk of this approach was that this could lead to policy leads with positive experiences of the EPPS being more likely to put themselves forward for an interview than those who

³¹ Though the department is now known as the Ministry for Housing, Communities and Local Government, the department was known as DLUHC at the time of these interviews being conducted, and will therefore be referred to as DLUHC throughout this report.

had a negative experience of considering the EPPS. Table 2-2 provides a breakdown of the number of civil servants interviewed.

Table 2-2: Breakdown of civil servants interviewed by stakeholder type and department				
Department	Implementation	Policy	Comms	Total
Defra	3	5	3	11
DESNZ	1	-	-	1
DHCLG	-	-	1	1
DfT	3	1	-	4
DCMS	3	-	-	3
DWP	2	-	-	2
DfE	2	1	-	3
DBT	2	3	-	5
HSE	2	-	-	2
Total				30

2.5 Interview topics

RPA and the OEP iteratively created a list of topics and questions for interviews, with questions aimed at specific categories of stakeholder. Interviews generally covered an individual’s role related to the EPPS, departmental processes, training and guidelines, best practice and knowledge sharing, and application of the principles.

2.6 Data requests to government departments

To inform the study, and in addition evidence gathered via interviews, where a need for additional information was identified, information requests were made to government departments. The types of information requested are set out below:

Process evaluation: to understand what has been or is being put into place to implement the duty:

- Copies of any written guidance that has been provided to policy officials on EPPS, as well as any written processes officials were expected to use from 1 November relating to the requirement to have due regard to the EPPS;
- How details about the duty, and the processes and guidance on implementing it, have been or are being communicated across ministers and policy teams or other officials;
- Details of the main governance mechanisms and assurance processes put in place to use from 1 November at department, directorate or other levels in Defra and across government to oversee and support implementation of the duty; and
- How departments are recording the policy decisions that have considered the EPPS, which have not, and why.

Impact evaluation: to understand how the duty is being implemented, and with what effect, in relation to individual policies. In particular:

- For cases where the duty is relevant (i.e. policies that are not excluded), how, when and by whom the principles were considered during the development of the policy. Also, with what (if any) effect in terms of influences on the policy itself or action decided to be taken to maximise the environmental benefit or mitigate any damage associated with the policy. This might be demonstrated, for example, by templates completed at the time from the EPPS toolkit, options analyses, impact assessments or other material produced to support the policy development process;
- In such policy decisions, what and when were the minister(s) involved made aware of in relation to the consideration of principles for the policy in question. This might be demonstrated, for example, by information contained in submissions put to ministers or in “write-round” materials circulated across government departments by one department or minister; and
- For cases when the duty is not relevant (i.e. excluded policies), how the assessment that the policy could be excluded was made, when and by whom, and how it was confirmed.

2.7 Review of available data

RPA monitored published impact assessments from the time EPPS came into force³² and analysed these for references to the principles or the EPPS. Overall, 40 Impact Assessments were reviewed (39 of which were found on Legislation.gov.uk, with one provided by the OEP). Of these, 38 did not make any mention of the EPPS, one mentioned the EPPS but considered the EPPS was not applicable, and one assessment considered the EPPS applicable. Providing proof that the EPPS was considered was not a legal requirement for impact assessments, but those impact assessments that do mention the statement provide an insight into how a department views their responsibilities with regard to the EPPS. The system for impact assessments in the UK is now transitioning to a new better regulation framework³³, which requires both options assessment and impact assessment, in full force from September 2024.

Throughout the study, RPA reviewed relevant published material and information in the public domain (such as published articles and blogs), government announcements (such as changes to the Green Book to include reference to the EPPS) and other relevant materials that were pertinent to the evaluation. All of this fed, where appropriate, into the analysis against the evaluation questions.

2.8 Data analysis

Data analysis for this report consisted of triangulating the evidence received from interviews, departmental information requests, and the study team’s research, to assess the extent to which the EPPS was operating as intended across government.

Process tracing has been used by the study team to aid in qualitative analysis. Process tracing can be defined as the systematic examination of diagnostic evidence to establish whether, and how, a

³² Impact assessments are evidence-based processes that assess prospective social, economic and environmental effects of a potential policy.

³³ HM Government (2023): Better Regulation Framework. Policy paper by the Department for Business and Trade for HM Government. Available at: <https://www.gov.uk/government/publications/better-regulation-framework> on 06 September 2024.

potential cause influenced a specified change, and analysing the evidence in light of the evaluation questions and hypotheses posed by the study. For instance, in this context, is the EPPS being implemented as intended, and how does the evidence gathered indicate this? The theory set out in the ToC is tested by considering the strength of evidence collected and whether this hints at, suggests, supports or proves the theory. Ideally, evidence is sought that will prove the theory, but uncertainties and availability of evidence can affect the weight of evidence available. This is clearly identified in our analysis, with the specific definitions used to rate the level of evidence as set out in Table 2-3. Note the table includes a definition for 'no evidence' but in all cases, some evidence has been identified. Therefore, there are no instances where there is 'no evidence' in the analysis.

Table 2-3: Assessing the evidence – definitions behind the strength of evidence reported

Assumption	Strength and summary of evidence				
	No evidence	Limited	Some	Good	Strong
Assumption for which evidence is collected and reported against	No evidence has been gathered to support a summary of whether the assumption holds or not	Evidence identifies information against assumption but does not specify any particular action to hint that assumption might hold	Evidence identifies action but does not indicate how this is to be implemented to suggest that assumption could hold	Evidence identifies action and how this is to be implemented to support that assumption holds	Evidence shows action that has been taken that confirms assumption

3 Process evaluation

Section 3 considers the key themes discovered during the process evaluation of the implementation of the EPPS across government. This section considers the processes departments put into place ahead of 1 November, when the EPPS came into effect, to ready themselves for the legal requirement to have due regard to the EPPS. The materials Defra shared across government to help departments prepare are also considered. It also analyses the effectiveness of departmental training and guidance, how departments have interpreted the scope of the statement and whether they have treated individual principles differently, and the extent to which ministers have been engaged by departments.

3.1 Awareness raising of EPPS and the duty

All nine interviewees (eight departments and one arms-length body) explicitly mentioned the importance of awareness-raising. Four of these specifically reported that they had been working to prepare for the duty to come into force for a number of years. The Defra team identified that it was very important to raise awareness amongst policymakers of the duty to help them understand the purpose of the duty. Similarly, DfE noted that it was important to raise awareness and ensure understanding of the duty from policy maker up to senior levels – including ministers. DfT also stated that they had raised awareness at the most senior levels within the department. DBT identified that awareness raising was a fundamental process of their preparations for implementing the duty. HSE, although an ALB, were working with Whitehall to make sure they were aware that responsibilities of some ALBs does include policymaking.

Awareness-raising took numerous forms, including in-person meetings, online presentations, uploading information to intranet sites, having EPPS messages on landing pages, flyers (virtual and put up in offices), emails and Teams messages, and briefing notes. Departments generally used a combination of most or all of these, and as such were not in a position to comment on the perceived effectiveness of any individual methods. It was noted that having a number of different methods of communicating the new duty coming into force was seen as a positive by departments, allowing the maximum number of people to be reached.

3.2 Changes to departmental processes

Departments took varying approaches to designing and then implementing processes for ensuring that due regard is had to the EPPS and for training and upskilling civil servants. These approaches all adapt one or both of the policymaking template and the submission template. The toolkit consists of internal documents that are to be used to help civil servants through the process of due regard. The ministerial submission template is a pre-existing document separate to the Defra toolkit that provides a minister with all the required information necessary for making a policy decision, including adherence to other regulations, legal requirements and duties. To this, an additional section specifically on the EPPS was added, on recommendation from Defra. Templates were received from five of eight departments.

The policymaking templates received by the study team (RPA) lean heavily on the template set out by Defra. Differences between them focus on language, additional guidance (i.e. when comparing two of the five templates received, one includes the exemptions that the EPPS applies to whilst another does

not) and the wording around supporting information for each of the individual principles. Training documents from DfE suggest that staff members are encouraged to use the EPApp to complete an Environmental Principles Assessment (EPA, so their sustainability and climate change unit can spot trends, common themes and potential capability development.

Ministerial submission templates are typically significantly shorter³⁴. It is, of course, important to note that by the time of writing a ministerial submission, having due regard to the EPPS and consideration of the principles is already expected to have taken place – with the ministerial submission template now summarising that analysis for the minister and private office. In these template sections users are reminded that ministers have the duty to have due regard to the EPPS. Within each of these sections there is a link to either the EPPS or the department’s guidance on how to draft the section.

Other processes put in place by departments were all geared towards supporting the completion of a departmental template to provide an auditable record of how due regard was paid to the EPPS for a policy. The DWP did not use a policymakers’ template and opted instead for a simplified approach, with their view being that due to their limited impact on the environment, it would not have been cost-effective. Instead, they added a section to their ministerial submission template.

Overall, departments seemed positive about the impact of the changes made to their ministerial submission templates, and for those departments that created policymaking templates, the consensus was the same. These templates helped civil servants navigate the new duty in a timely and effective manner and provide advice to ministers that had considered the EPPS. DESNZ noted they had ‘firewalls’ that prevented a ministerial submission template being sent to a minister without the EPPS assessment filled in. Using their EPApp, DfE kept a record of which civil servant or policy team was responsible for the policy, so that if further info was required, it could easily be requested – something that is considered normal practice across government.

3.3 Toolkit and civil service learning

Every non-Defra department and ALB interviewed (8) used the toolkit in developing their own processes to comply with the duty to have due regard. Departments acknowledged they all had different needs, and as such the toolkit was typically used as a starting point, with the guidance documents within it then being tailored to the specifics of the department. Only one department, DCMS, used the toolkit as is. Six (of 8) emphasised the positives of the toolkit and how critical it was to successfully setting up internal departmental processes. This was because it provided information on a key range of EPPS topics and allowed departments to quickly disseminate high-quality knowledge on requirements on civil servants under the duty as a result. The DWP noted that “the toolkit was a really, really important resource for us. We couldn’t have done this without guidance and advice from Defra”.

Three departments³⁵ (of 8) highlighted specific issues with the toolkit, but with the caveat that they thought overall it was still a useful piece of guidance to have. At least one of these departments had fed their thoughts back to Defra. The DfT thought there was some confusion between the EPPS, as a

³⁴ Some departments have the option or do not explicitly rule out the option of appending a longer narrative to the submission.

³⁵ DfT, DESNZ, DCMS.

legal document, and the toolkit, which is non-statutory³⁶, and the toolkit felt to them like Defra’s impression on how the EPPS should work. As a result, they had identified minor conflicts between what they needed to do to meet legal obligations, versus the more strenuous requirements the toolkit was suggesting. The contents of the toolkit are presented in Annex 1.

Civil servants reported that the toolkit was sometimes seen as legal requirement above and beyond the requirements of the EPPS. The same civil servants also felt that the toolkit felt like a “mixture of information put together by different teams”, but it was acknowledged that this would likely improve as time goes on. DESNZ felt some of the information could have been provided in a clearer manner, but the DfE felt it was very clear and navigable. DCMS felt that the toolkit was very detailed and probably would not make sense to a civil servant unless they were working through a policy when reading the toolkit. It is important to note that the extent to which departments follow the toolkit is determined by each department.

In addition to the toolkit, four (of 8) of non-Defra departments and one ALB provided specific positive feedback about the training course, commenting that it helped to provide an overview of the EPPS. It was noted by DfT that the training only became available in September 2023, which caused delays preparing for the operational phase. However, Defra report that the training went live on 20 July 2023 and was communicated across government shortly afterwards. The contents of the CSL module are discussed in Annex 2.

3.4 Training and guidance

Training and guidance material across departments generally took inspiration from Defra’s toolkit and signposted civil servants towards the Civil Service Learning module. Every department and ALB, including Defra (8) hosted the toolkit on their intranet and five departments (outside Defra)³⁷ (of 8) detailed how they went beyond that. Most departments prepared guidance and training through a variety of communication methods, like slide packs, articles about the EPPS, emails and briefing notes, but some went further. For instance, the DfE created case study videos that showed members of policy teams going through the process of having due regard to the statement, showing how this affected their policy, how each of the individual principles could have an environmental effect, and what the outcomes were. The DfE also launched a training programme for the Environmental Principles duty and changed their business case guidance to reflect the new EP duty. They noted that the training programme has been attended by 729 staff between March 2023 and November 2024, including fortnightly meetings for officials across the department to drop in for training on the EPPS from November 2023 to May 2024. The DfE also held fortnightly meetings for officials across the department to drop in for training on the EPPS.

Defra held a total of 48 meetings between February 2021 and March 2024 with various internal teams to provide information on the EPPS and the responsibilities of civil servants. These were held for a wide variety of audiences. Most of these were for specific policy teams, but one was held for No 10 in late 2022, and four at ‘Defra Live’ events between September 2023 and March 2024. One was also

³⁶ It is important to note that the EPPS is a legal document while the toolkit is non-statutory, and is marked as such.

³⁷ DfE, DWP, HMT, DESNZ, DfT.

held specifically for the office of Lord Benyon, who at the time (May 2022) was a minister of state in Defra.

When designing training to be used across the department, DfT continuously evaluated whether their training materials were effective in enabling civil servants to have due regard to the EPPS. HMT prioritised providing training at meetings organised for whole directorates and groups, to raise awareness in an efficient manner. They acknowledged that, with more time, they would have liked to do more tailored engagement with individual teams.. One department (of 8) created no further training or guidance materials beyond what was shared by Defra.

Four departments³⁸ thought that the level of training would be sufficient for new joiners to understand the EPPS and any responsibilities they may be assigned as part of their onboarding. All of these caveated that as part of onboarding to the Civil Service, there is a wide range of learning that is undertaken and it would not be expected for any new joiner to overnight become an expert on the EPPS or any other facet of the job.

Two departments (of 8) noted that they could have benefited from some additional guidance from Defra, whilst another³⁹ thought it was too early to tell whether more guidance was needed. One of those that needed additional guidance, DfE, engaged with Defra to work together to answer the query (surrounding definitions).

Overall, departments believed their training offer on the EPPS and the legal duty were broadly positive, allowing civil servants to obtain at minimum a high working level of knowledge. Where questions remained, these would either go to implementation leads, legal advisors, or to Defra, for answers.

3.5 Feedback loops and future evaluations

All eight departments interviewed pointed out the excellent value provided by the Defra-organised cross-governmental working group on the EPPS. This group's remit is discussed in Section 2.4. This group's knowledge sharing activities were reported in interviews as highly informative and useful, with departments often working together to solve questions (i.e. on the scope of the EPPS) and two departments⁴⁰ identifying where they were facing similar issues to others and working bi-laterally outside of the group to discuss solutions.

All eight departments provided details regarding their internal processes. The DfE used feedback forms and informal in-person loops to allow policy teams to comment on departmental EPPS guidance and processes, whilst the DfT undertook a survey of staff ahead of the operational date of 1 November to review the uptake of training and awareness of the duty. The DfT noted there was a high level of awareness overall and what it entailed for civil servants, but that there was a slightly more mixed response regarding the confidence of the department's civil servants in applying the duty, as they felt that paying due regard to the EPPS was a "big change". After the beginning of the operational date, the department reviewed progress and compliance with the duty through reviewing submissions, and

³⁸ Defra, DESNZ, HMT, DCMS.

³⁹ DWP.

⁴⁰ DfE, DfT.

found that policymakers were using templates correctly. The implementation team at DfT noted that officials in Ministers' private offices were providing feedback on advice that they were not content with where required. Internal feedback helped departmental implementation leads know whether their colleagues needed more training, or whether guidance and messaging was landing as intended. Internal feedback was generally used to answer questions relating to the scope of the EPPS, how to apply guidance to policy, and proportionality.

HMT highlighted that their internal processes were informal at the time of interview, but will become more structured and formal in the future. DWP pointed to future internal evaluations of their implementation approach to be conducted in the near future. DWP already have their evaluation team of volunteers in place, with the aim to assess how the guidance has impacted policymaking and how well received advice sent to private offices has been have evaluation plans in place.

Defra are conducting a high-level review of the effectiveness of implementation of the EPPS across Government, the approach taken to implementation across government and the early impacts of the principles on policymaking. This is currently ongoing, and being undertaken by an independent contractor. It will examine how effective Defra's support to other departments has been.

Only one department, the DfE (of 8) commented that they had made changes to their processes in light of feedback, although DBT said they were currently looking at how to change their processes too. The DfE have ensured their guidance for the EPPS ties in with business case guidance, with further changes also made to the scope and understanding of what certain terms mean after clarifications with Defra.

3.6 Scope and the individual principles

Five departments⁴¹ indicated that they faced questions from within their department about the scope of the EPPS and what constitutes a policy. They all indicated they would refer colleagues to Defra's toolkit initially on what is and is not in scope, and also to legal teams within their respective departments (if the toolkit did not resolve the query). DCMS also noted their advice was to always comply with the duty where there is some doubt on scope. DWP noted that they assumed everything to "always be in scope", but that the guidance more generally could potentially be interpreted differently between policy teams.

Interviews have indicated that the checks on due regard within departments through submission screening were working well. Implementation teams for the EPPS across departments were not responsible for checking whether the EPPS was being considered in policymaking. Departments instead relied upon private offices to act as a check on whether that was happening. For example, DESNZ indicated that if the EPPS section of a ministerial submission template was not completed upon submission, the private office would send the submission back and ask for it to be filled in by a policy team. The DWP's new ministerial submission template, meanwhile, does not allow a submission to be sent unless the EPPS consideration is completed.

Based on information from interviews, it is anticipated that it would be unlikely that there would be a scenario in which a ministerial submission is sent to a private office and in turn, a minister, which does

⁴¹ DCMS, DfT, HMT, DESNZ, DBT.

not contain an EPPS consideration. This is because submission templates contain a new EPPS section which is required to be filled.

There were differences of opinion across departments on the extent to which the guidance is open to interpretation and whether consideration of the EPPS would lead to the same outcome across different policy teams and departments⁴². DWP highlighted that consistency is difficult to achieve because of the number of considerations to take into account. They suggest that consistency can only be achieved through sharing of experience across teams and departments. They also highlight the importance of case studies and making sure that decisions are “informed by a consistent set of underpinning facts that helps...give the right advice to ministers”. Such an approach ensures that the “inputs are consistent as the same information will be being used”. The DfE felt that the same outcome would come from providing an adequate level of information to a minister, but that it is still too early to see this, and whether there is a difference in the way that the individual principles are considered. They felt this is something that will come over time, as a wider base of policies which pay consideration to the EPPS are implemented.

The Offshore Petroleum Licensing Bill Impact Assessment (IA)⁴³, produced by DESNZ in November 2023 provides details on how the individual principles have been considered. Section 12 of the IA provides a brief description of each principle. The DESNZ descriptions provide an explanation of how the principles have been applied, but not necessarily how they have been used to inform policy. Rather, the descriptions are presented in a way that describes why the preferred policy option is indeed preferred, and uses the principles to support the selection of policy option. For example, there is no description under the prevention principle of options that could reduce CO₂ emissions, rather the discussion is around avoiding impacts during oil and gas production. Reduction of emissions is discussed under the rectification at source principle, focused on reducing demand rather than changing sources of supply. Since the IA is focused on changing the regularity of licensing rounds and providing certainty to the oil and gas industry, the interpretations of the principles are understandable, but there is a question of whether the potential for avoiding negative impacts from oil and gas licensing and for potential positive impacts from looking at an alternative counterfactual could have delivered better potential environmental outcomes, and thus better met the aim of “contributing to the improvement of environmental protection and sustainable development”.

3.7 Ministerial and private office engagement

Seven (of 8) departments had conducted specific engagement with ministers’ private offices to discuss the duty. Private offices in both DCMS and DWP could access the materials through the department’s intranet. DfE noted that engagement from ministers on the EPPS and training was greatly influenced by their personal preferences, and the way in which they opt to communicate with their private office.

Two departments (of 8) attempted to engage directly with ministers. Defra’s implementation team reported that they engaged directly with ministers regarding the EPPS, The DfT implementation team provided ministers with submissions outlining the new duty and their responsibilities. They also

⁴² EPPS does not prescribe outcomes so these are based on the information included in the assessment.

⁴³ Department for Energy Security and Net Zero (2023): Offshore Petroleum Licensing Bill Impact Assessment. Impact assessment by the Department for Energy Security and Net Zero. Available at <https://publications.parliament.uk/pa/bills/cbill/58-04/0009/20231107OffshorePetroleumLicensingBillImpactAssessment.pdf> on 20 August 2024.

provided training sessions for officials working in Ministers' private offices. The combination of written briefing and training for officials was deemed sufficient without additional in person briefing; private offices confirmed ministers had read the submissions and the EPPS. DfT acknowledged that whilst ministers are typically very busy, it led them to question the best approach to take when reminding ministers of their responsibilities under the EPPS. The DWP, meanwhile, thought that ministers should not need to look at any training or guidance surrounding the EPPS, and that they should just be taking the advice provided from civil servants, who are there to support ministerial decision-making. DfE offered a teach-in to all Ministers and delivered training to two: one solely on the Environmental Principles, and one as part of a broader teach-in on sustainability policy.

Three departments⁴⁴ (of 8) shared materials with the study team they had specifically prepared as part of training for private offices. Box 3-1 provides a summary of differences between the DfE's standard training and that for private offices.

Box 3-1: Summary of differences between standard and private office training within the DfE

The standard DfE training pack summarises the EPPS duty, defines the principles, indicates how to demonstrate compliance and provides an example using a DfE policy. It also gives a walkthrough of the department's Environmental Principles Assessment (EPAPP) process for paying due regard to the EPPS. It notes that "in cases where the potential effect is limited, this allows policymakers to apply the EPPS in a lighter touch way"⁴⁵.

The private office training keeps much of the text very consistent in terms of explaining the EPPS. There is an interactive element to the training to see if private offices know which principle is always relevant. There is a section on why ministers need to comply with the duty, and supplementary text to the presentation acknowledges there is "a vocal and passionate stakeholder base in the area of environmental action and there is a chance they will respond negatively to lack of compliance on the part of government". This indicates that the department have been conscious through the designing of their processes for the need to ensure thorough compliance and record keeping, to be accountable to the electorate. There is a full new section on "where do private offices come in?", which details the work private offices are required to do as part of the duty. Each completed environmental principles assessment within the department has a unique reference number, and that allows private offices to quickly go back to the responsible team and allows the sustainability and climate change unit (the lead implementation body within DfE) to monitor compliance. The private office training also provides the messaging that has been given to civil servants across the department, to allow private offices to quickly identify that assessments policy teams are making.

The main distinction is that the DfE's general training focuses on bringing civil servants up to speed on their responsibilities with the duty, whilst the training for private offices aims to ensure private office staff can adequately assess whether other civil servants are completing their duty to have due regard to the EPPS.

⁴⁴ DfE, Defra,.

⁴⁵ This text is taken directly from the EPPS.

3.8 Is there evidence that having due regard to the EPPS is supporting policymaking?

The evidence collected on the process evaluation and analysed into key themes above provides the basis for assessment as to whether the assumptions within the ToC hold. This can then be used to assess whether having due regard to the EPPS is enabling the vision to be delivered. For the process evaluation, the focus is on whether the inputs have enabled the expected activities to take place. This includes testing the weight of evidence for assumptions 1 to 6 (from Table 2-1) and provides the basis for assessing whether the processes and procedures that have been put into place are increasing awareness and providing the basis for having due regard to the EPPS. The analysis draws on the findings set out in Sections 3.1 to 3.7 with Table 3-1 providing the summary conclusions on the extent to which each assumption holds.

Table 3-1: Process tracing for inputs to activities					
Assumption	Strength and summary of evidence				
	Limited	Some	Good	Strong	Justification
A1: Government's framework for application of the principles is clear and transparent				Y	STRONG EVIDENCE with all departments interviewed explicitly stating how important awareness-raising of the EPPS was (Section 3.1)
A2: Government officials and ministers understand the requirement to have due regard to EPPS and look at the EPPS		Y			GOOD EVIDENCE based on level of information produced and used across all departments but with one legal challenge suggesting there may still be some further work needed to ensure there is complete understanding of the need to have due regard (Sections 3.2 and 3.7)
A3: Toolkit and training contain the necessary guidance to help policymakers apply the EPPS appropriately				Y	STRONG EVIDENCE through feedback on uptake and usefulness of processes that have been developed, and ability of departments to tailor them to their specific needs (Sections 3.3 and 3.4)
A4: Toolkit is considered and used as intended				Y	STRONG EVIDENCE from feedback that toolkit has been an important resource; feedback being incorporated to enable improvements over time with experience from using it (Section 3.3)
A5: Government puts in place effective framework of tools and processes				Y	STRONG EVIDENCE from the extent to which legal teams and comms have enabled the guidance to be effectively developed (Sections 3.2, 3.3, 3.6)
A6: Effective governance across government				Y	STRONG EVIDENCE due to value of the cross-governmental group in enabling collaboration, gathering feedback and sharing best practice (Section 3.5)

4 Impact evaluation

This Section considers the key themes in relation to impacts of the EPPS. It is important to note that impacts here relate to the influence of the EPPS on policymaking and the attitudes and behaviours of policymakers and ministers since it is too early for impacts to be seen from policies themselves, due to an insufficient evidence base to draw from at this stage of implementation. Indeed, five interviewees (from five departments⁴⁶) stressed that the short amount of time over which EPPS had been in force, or lack of publicly available information on policies, meant they did not feel they could comment on the environmental impacts. However, where possible, actions reported during interviews and from documents provided by policy teams have been included to indicate where impacts may be seen over time. The majority of evidence on impacts is drawn from thirteen interviews across eight different departments supplemented by example policies that were provided by Defra and DLUHC within their policy templates. Not all departments answered all the questions, hence the number of respondents varies by question and by the themes discussed below.

4.1 Impact related to attitudes towards the environment

There was anecdotal evidence from implementation leads that the EPPS itself, and the training materials used across departments, were changing attitudes within the departments that participated in interviews. Seven interviewees (across nine interviews that captured aspects on impacts from six different departments) thought that the need to have regard to the EPPS has changed attitudes, mindset, awareness, and/or the need to consider the environment. The other two interviewees (of 9 interviews) felt their departments already had to meet environmental obligations, so the duty did not change their attitude or the extent to which they needed to consider the environment. Defra policy representatives said that the EPPS will “really help to shift attitudes”, while a DfE policy representative felt “it will really help over time. Over time... the impact of the statement and the principles across government will be really phenomenal”.

4.2 Impact related to how the environment is considered in policymaking

While an increase in awareness of the environment can lead to impacts, it is the extent to which the environment is considered in policymaking and then how the EPPS has changed this consideration that can be more directly attributable to outcomes and impacts. Given the short time since the duty came into effect (1 November 2023), there is little evidence regarding impacts on the environment itself, therefore, the analysis focuses on changes to the way the environment has been considered during policymaking. Ten interviews (across eight departments) covered the extent to which the duty has resulted in increased consideration of the environment. Of these, nine interviewees (of 10) across eight departments thought that consideration had increased. The one department (Defra) that did not think consideration had increased referred to the high number of environmental obligations that they already were working with, which they considered were more stringent than the environmental principles. Of the nine interviewees that did think there had been an increase in consideration, none

⁴⁶ DCMS, DWP, HMT, DfT, DfE.

(of 9) thought the duty had made a difference to policy to date. One department⁴⁷ thought EPPS had made a difference in that they had “focused on getting people to have more conversations about the environment” with this leading to “a better understanding of the impacts on the environment...over time”. However, they noted that they did not feel that there had been any changes to policies to date because key policy areas with an impact on the environment were assessed prior to EPPS coming into effect.

Despite departments not identifying any difference in terms of the final policy, there were some points made that suggested that the duty had delivered additional benefits. For example, two departments⁴⁸ noted that the main impact was the consideration of potential positive impacts. One of these noted that previously policymakers were used to looking for negative effects and making sure those did not occur. Three interviewees⁴⁹ (of 10) from two departments also commented that the process was useful for ensuring the environment was considered in detail, while five interviewees⁵⁰ (of 10) from four departments felt the EPPS formalised what they were already doing, embedding considerations into policymaking. One department noted that EPPS is making “a really big, significant contribution, and it is going to drive continued improvement”.

Box 4.1 presents an example analysis of the interpretation of the environmental principles from the (then) DLUHC impact assessment on second staircases in residential buildings with a height above 18 metres. A comparison has been made between the interpretation of the principles as set out in the impact assessment and from the EPPS itself. Note this only uses the information available in the impact assessment.

Box 4.1: Example consideration of the environmental principles from DLUHC

An interesting example of EPPS application and influence on a policy can be seen in DLUHC’s second staircase policy. DLUHC’s environmental principles assessment guide⁵¹ uses the introduction of the second staircases in residential buildings above 18m to demonstrate how due regard to the EPPS could be applied. The impact assessment for the second staircase policy⁵² makes specific references to the “Environmental Principles Duty” noting that an “Environmental Principles Duty assessment

⁴⁷ DWP.

⁴⁸ Defra (ivory), DfT (impact).

⁴⁹ Defra (ivory), DfT (impact), Defra (FMPs).

⁵⁰ DfT (impact), DfE (impact), Defra (FMPs), DfE (process), HMT.

⁵¹ DLUHC (2024): Environmental Principles assessment guide, consultation outcome, 29 March 2024. Consultation outcome by the Department for Levelling Up Housing and Communities. Available at: <https://www.gov.uk/government/consultations/sprinklers-in-care-homes-removal-of-national-classes-and-staircases-in-residential-buildings/outcome/environmental-principles-assessment-guide> on 20 August 2024.

⁵² DLUHC (2024): Impact assessment on the introduction of second staircases in residential buildings over 18m, following the consultation on sprinklers in care homes, removal of national classes, and staircases in residential buildings, 22 March 2024. Impact assessment by the Department of Levelling Up Housing and Communities. Available at: https://assets.publishing.service.gov.uk/media/6605c8cd91a320b20282b085/Annex_C_-_Impact_Assessment.pdf on 20 August 2024.

has been conducted and will be published”. The assessment guide shows that the assessment has identified that there are negative environmental effects, that these are primary effects (i.e. directly attributable to the proposed action) that will occur repeatedly, and which are long-term (due to the lifetime of a building and the associated embodied carbon). The guide then goes on to identify that there is an opportunity to embed environmental protection in the policy. Each principle is considered in turn (based on DLUHC, 2024):

- **Integration principle:** each principle is introduced with a question asking if there is an opportunity to embed environmental protection in the policy. The answer given in the guide is yes, with the narrative adding that environmental considerations are part of the planning and approval process for each building constructed. The second staircase is reported as forming a relatively small part of the overall building structure and its impact on the building footprint.
- **Prevention principle:** the question asked is around whether there is an opportunity to prevent environmental damage, either before it has occurred or to contain existing damage. The guide identifies that negative impacts could be mitigated by use of new materials, through support of the Net Zero Strategy, and due to improvements related to the natural environment through the planning and approval process. Although these are not directly related to the policy (which would increase embodied carbon slightly), it shows consideration of the wider environmental issues related to construction.
- **Rectification at source principle:** the question asked is whether the damage can be addressed at its origin to avoid remedying the effects at a later date or location: the answer to this is given as no, linked to use of concrete and steel in construction of tall buildings. Here the focus is on the direct impacts of the policy (requirement for a second staircase); no reference is made to use of new and innovative materials that could reduce carbon emissions under this principle.
- **Polluter pays principle:** the question asked here is can the costs be borne by those causing it, rather than the person who suffers the results of the environmental damage. This is identified as yes, linked to additional costs of materials and associated green taxation and choice to pass on the costs to purchasers. This does not seem to reflect the polluter pays principle fully since the carbon costs of the additional embodied carbon *would not* currently be fully paid by the developer and so would not be passed on to the purchaser/procurer. This principle seems to have been assessed on how externalities *could* be funded by the ‘polluter’ rather than whether they actually would be.
- **Precautionary principle:** the question asked is if there is plausible evidence that the policy could cause serious damage to the environment. The answer here is given as no, given that the increase in carbon emissions would be small compared with the emissions resulting from construction of the building in its entirety. The guide notes that impact on the environment for the whole building will be reviewed at the planning stage.

The guide highlights that “policymakers must provide an explanatory overview to ministers, demonstrating that appropriate thought has been given to the EPPS”. The guide also suggests to consult with the Environmental Principles Policy champion with the climate change and net zero team.

4.3 Impact related to cost of having due regard to the EPPS

Interviewees were asked for their reflections on impacts that the duty has had in terms of staff resourcing and availability. Six of the interviewees⁵³ (of 13, across five departments) commented that additional time was needed to have due regard to the duty. One interviewee⁵⁴ thought that there was no change in the amount of time or resource needed but this was because EPPS aligns with the aims of the policy in question. Another four interviewees⁵⁵ (of 13, across four departments) did not comment on the time or resource implications. Of those who thought more time and/or resources were needed, two interviewees (of 6) across two departments felt the time needed was substantial. Three interviewees⁵⁶ (of 6) across two departments felt that the resource need would reduce over time; one⁵⁷ of these also felt the additional time needed was not that much. Like the department highlighting that no additional time was needed, this was because consideration of environmental impacts is already built into their thinking.

Where departments felt that the cost of having due regard was considerable, they compared it to the time needed for a detailed PSED impact assessment. One department⁵⁸ reported the additional time and resource needed involved a member of the team working on it for a “couple of weeks”, time from the policy lead, plus additional time from the legal team. Other time requirements included getting everyone “up to speed”, especially in terms of the department EPPS leads as these were “voluntary roles that created additional burden outside their typical remit”. However, it was also recognised that the EPPS is important, and leads were keen to “work with it properly”.

4.4 Impact related to delays to policymaking

Only one of the five policy team interviews discussed delays to policymaking. This policy team did not consider that the duty has resulted in delays to date, although they noted that extra steps were required. The policy team in question were able to draw on external research that informed their assessment and they considered that if there was a need to engage with others then there was the potential to add “quite a bit of time on”.

4.5 Impact related to enhancing environmental protection and sustainable development

The aim, and intended impact, of the principles is to guide ministers and policymakers towards opportunities to prevent environmental damage and enhance the environment. That said, the

⁵³ Defra (ivory), DfT (impact), Defra (FMP), DESNZ, DWP, DCMS.

⁵⁴ Defra (BNG).

⁵⁵ DfE (impact), DfE (process), DfT (process), DBT.

⁵⁶ Defra (ivory), Defra (FMP), DWP.

⁵⁷ Defra (FMP).

⁵⁸ DfT (impact).

principles are not rules, and they cannot dictate the policy decisions made by ministers. Instead, they aim to empower ministers, and importantly, those working on their behalf, to think creatively to use the principles to protect and enhance the environment.

The majority of comments from interviewees related to enhancing environmental protection and sustainable development were around raising awareness and increasing focus on the environment. This should open up pathways to generate environmental improvements but as yet there is little evidence of whether the EPPS has delivered such impacts. Interviewees generally believe that the EPPS will, as time goes on, become better integrated into policymaking, which will bring beneficial environmental impacts. Eight of the eleven interviewees who responded highlighted the potential for positive impacts in relation to environmental protection or sustainable development. Of those eight, positive impacts suggested include that the EPPS focuses attention onto the environment and normalises its consideration (four interviewees, across four departments⁵⁹). Two departments⁶⁰ (of 8) felt the duty broadens responsibility for consideration of the environment beyond those teams that would traditionally take it into account. Two departments⁶¹ (of 8) highlighted the need for a behavioural shift which EPPS is helping to deliver but it will take time before impacts are seen. One department⁶² (of 8) thought EPPS provides a prompt where environmental impacts are not already being considered..

Box 4-2 provides an example of how the environmental principles have been applied for Fisheries Management Plans (FMPs) by Defra. The example is interesting as the policy already required a high level of environmental consideration. Box 4-3 presents an assessment from (then) DLUHC on designation of wastewater treatment plants. This is an interesting example as it appears to focus solely on the positive impacts of increasing treatment of wastewater but does not consider the environmental effects of those treatment processes. No explanation is given in the impact assessment as to why potential negative effects around increased energy use, carbon emissions, and sewage sludge generation, have not been considered.

Box 4-2: Example indication of potential environmental impacts from Defra

Fisheries Management Plans are a requirement under the Fisheries Act 2020. They are evidence-based plans with the intention of managing fishing activity to restore and/or maintain fish stocks to sustainable levels and support a healthy marine environment. The Plans also have to support a thriving marine industry so there is a need to balance environmental, economic, and social issues. This need to balance the environmental principles with the sustainability objective (from the Fisheries Act) means measures within the FMPs have to be developed with economic, social and employment benefits in mind, as well as food supplies from fishing.

The record identifying what types of environmental impacts had been considered covers negative impacts from fishing activity including use of fishing gear; climate impacts from use of fishing vessels and disturbance of habitats resulting in sequestered CO₂ being released; marine litter; and noise pollution. The analysis also considers how FMPs could contribute towards the EIP goals. The record

⁵⁹ Defra (ivory), DfE (process), DWP, DBT.

⁶⁰ Defra (FMPs), DBT.

⁶¹ DfE (impact), DBT.

⁶² DESNZ.

includes identification of how each of the principles had been applied including the potential for effects to be addressed in future plans to help protect the environment from harm. This includes use of an ecosystem-based approach to ensure negative impacts are minimised.

Although the template prompts for analysis of positive impacts, the assessment is focused on avoidance of negative effects, although it is recognised that the measures need to be developed so they do not create new issues or exacerbate existing ones.

The assessment highlights the importance of careful consideration of how the polluter pays principle is applied particularly given the social issues around the costs associated with making a living within the fishing industry. The assessment identifies the potential to include greater participation in decision-making as a way of encouraging the fishing industry to buy into the need to be custodians of fisheries, helping to ensure that those who invest in sustainable fishing will directly benefit.

Box 4-3: Example indication of potential environmental impacts from (then) DLUHC

The assessment of environmental impacts from the designation of catchments for wastewater treatment upgrades focuses on the positive environmental effects that would occur as a result of requiring upgrades to limit the amount of nutrient pollution. No consideration is given to the costs (or potential environmental implications) of the upgrade works as this is highlighted as being borne by the “polluter” (the sewerage company). Although the sewerage companies would be required to pay for the upgrades, there could be a question around the wider societal costs associated with the additional treatment (e.g. additional energy costs, carbon emissions, and creation of increased volumes of sewage sludge for disposal). These potential negative, unintended consequences are not considered in the assessment. **There was no evidence in the information shared with us to show that** these potential negative, unintended consequences were fully considered as part of the EPPS assessment.

4.6 Is there evidence that having due regard to the EPPS is delivering the vision?

The evidence collected on the impact evaluation and analysed into key themes above provides the basis for assessment as to whether the assumptions within the ToC hold. This can then be used to assess whether having due regard to the EPPS is enabling the vision to be delivered. For the impact evaluation, the focus is on whether the activities have enabled the expected outputs to be delivered, and whether these have then led to the expected outcomes and impact that will ensure that the vision is realised. This includes testing the weight of evidence for assumptions 7 to 13 (from Table 2-1) and provides the basis for assessing whether departments have recorded their assessments in ways that demonstrate how the principles have been considered in policymaking and, therefore, the potential benefits this could have for the environment. The analysis for the impact evaluation draws on the findings set out in Sections 4.1 to 4.5 with Table 4-1 providing the summary conclusions on the extent to which each assumption holds.

Table 4-1: Process tracing for activities and outputs to outcomes and impacts

Assumption	Strength and summary of evidence				Justification
	Limited	Some	Good	Strong	
A7: Framework is applied effectively and meaningfully				Y	STRONG EVIDENCE with processes and additional support enable effective and meaningful application (Sections 4.1, 4.2)
A8: Environmental principles have been proportionately applied when making policy		Y			GOOD EVIDENCE due to frequency of concerns over resource needs, but recognition this may reduce over time (Sections 4.1, 4.2, 4.3, 4.4). Evidence that departments have undertaken EPPS properly despite resource issues
A9: Application and interpretation of principles are robust, objective and consistent with intended meaning			Y		SOME EVIDENCE based on feedback on how process has been applied but with some questions over comprehensiveness of application (Sections 4.2, 4.5)
A10: Application and interpretation of principles have usefully informed policymaking			Y		SOME EVIDENCE based on examples provided which show how the principles have been used to inform policymaking (Sections 4.2, 4.5)
A11: Application and interpretation in individual cases is clear and transparent			Y		SOME EVIDENCE based on examples provided (Sections 4.2, 4.5)
A12: Principles make a demonstrable and positive difference (where appropriate)		Y			GOOD EVIDENCE based on change in attitudes already reported but with more time needed for changes to become embedded and full behaviour change to be observed (Sections 4.1, 4.2, 4.5)
A13: Application and interpretation of principles, result in opportunities for positive effects in terms of environmental outcomes	Y				LIMITED EVIDENCE based on discussion more generally around changes made and actions taken which provide some indication that there will be positive environmental outcomes (Sections 4.2, 4.5). More evidence is needed however to demonstrate this

5 Conclusions and recommendations

5.1 Overview

This section pulls together the findings of both the process and impact evaluations, highlighting the key findings and the evidence behind those findings, and then the lessons learnt. Recommendations are then made on how those lessons learnt can be implemented, where possible identifying who needs to take action and when, as well as any linkages to other recommendations or actions that need to be put in place first.

In conclusion, the overall findings of the evaluation show that significant effort and resources have been put in to preparing departments for when the EPPS came into effect. The results of this effort have been that the departments have been able to increase awareness of the environment, and apply the duty as intended. This includes significant communications and awareness raising activities as well as training and the toolkit to help departments understand what is needed, why, and what it means to have due regard to the EPPS. These activities were reported by Departments as having begun two to three years before the EPPS became operational so there was time for materials to be shared with other departments and for feedback to be provided. Opportunities for enhancing knowledge and experience were also set up and these continue, with numerous departments reporting how useful materials such as the toolkit and policymakers' template have been, including how receptive Defra have been to feedback and making improvements.

There is little evidence currently on how the principles themselves have been considered and only limited information from departments on the way that records are being kept to demonstrate how the duty to have due regard has been applied. As such, it is difficult to draw firm conclusions around the impact of the EPPS and the extent to which the EPPS "will contribute to the improvement of environmental protection and sustainable development" (s.17(4) of the Act). Despite this, there is evidence that attitudes and mindset have improved in the Civil Service as a result of the EPPS, enabling consideration of actions to deliver positive environmental benefits and avoid negative environmental effects.

5.2 Conclusions and recommendations from the process evaluation

The process evaluation considered the processes, training and guidance that departments put into place ahead of 1 November to prepare themselves for the legal requirement to have due regard to the EPPS. It also analyses how departments have interpreted the scope of the statement and whether they have treated individual principles differently, and the extent to which ministers have been engaged by departments. The evaluation is based on primary data collection (through interviews) and secondary data collection (through review of documents provided by department).

The key conclusions from the process evaluation are:

- **The need for awareness raising was highlighted as very important** with departments working for several years to prepare for the duty to come into force.

- **Not all departments thought it was necessary to have a specific policymakers' template for the consideration of the EPPS**, with the DWP for instance just adding a section to their ministerial submission.
- **The toolkit developed by Defra was highlighted as being critical** to successfully setting up internal department processes as it enabled high-quality knowledge on the requirement of civil servants to be quickly disseminated. All departments interviewed had used the toolkit with seven (of 8) developing their own processes using the toolkit as a starting point.
- **Small issues with the toolkit emerged** from three departments, including one department highlighting confusion over its non-statutory standing and minor conflicts with what was needed to meet legal obligations, but all still identified that it was really useful. Two departments also felt the guidance was open to interpretation and it was unclear if consideration of the EPPS would lead to the same outcome across different policy teams and departments. One department thought consistency could only be achieved through sharing of experiences.
- **The CSL was also received positively** with four (of 8) departments providing positive feedback. The only issue was the timing of when it became available which was felt to affect momentum in preparing for the operational phase.
- **Lots of sessions around training and information sharing were held** with Defra reporting 48 meetings and DfE have run a training programme that was attended by 729 staff between March 2023 and November 2024. Two departments (of 8) felt they would have benefited from additional guidance; others reported it was too early to tell if further guidance would be needed.
- **The cross-governmental working group was unanimously recognised by those departments interviewed as providing excellent value** with knowledge sharing activities seen as being highly informative and useful. Internal feedback loops were also highlighted as being important to successful implementation of the EPPS.
- **Questions are being raised about the scope of the EPPS and what constitutes a policy** with five departments (of 8) reporting such questions. They referred colleagues to advice in the toolkit and to legal teams within their own department. Two departments erred on the side of caution complying with the duty if there is doubt and assuming that everything is in scope.
- **Private offices can sometimes be relied on to act as a check on whether the EPPS was being considered in policymaking** with templates for two departments reporting that a submission would be sent back if the EPPS section was not complete or that a submission could not be sent in the first place without EPPS consideration. However, it was not clear what a minister does with the advice received from civil servants.
- **Significant engagement was held with minister's private offices** with six (of 8) departments having held direct discussions on the duty. However, only three (of 8) had attempted to engage directly with ministers. This was partly because ministers are very busy, but also because it was felt that ministers should be taking advice from civil servants to support them in their decision-making.
- **Awareness was considered to be high overall following all the above processes being put into place** with just one department reporting concern in terms of confidence around civil servants being able to apply the duty. However, in this department a review of processes found that policymakers were using the templates correctly and that feedback was being provided where they were not content with the advice that had been provided. Four departments reported that they were planning to have or have completed a review of the application of the duty to assess how it was being applied. This should provide a growing and transparent evidence base on the application of EPPS over time.

A summary of the key findings, lessons learnt and recommendations from the process evaluation is provided in Table 5-1. A link is made between the findings and the weight of evidence behind each of the assumptions, with this then used below to identify where there are gaps in terms of whether each assumption is considered proven, or not.

Table 5-1: Findings, lessons learnt and recommendations from the process evaluation		
Finding (and assumption informed)	Lesson learnt	Recommendation
Toolkit could have been received earlier by departments to allow them to prepare their own specific, tailored materials and provide more information about the duty across the department in better time (informs assumption 3 and 4 but evidence was that these issues were addressed)	Toolkit being received earlier would have allowed departments more time to engage with materials, including case studies, and improve department's (particularly policy teams) understanding of the new requirements upon them	Use experts within departments to design and disseminate processes, and cross-governmental guidance to be provided earlier where possible
Toolkit was seen as huge aid by all departments and really beneficial in helping set up departmental processes (informs assumptions 1, 3, 4, 5)	Cross-government guidance provided by Defra helped departments set up their processes and design how to have due regard to the EPPS. An approach to take for future similar duties or policy – chief department taking the lead and using their expertise	Cross-governmental guidance produced by an expert department is a big help in terms of ensuring processes set up across government are coherent, stem from the same legal and policy guidance, and lead to positive outcomes
Processes not too dissimilar across departments (in part probably due to suggestions within toolkit) (informs assumptions 3, 4, 5)	Processes being broadly similar and using similar guidance means that way the processes are considered should display a high level of coherence across teams and departments, suggesting most, if not all, would come to the same conclusions on the same policy	Ensure a toolkit (on which most departmental processes are based), or similar future guidance, is high quality so that cross-government consideration of future duties or policy is done consistently and to a high standard
Departmental champions appear to be a low-resource, high-value method of disseminating EPPS guidance across department (informs assumption 6)	Low-resource methods of upskilling department and query responses can be beneficial in getting information about the EPPS duty 'out there' into the department and across teams	Upskill experts within teams to act as leads on a duty/policy so they can disseminate knowledge throughout departments without significant resource burden
Monitoring generally carried out by legal and Deputy Directors and also by private offices who receive Ministerial submissions and legal teams (informs assumption 1, 2, 6)	Checks on whether the duty is being fulfilled can fall with Ministers' private offices, as well as department's legal teams. They also check for other duties, such as PSED	Ensure more than one check on whether legal obligations have been sufficiently met to reduce risk that breaches of the duty will not be identified
Case studies seen as helpful in enabling people to get to grips with the EPPS and guidance (informs assumptions 3, 5)	Case studies can help new learners about the EPPS rapidly understand how to apply the principles compared to just reading the EPPS and non-case study guidance	Use case studies to help civil servants get up to speed quickly so fewer resource are spent on preparing departments for the duty

Table 5-1: Findings, lessons learnt and recommendations from the process evaluation		
Finding (and assumption informed)	Lesson learnt	Recommendation
Lack of Ministerial engagement with training and guidance, and not all private office teams engaged with implementation leads (informs assumption 2)	Engaging with private office teams who are the party who check whether the EPPS submission has been completed is beneficial to the validity of the process of paying due regard	Engage with private office teams to ensure that those responsible (i.e. Ministers) for ensuring compliance with the duty are in a better position to assess whether the legal duty has been fully met

Consideration of the findings and weight of evidence behind each of the assumptions suggests that the inputs and activities have been implemented in a way that have increased awareness and provided strong processes and procedures that support policymakers as they have regard to the duty. The dial of proof for the process evaluation is set out as Figure 5-1 and shows that there is generally strong support for the theory and thus that the process and procedures that have been put into place are supporting departments in their duty to have regard to the EPPS. There is just one assumption where it is considered that the evidence is not strong enough to prove that the assumption holds, with the additional evidence needed to provide further proof summarised in Table 5-2.

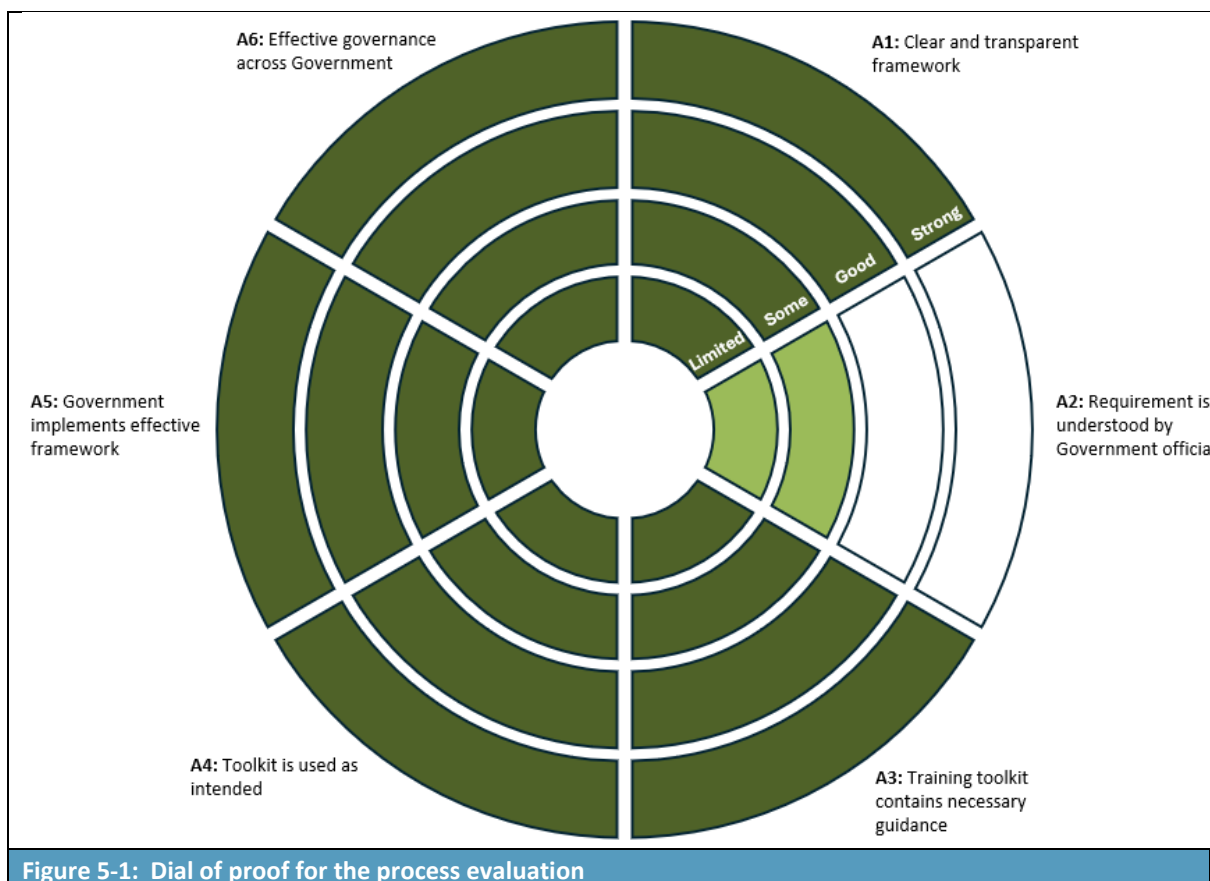


Table 5-2: Data gaps identified from the process evaluation		
Assumption	Justification for assumption being supported, suggested or hinted	Further evidence needed to complete test of assumption
A2: Government officials and ministers understand the requirement to have due regard to EPPS and look at the EPPS	GOOD EVIDENCE based on level of information produced and used across all departments but with one legal challenge suggesting there may still be some further work needed to ensure there is complete understanding of the need to have due regard	Indications or records showing how ministers have taken advice provided by policymaking teams into account during decision-making

5.3 Conclusions and recommendations from the impact evaluation

The impact evaluation focuses on the influence of the EPPS on policymaking as well as attitudes and behaviours of policymakers and ministers since it is too early for impacts to be seen from policies themselves. The majority of evidence on impacts is drawn from thirteen interviews across eight different departments supplemented by example policies that were provided by Defra and DLUHC within their policy templates.

The key conclusions from the impact evaluation are:

- **Attitudes, mindset and behaviour towards consideration of the environment during policymaking are changing** as a result of the need to have due regard to the EPPS. In total, ten (of 13) of interviewees agreed that there had been a positive change, while the remaining three (of 13) felt that environmental obligations were already being met.
- **Consideration of the environment in policymaking is increasing** as reported by 12 (of 13) of interviewees. The one department that did not feel consideration had increased stated that this was because they already were meeting more stringent environmental obligations.
- **There has been a change to considering positive environmental effects** rather than just avoiding negative environmental effects, with two departments highlighting this change. A further five departments felt the EPPS formalised what they were already doing.
- **Additional staff time and resources was needed to have due regard to the duty** with two departments (of 6 reporting additional time was needed) feeling that the time required was substantial. However, a further three departments felt the time needed would reduce in the future, while the other felt the additional time was relatively short. The extra time needed is considered to be comparable to that needed for a detailed PSED assessment.
- **There is no evidence (to date) that having due regard to the EPPS has led to delays in policymaking** although only one policy team commented in detail and they thought additional time would have been needed had they not been able to draw on external research.
- **None of nine interviewees across eight departments thought the duty to have due regard to the EPPS had made a difference to policy to date** but it is still very early to assess the impact of this duty with only a small number of examples currently available. If changes in attitude, mindset and behaviour, and increase in consideration of the environment continues then there may be changes to policy as EPPS becomes more embedded. Collection of evidence around how EPPS is informing policy will be a key consideration to ensure the impacts are being felt.

- **There is considered to be the potential for positive impacts in relation to environmental protection and/or sustainable development** with eight (of 11) of interviewees suggesting these potential benefits. This included four (of 8) feeling this is because EPPS focuses attention onto the environment and normalises its consideration. Early signs from example policies also show how and where positive environmental impacts could be demonstrated. It is too early currently to identify whether unintended consequences from policies once they are implemented are now less likely to occur than would have been the risk without EPPS.

A summary of the key findings, lessons learnt and recommendations from the impact evaluation is provided in Table 5-3. A link is made between the findings and the weight of evidence behind each of the assumptions, with this then used below to identify where there are gaps in terms of whether each assumption is considered proven, or not.

Table 5-3: Findings, lessons learnt and recommendations from the impact evaluation		
Finding (and assumption informed)	Lesson learnt	Recommendation
Departments were still in the process of training staff to encourage them to towards greater consideration about positive environmental effects of policy- deemed as a 'mind-set-shift' for many (informs assumptions 8, 9, 10, 11)	Time is needed for new processes to be embedded into policymaking but there is evidence that there is increased awareness of the need to consider the environment	Continue focus on knowledge-sharing to build a catalogue of examples that policy teams can look at when facing any difficulties with having due regard to the EPPS
Mindset shift from only thinking about removing potential negative environmental impacts to also thinking about potential positive impacts has been encouraged and accelerated through the provision of training materials for teams across departments (informs assumptions 7, 10)	Training materials produced combined with other communications have helped policymakers understand what is needed which appears to be enabling a change in mindset	Continue to build on successes through sharing best practice and encouraging discussion of issues, e.g. with Champions, to enable consideration of environment to be mainstreamed
Though the implementation is still in its early days and current measurable effects are limited, the general consensus from departments is that the EPPS has had a positive impact on policymaking across government (informs assumptions 10, 12)	There is appetite to consider environmental impacts across government departments involved in the evaluation and the materials and training provided have enabled policymakers to make positive environmental change	Clear communications on what a duty requires and how to apply it can help with uptake and thus ability to deliver positive change. However, there has been some self-selection of policymakers interviewed which may skew the evidence towards more positive uptake so further evaluation may be needed across more policy areas to assess whether this is a common finding
Though the general agreement across departments was that the EPPS will have a large impact on policymaking across government overall, the impacts reported by specific departments is more variable due to pre-existing	Evidence is incomplete with only a small number of policies published to date and with information available in a way that enables examination of the overall impact of the duty, and thus care is needed in drawing	Need for continued review of policies that are published to verify that the duty is having an impact and that environmental enhancement is being considered wherever possible

Table 5-3: Findings, lessons learnt and recommendations from the impact evaluation		
Finding (and assumption informed)	Lesson learnt	Recommendation
environmental focus within each department's policymaking processes (informs assumptions 8, 9, 10, 11)	conclusions that the impact will be significant until more policies have been implemented so there is a more complete evidence base	
An unintended consequence to come out of the EPPS implementation has been the burden faced by civil servants with regard to their working time (informs assumption 8)	There is likely to always be an increased workload with any new duty. One department aligned the resources needed as being similar to the PSED. No evidence was found as to the expected resource requirement	The resource requirements should be monitored to assess whether this is within the expectations of departments. Given the importance of the duty and the potential benefits it can deliver (and impacts it can avoid), a proportionate amount of time should be spent, perhaps with potential for further guidance on what is proportionate in terms of resource allocation
The changes in attitude towards the environment, including the change in mindset to considering both negative <i>and</i> positive environmental effects of a policy are a key factor in the long-term success of the EPPS (informs assumption 7, 10)	Departments have identified that they have considered the potential for positive impacts as well as avoiding negative impacts. This shows that the EPPS can help achieve both environmental enhancement and sustainable development and so will be an important part of leaving the environment in a better condition	A record of positive and negative effects included in policies as a result of having due regard to the EPPS could provide government with a good record of how it is performing
The requirement to consider environmental effects has been considered to be highly valuable, encouraging small but valuable tweaks to policy which have seen substantial gains in positive outcomes but little/no additional costs as a result (informs assumptions 10, 12, 13)	Clear communications, training and templates combined with a willing attitude from policymakers can deliver real environmental change without being costly. Care is needed though since interviewees were mostly self-selected (or suggested by departments) so there may be bias towards the more interested/engaged policymakers	As above, a record of how, where any why EPPS has improved policymaking could help departments demonstrate how they are delivering environmental enhancement and sustainable development. Further investigation should be carried out across a wider range of policies to assess whether the evidence reported here is biased

Consideration of the findings and weight of evidence behind each of the assumptions suggests that the outputs and outcomes are being delivered. This includes changes in attitudes, procedural changes, and behavioural changes. However, more time, and evidence, is needed to assess the impact that the EPPS is having on the content of policies demonstrating how this has helped prevent damage or enhance the environment, and promote sustainable development. Much of the evidence to date is around how having regard to the EPPS has influenced policymakers, and has changed attitudes to environmental issues and behaviours in terms of consideration of the principles. This is because it is too early to assess impacts from the policies themselves due to the lack of evidence available at this stage of implementation. The dial of proof for the impact evaluation is set out as Figure 5-2 and shows that there is variable support for the theory and thus that policymaking is leading to outcomes and

impacts that will help deliver the vision. There are six assumptions where it is considered that the evidence is not strong enough to prove that the assumptions hold, with the additional evidence needed to provide further proof summarised in Table 5-4.

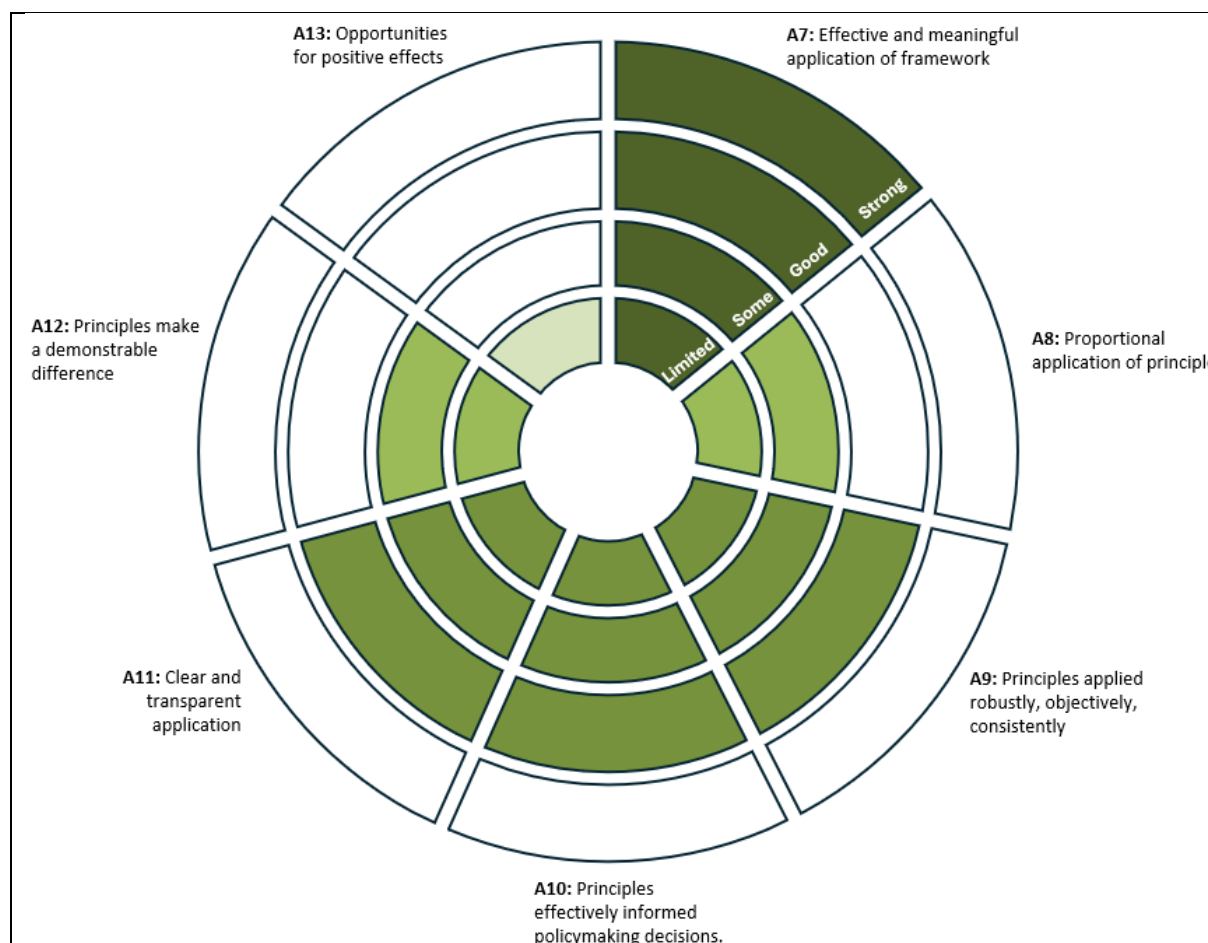


Figure 5-2: Dial of proof for the impact evaluation

Table 5-4: Data gaps identified from the impact evaluation		
Assumption	Justification for assumption being supported, suggested or hinted	Further evidence needed to complete test of assumption
A9: Application and interpretation of principles are robust, objective and consistent with intended meaning	SOME EVIDENCE based on feedback on how process has been applied but with some questions over comprehensiveness of application	More examples showing application of the principles and that consideration is taken of indirect impacts as well as direct ones
A10: Application and interpretation of principles have usefully informed policymaking	SOME EVIDENCE based on examples provided which show how the principles have been used to inform policymaking	More examples and time required for further policies to be developed that can demonstrate that policymaking is being consistently informed
A11: Application and interpretation in individual cases is clear and transparent	SOME EVIDENCE based on examples provided	More examples to show that the approaches are embedded into policymaking across all departments

Table 5-4: Data gaps identified from the impact evaluation		
Assumption	Justification for assumption being supported, suggested or hinted	Further evidence needed to complete test of assumption
A8: Environmental principles have been proportionately applied when making policy	GOOD EVIDENCE due to frequency of concerns over resource needs, but recognition this may reduce over time	Monitoring of time taken to fulfil the duty and assessment of whether this is proportional to effect on policymaking and whether this aligns in time to time required to fulfil other duties
A12: Principles make a demonstrable and positive difference (where appropriate)	GOOD EVIDENCE based on change in attitudes already reported but with more time needed for changes to become embedded and full behaviour change to be observed	Feedback from department representatives on the cross-government working group of best practice and issues, how those issues are being resolved, and if the number of issues is reducing over time to reflect embedding of behaviour change
A13: Application and interpretation of principles, result in opportunities for positive effects in terms of environmental outcomes	LIMITED EVIDENCE based on discussion more generally around changes made and actions taken which provide some indication that there will be positive environmental outcomes	Monitoring of environmental impacts over time to assess whether there is a strong case that policies are leading to improvement of environmental protection and sustainable development

5.4 Conclusions and recommendations for the future

The evaluation has highlighted a number of items that should be considered lessons learned for future evaluations. These are summarised in Table 5-5. Some of these lessons caused considerable difficulties for the study's progress, and it is hoped that Defra's recently commenced evaluation will not face the same issues experienced by the OEP's. Chiefly among these, is the need to attain buy-in from government departments at the earliest possible opportunity and to sustain this buy-in over the course of the evaluation. Government apparatus can be complex and time-consuming to navigate, and this needs to be factored into evaluation timelines.

A future evaluation of the EPPS would do well to try and gauge the extent to which ministers interact with the EPPS guidance they receive. This may be difficult to accomplish, but if it is better understood how a minister interacts with the guidance they receive, civil servants will be in a position to create more focused and tailored guidance.

Some departments did specifically highlight that their EPPS implementation teams would not be acting as a "clearing house" for checking ministerial submissions and the veracity of the EPPS considerations within them. This is an area the OEP could potentially add value to in the future, subject to agreements with departments. The OEP could offer its services to support departments in spot-checking a limited number of EPPS templates (which would, of course, require an understanding of the policy prior to it being public knowledge) for completion against departmental processes and guidelines, before the policy is sent to a private office and/or minister. This would help the OEP ensure departments are meeting their responsibilities, whilst also helping departments ensure their processes are working as intended and to a high quality.

The OEP could also attempt to help create best practice for paying due regard to the EPPS. Having collected templates from across a number of departments, the OEP could analyse these to understand which areas work well, and why, and made recommendations to departments to do certain things differently in the future to improve the quality of their paying due regard to the EPPS.

Defra’s future review should aim to discover more of the impacts of the EPPS upon policymakers and policymaking. This should include how consideration of the principles is identifying opportunities to prevent environmental damage, enhance the environment, and promote sustainable development, and how these are influencing policy. Interviews identified that policymakers had identified opportunities to consider positive benefits for the environment, whereas previously they may just have considered how to avoid negative effects. What is needed now is examples of how this consideration is leading to environmental benefits. This will help show whether the EPPS is delivering the impacts set out in the ToC, and hence, is realising the vision. As more time elapses between the EPPS’ introduction and the timing of any future evaluation exercises, there should be a wider evidence base of policy that can be analysed. In addition, policies will have been implemented so there will be an opportunity to gather evidence on whether the positive effects identified during policymaking have occurred and negative issues have not been seen.

Table 5-5: Findings, lessons learnt and recommendations for future evaluation		
Issue	Lesson learnt	Recommendation
Government departments can be slow to respond to interview and information requests and this can cause project delays	There is a need to agree interviewees as early as possible to minimise delays	Need to organise engagement as a priority at the outset of an evaluation that requires significant input from government departments, agree who will contact departments and who will chase and have protocol for encouraging uptake of invites to interview
It is difficult to obtain access to information that is not already in the public sphere where there is reluctance of departments to collaborate with an evaluation project. This can affect primary as well as secondary data collection activities	It is important to get buy-in from departments to an evaluation and to the type of data that needs to be provided to minimise delays or evidence gaps	Where possible buy-in to an evaluation should be sought by the organisations sponsoring the evaluation at the outset, and reiterated when the evaluation is being designed including getting agreement on the type of data that is needed at the outset
Not all departments necessarily have a full understanding of OEP’s role and remit across government and this can have impacts on their willingness to engage	Building trust and understanding with government departments in advance will support engagement	More informal engagement with departments from earliest possible moment (and not just for a specific project), especially in instances where no engagement has happened between a department and OEP prior. Procedures should be in place to follow up based on whether departments accede to later requests fully.
Interviewees can be slow to respond to requests including	It is recognised that civil servants are very busy with lots of	Set out clear timeframes for involvement and what will be

Table 5-5: Findings, lessons learnt and recommendations for future evaluation

Issue	Lesson learnt	Recommendation
<p>once interviews have been held. This was an issue in terms of getting agreement to transcripts/interview notes</p>	<p>demands on their time and it is important to highlight the importance of a response without adding to an individual's stress/workload</p>	<p>requested. Make responses 'on exception' so they only need to respond if there is an issue. For cross-governmental studies like this, allow more time than was allocated in this study for engagement, recognising the reality of competing demands on time</p>
<p>OEP has a good relationship with departments, especially Defra</p>	<p>Good relationships ensure discussions can be ongoing and alternatives can be found to ensure an evaluation is able to continue and to provide useful outputs</p>	<p>OEP to continue with positive, open attitude to encourage continued good relationships with Defra and OGDs</p>
<p>Limited time between due regard of duty coming into effect and reporting deadline means there is limited opportunity to gather evidence on impact</p>	<p>More time is likely to be needed for a full impact evaluation to be undertaken</p>	<p>Consideration of splitting a contract to cover process evaluation initially (potentially inputs to outputs on the ToC to ensure there is good organisational memory of the implementation activities) and then undertake the impact evaluation (outputs to impacts), once there has been time for impacts to be seen</p>
<p>Lack of clarity on what ministers do with submissions and EPPS information</p>	<p>More information from private offices to their departments (and specifically policy teams) on how ministers and their private offices treat submissions would help civil servants prepare their advice more effectively</p>	<p>Defra's future evaluation could aim to observe what outcomes are as a result of ministers and private office considering the guidance provided by their department</p>

Annex 1 Defra Toolkit

The Defra toolkit has been developed to provide policymakers with a set of supplementary materials that can assist them in better understanding the scope of the duty, assist in the application of the five environmental principles to policymaking, and inform methods of discharging the duty effectively. Though it does not form statutory guidance, the elements of the toolkit provide detailed additional information on the EPPS itself, and resources to support policymakers effectively implement the duty; these come in the form of information notes, examples and case studies, and a template for implementing the duty to have due regard to the EPPS. The toolkit is comprised of 14 documents, each of which have been reviewed for their content and the clarity that they provide to policymakers.

What action should I take?

The first resource which forms the Defra toolkit provides information to policymakers on the types of action that they need to take after the EPPS has come into effect. Introductory text provides a concise review of the five environmental principles that policymakers have the duty to have due regard to, and also makes it clear on what areas of policymaking fall within the scope of the duty. As part of this, it not only makes it clear that the EPPS must be regarded as during all aspects of a policy's life (including making, developing, adopting, revising and repealing), but it also clearly outlines the policy areas and sub-national boundaries which are exempt from the need to have due regard to the EPPS.

The next section explains to the user how to consider whether or not policy has environmental effects, through the use of screening questions supplied from the HM Treasury Green Book⁶³. These ask the user whether the policy that they are developing could directly or indirectly effect several different parameters. Further information is provided which highlights that environmental impacts can be positive or negative, or not present. Users are reminded several times throughout the document to keep a record of their processes to show that the duty to have due regard has been considered, particularly if it is either concluded that proposed policy has no environmental effects, or where the potential effect is limited, therefore allowing policymakers to apply the EPPS in a 'lighter touch' way.

Users are then instructed how the principles should be provided, giving clear instructions on how to identify whether or not each of the five principles apply or do not apply to the policy which is being developed. Information on proportionality then clearly details that the environmental principles should be taken into account alongside other environmental commitments, and that the impacts should be balanced with other factors which the policy may have an impact on e.g., social and economic objectives.

Finally, information is provided on best practice, noting that records should be kept to show that Ministers, and those making policy on their behalf have considered the duty to have due regard with substance, rigour, and an open mind; regardless with whether or not there are potential environmental effects within the developed policy.

⁶³ HM Treasury (2022). *The Green Book. Central Government Guidance on Appraisal and Evaluation*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063330/Green_Book_2022.pdf on 15th March 2024.

Policymakers template

This resource is provided to policymakers to help them meet the duty to have due regard to the EPPS throughout the policymaking process. The template provides a step-by-step guide to developing policy that is in line with the duty to pay regard through five sections:

- Section 1: Identifying if your policy is in scope of the duty. This clearly reiterates that the duty applies across government, with limited exceptions, and only policy that will be relevant to England and reserved areas of Scotland. The user is given space to describe the aims and objectives of the policy that is in development and the timescale of the policy development or review, which acts to confirm whether or not the policy is within scope. If it is found to be within scope of the duty to have due regard, then the template identifies the need to outline the milestones and provisional dates where it would be relevant to review the environmental principles in a project plan.-
- Section 2: Environmental effect of our policy. This section clearly asks the user whether or not the proposed policy is likely to have environmental effects through the use of the Green Book screening questions, and if so, to list them and their primary/ secondary effects, frequency of occurrence, and the longevity of these effects alongside whether they are positive or negative.
- Section 3: Application of environmental principles. The user is asked here to consider each of the five environmental principles in relation to the proposed policy, and whether or not they are applicable. If it is determined that any of the five are applicable, the user is asked to provide additional information as to how it applies to the policy, and what adjustments can be made following the consideration of the principles.
- Section 4: Proportionality: Environmental factors v social and economic factors. This section asks the user to consider whether they have balanced environmental effects in relation to broader considerations and/or government objectives. This section provides possibly the least amount of information to help users complete, however does provide links to additional resources for guidance on how to appraise policies.
- Section 5 informing ministers. This section reiterates the best practice guidance provided in the first document, providing clear reminders to the user to keep record of their activities, which would likely all be included within this template

Overall, this document is clear in its objective to help policymakers consider whether their proposed policy is in scope of the duty to have due regard to the EPPS. It also could act as a sufficient record that can be shown to ministers as proof that the environmental principles have been considered throughout the process- regardless to whether or not it is in scope of the duty or not. As previously mentioned, there could be scope to add additional clarity in Section 4, however this is balanced through the provision of external resources both within this section, and further throughout the document.

The duty to have 'due regard'

This document sets out what is meant by the duty to 'have due regard' within the context of policymaking, and its uses in other areas of legislation. Users are reminded of the 'Brown Principles' which public sector workers are required to heed to in order to comply with a 'due regard' duty. Following a summary of the Brown principles, a thorough explanation is provided of the considerations which must apply in order for Ministers to meet the legal duty to have due regard, when it applies. Following these, users are reminded of the template that is available to policymakers, and should use to ensure that they are both considering the environmental principles, and also keeping record of their processes which can be reviewed by ministers.

Scope of the duty: what is ‘making policy’?

This section explores the definitions of ‘policymaking’, which falls within the scope of the duty to have due regard to the environmental principles, and ‘individual (or administrative) decisions, which are out of the scope. As part of this, clear definitions contained within the Act and EPPS are included and built on through the provision of questions to assist policymakers in deciding whether their work constitutes policymaking or individual (or administrative) decision-making.

The document is clear in outlining what activities and decisions constitute policymaking and therefore will be within the scope of the duty to have due regard to the environment principles. It also clearly sets out what types of ministerial decisions do not constitute policymaking, and provides questions for policymakers to consider, should they be unclear as to whether or not their decision or work constitutes policy development and is therefore in scope of the duty. Finally, a list of examples of policies related to individual decisions is provided, which gives additional clarity to policymakers what does and does not fall within the scope of the regard to apply duty to the environmental principles.

Arm’s-Length Bodies in scope of the duty

This section provides a clear description of what is an arm’s-length body (ALB), the roles which they fulfil, and how they differentiate from other non-departmental public bodies. Clear explanations are also provided, detailing when the duty to apply due regard to the environmental principles applies to ALBs and also the types of partnerships that can exist between departments and ALBs. It is also clearly explained how departments should engage with their ALBs regarding the duty, to ensure that they have a sound understanding about when it applies to them, and how the duty can impact the existing regulatory functions of ALBs, with emphasis that ALBs will still need to apply the environmental principles when obliged to do so by existing legislation. Again, this is all done with clarity throughout, and is extended through the provision of examples of Executive Agencies and non-departmental public bodies which are involved in developing policy for Ministers of the Crown.

These examples provide clear descriptions on what each body’s function is, alongside the Department which they are affiliated with, and also present relevant and easy-to-follow examples of ways in which they are involved with the development of policy.

Devolution and reserved matters

This section, though short, is very clear in stating the ways in which environmental protection is devolved across Scotland, Wales and Northern Ireland, subject to a small number of non-devolved areas which are clearly set out. Further to this, it is clearly explained for each territory where the duty to have due regard to the EPPS does or does not apply, with links to relevant policy under which the duty does apply.

Exemptions from the duty

This section is also short, however earlier materials, including all of the Civil Service training modules and policymakers template have been clear on which areas of policymaking the duty to have due regard to the EPPS does not apply to. This section builds on these further, with additional explanations and reasoning to why these areas are exempt from the duty. Any user that is reading through the toolkit should have clarity from this section to where exemptions to the duty are present within the realm of policymaking.

Compliance, monitoring, and enforcement of the duty

This section clearly sets out the requirements for compliance with the duty to have due regard to the EPPS, and responsibilities relating to monitoring and enforcement. Similarly to the exemptions from the duty, it has been clearly explained within earlier sections of the toolkit and Civil Service training modules that compliance with the duty can be demonstrated with an appropriate record that will enable departments to demonstrate the due regard duty as been satisfied, including reasoning for where it is not appropriate to have due regard due to the absence of environmental effects (where relevant). Though it is recommended that this will be best practice, this paper explains further that it is up to the individual departments to determine how they comply with the duty.

Relating to the monitoring of the duty, it is clearly stated that the OEP has a duty to monitor the implementation of environmental law which covers the requirements of Ministers to have due regard to the EPPS when making policy. Alongside this Defra's role in leading a high-level review of the implementation of the duty is clearly explained.

Moving on to the enforcement of the duty, this section further explains the roles and responsibilities of the OEP in overseeing the implementation of environmental law- which extends to the EPPS. It is clearly explained to users the powers that the OEP have regarding the identification and response to failures by public bodies to comply with environmental law, and the consequences that can arise from these.

Assessing environmental effects

This section of the toolkit reiterates that, as part of having due regard to the EPPS, Ministers of the Crown, and policymakers acting on their behalf must be able to identify the potential environmental effects that their policy may have, whether positive or negative, and use the principles to inform and influence the design of the policy.

The paper goes on to detail the ways in which environmental effects can be identified, and that policymakers should take a holistic, common sense approach when considering the potential environmental effects of their policy. As part of this, users are referred to the natural capital approach as a way of identifying and assessing environmental effects. Additionally, references to the Green Book are also made, recognising that environmental effects are also intrinsically linked to societal and economic effects; therefore these should also be fed into decision-making processes relating to the consideration of environmental effects.

Further reference to the Green Book is made through the provision of questions that should be asked in order to consider the impacts on natural capital when taking a natural capital approach to policymaking; a process that the government has committed to as part of the 25 Year Environment Plan. It is noted that policymakers should consider the questions listed when the environmental effects that a policy may present are not immediate or direct. Following these instructions, a comprehensive summary of the natural capital framework is presented, alongside links to relevant areas of the Green Book and Enabling a Natural Capital Approach (ENCA) Guidance.

Following this, a series of examples is given of how the natural capital approach can be used to apply each of the five environmental principles in practice, and how analysts can work alongside policymakers. Analysts are identified as being valuable sources of support through all stages of the policy cycle, particularly when helping with frameworks such as theories of change and impact assessment. Both of these sections are thoroughly explained to the user, and also make note of the limitations on the types of work that analysts can help with; though this is followed by the identification of other areas from which advice can be sought.

Suggestions for policymakers during the implementation period

This part of the toolkit sets out suggestions for policymakers during the implementation period of the EPPS pre-1 November 2023, and highlights that the duty to have due regard will apply to all policies that are in their development stage as of the 1 November 2023, regardless of whether the development stage commenced prior to this date. This is explained in further detail, and pointed out that for policies which development commenced prior to the EPPS coming into force, it may be necessary to reconsider policy options, or repeat areas of development work such as stakeholder engagement. It is reiterated however that a proportionate approach should be taken to having due regard to the five environmental principles that are considered within the EPPS, and that they should be considered with substance, rigour and an open mind.

Additionally, the definition of ‘making’ policy is provided in the context of the Act⁶⁴, which acts to further provide guidance on whether or not policymakers will need to have due regard to the environmental principles should their policy still be in the policymaking process come November 2023. This explanation is thorough, however should the user of the toolkit still be unsure as to whether their policy will be ‘made’ by the time that the EPPS has come into force, they are advised to consult their department’s legal advisors. As the toolkit is being reviewed in March 2024, it is unlikely that this paper is relevant anymore, as most policymakers that were working on policy that begun development during the implementation period will likely have had the opportunity to consult with their legal advisors and paid regard to the relevant environmental principles.

Communications and engagement

Information within this section helps to provide detail to policymakers and how they can approach raising awareness and implementing the duty to have due regard to the EPPS within their respective department. Though it provides examples, it does set out from the beginning that these may need to be adapted to suit the needs of each department in which the duty is required to be implemented. Following this introductory guidance, detail is provided on the overall approach and governance that would be best for users to follow when implementing the due regard. As part of this, it explains that a combination of ‘bottom up’ (in terms of engagement to policy teams and directors to raise awareness of the duty and develop implementation approaches) and ‘top down’ (through steer from departmental leadership) approaches may be required in tandem with one another.

Detail is then provided that the implementation/ roll-out of the duty can be done as either a centrally-led project, or via a decentralised lead, with examples provided of each; advice is also provided on the possibility to set up focus groups to oversee this work. It is clearly explained that these can come in the form of existing departmental groups and governance structures, or through dedicated groups and forums- these groups support awareness, duty implementation, process establishment, and best practice sharing, with potential for reporting or recommending to departmental decision-makers. These groups are both clearly explained to the user, and additionally, detailed examples of these groups which can be found in each department are identified, with details of their makeup and function provided in sufficient detail.

Alongside these groups, key players within departments who may be able to assist in raising awareness and provide advice on the approach to the EPPS are identified, with detail on the ways in

⁶⁴ Section 47 notes that “making” policy includes developing, adopting or revising policy, whilst “policy” includes proposals for legislation, but does not include an administrative decision taken in relation to a particular person or case (for example, a decision on an application for planning permission, funding or a licence, or a decision about regulatory enforcement);

which they can provide advice to policymakers. Following this, advice is provided on how to embed the duty into key gateways in the policy cycle to assist with record keeping, and that departments will need to consider the best way to develop an audit trail; this will demonstrate how the duty has been applied, and also act as evidence that the EPPS has been considered in policy where it is concluded that due regard is not required. As part of this, three examples are provided- one of which being the previously reviewed policymakers template- with their purpose and function clearly explained.

Further to these sections, examples on how departments have previously supported each other across government, and details on the types of support that Defra can offer are provided, which provides users with potential ways of contacting other departments to support each other in the implementation of the duty. A detailed summary of the engagement that has taken place with cross-government legal colleagues, and also the next steps in communications and engagement. It is highlighted that this will have potential to inform the Defra-led high-level review which will be published by November 2025.

Overall, this paper provides a high level of clarity to policymakers and other users of this toolkit on not only the best practices for communications and engagement when applying the duty to have due regard to the EPPS, but it also clearly details who can be contacted within their own department and beyond to assist with applying the duty to future policymaking.

Examples and case studies

This final paper begins by explaining to the user that, although the EPPS and the duty to apply are both new, the environmental principles that are engrained within are not, and have been used in EU policymaking since the 1970s. It is then reiterated that the duty to have due regard to the EPPS applies to policy across the whole government (with limited exceptions). Much of the introductory section is a repetition of the way in which environmental principles need to be considered within the realm of policymaking. However, keeping this in should help to reinforce the definitions and potential relevance within policy of the principles on the user.

Following this, examples of UK, international and intergovernmental policy in which the individual principles have been applied are outlined, with examples of how a proportionate approach has been taken also provided where relevant. Each of these examples outline in detail the purpose of each policy and how the environmental principle is relevant to the policy and has been integrated into it. Where provided, the explanations on proportionality are also well written and easy for users to follow, so provide sufficient case studied and opportunities to consider how to apply each of the five principles into future relevant policy.

PowerPoint on Environmental Principles duty

This PowerPoint presentation is developed by the Environmental Principles team at Defra, and provides a brief run through of the main points of the toolkit, namely:

- An overview of the new legal duty;
- The five environmental principles;
- What is 'making' policy?;
- What departments need to do;
- What policymakers need to do; and
- A summary of the toolkit of resources.

The brief summaries that make up each of these sections are clear, and provide sufficient levels of detail to act as a starting point for users to familiarise themselves with the processes which are

affected by the introduction of the EPPS. The toolkit of resources, along with links to further resources provide a large pool of resources for users to gain additional clarity on any of the terms or processes that are included within the toolkit or training modules

PowerPoint process map

This presentation consists of a single slide which includes the flow diagram demonstrating the process of applying the EPPS within the policymaking process. This diagram is also presented in the policymakers template and PowerPoint on Environmental Principles duty, which adds sufficient clarity to help users work their way through the template, and understand how each stage of the process fits in.

Annex 2 Civil Service Learning Training Course

The Civil Service Training Course comprises three modules which aim to help civil servants learn more about what the EPPS is, the principles which are included, and how and when they should be applied to policymaking. The three modules that are included are:

- Module 1: Online tutorial;
- Module 2: Interactive exercise; and
- Module 3: Downloadable checklist.

Module 1: Online tutorial

The online tutorial is designed to help civil servants to understand the five principles included within the EPPS, and also the need to have due regard to these principles within the contexts of policymaking, followed by how to apply the duty in policymaking.

Following the introduction, a case study is provided of a fictionalised example of new government hydroelectricity strategy being implemented through the construction of a new hydroelectric plant within an environmentally sensitive area. As part of this, examples of methods that the government have adopted to reduce impact to the environment and residents are listed. Following this text, the reader is asked to consider how these methods could go further and to consider ways in which the needs of energy production and the environment can be protected, which forms the basis for the rest of the tutorial.

The next section of the tutorial provides a summary of the EPPS, and how it fits into the Act, and how policymakers, alongside all other professionals who are contributing to policy development, are required to have due regard to the EPPS. Clarification is also provided as to which policies the EPPS should be applied to, followed by a definition of what is meant by having due regard to the EPPS within a policymaking context. This section is clear at communicating the need for policymakers to be considering the EPPS as the earliest possible point within the policymaking process but should be done so in a proportionate manner. This section of the tutorial makes it clear to the reader the policy exemptions to which the EPPS does not apply.

Throughout the tutorial, knowledge checks are provided at the end of each section, with the first one asking the reader who has to apply the duty to have due regard to the EPPS. As this module has been described as an online tutorial, it is assumed that the module is not delivered in Word format as it has been supplied for review, as the correct answer is noted directly below the question, making it easy for users to know the correct answer without making an attempt.

The second section of the tutorial explains to the user the five principles of the EPPS which policymakers have the duty to have due regard to, and does this through provision of their definition, followed by case studies of policies in which each of the principles have been applied. It does not however make any mention of the fact that a more than one of the five principles can be applied to a single piece of policy, nor does it provide a case study in which an explanation of how due regard has been paid to more than one principle. This may cause confusion to the user, particularly since the next knowledge check, following a description of the Montreal Protocol (1987) and Amendment (1997) asks the reader to choose which two of the five environmental principles are considered as part of the protocol and amendment.

The final section of the tutorial explains how the EPPS should be considered throughout the development and update of policy, including whether the policy is within the scope of the EPPS and

which principles may be relevant to the policy following the consideration of environmental impacts. Though at the start of this section the tutorial makes a good reminder to the user that they should always consult legal teams for clarity on whether or not their policy falls within the scope of the EPPS, it is not until near the end of this section that the user is informed that more than one principle may be relevant to their policy. Information such as this would be better placed in the second section which provides a summary of the five environmental principles, particularly when the case study which forms the knowledge check is one that considers more than one principle.

This section does not finish with a knowledge check, but rather an example of ‘what good looks like’ through referral to the case study presented at the start of the tutorial. In this, it outlines how each of the five principles could be applied to this case study, and the outcome that will result of these principles being considered, thereby providing the user with a good understanding of how the principles of the EPPS can be considered within a piece of policy.

Module 2: Interactive exercise

The second module of the training course provides the opportunity for users to apply what they have learned in the online tutorial through an interactive exercise involving the draft and implementation of a mock strategy.

This exercise begins with a recap of the five environmental principles which are included in the EPPS, and does this concisely with good explanations of each of the five principles. This is followed by a recap of which types of policy are and are not within the scope of the EPPS, and finishes with an introduction of the case study in which the user is asked to consider the application of the principles in response to a set of policy challenges.

In this case study, the government has committed to the publication of an extinct species revival strategy, in which it will publish a list of extinct species to reintroduce, alongside a set of relevant control measures; with the user being given the role of a policymaker who will need to make recommendations on the strategy whilst considering the five environmental principles. As the case study progresses, the user is asked a series of questions. The first asks the next steps following a meeting in which it was highlighted that the policy may include some potentially serious environmental impacts, which should prompt the user to recognise the need for environmental considerations to be made throughout the policy development process, using the EPPS as a guide throughout. The next question asks the user how they can ensure that due regard is paid to the EPPS, with the answers not only highlighting that this can be done in more than one way, but also providing examples of scenarios in which consideration is not required. Following on from this, there are a series of questions for the user on how each of the five principles would be considered within the context of the policy that has been used in the scenario. Each of these questions are multiple choice, with some requiring more than one answer to be selected, requiring the user to consider each option carefully. Upon choosing and submitting answers, thorough explanations are provided explaining why the user’s selected answer is correct or not, which provides a sufficient level of clarity for the user. This section finishes by checking the user’s knowledge of when within the policy’s life (e.g., should future revisions or amendments be made) revisits to the EPPS are required. Much like the previous questions, users are provided with further information on why their selected answer is or is not correct.

Overall, this module does a good job at providing further clarity on what each of the five environmental principles are, and also how they should each be applied to policy, and does this in an engaging and informative way through the interactive exercise.

Module 3: Downloadable checklist

This third module is provided as a reference guide for civil servants to use when considering how to apply the EPPS to policy within their department, and comes in two parts. The first part is a checklist for the user to use in their day-to-day work, and includes useful resources to refer to if they are undertaking work that falls within the scope of the EPPS and requires further information for them to make informed decisions. It effectively serves as a guide for how and when to have due regard to the EPPS when developing or providing updates to policy. The second part allows the user to make their own checklist points and note down resources that may be helpful to them when creating policy that falls within the scope of the EPPS.

Overall, this document sets clear its purpose to the user, and will be useful to civil servants in policymaking positions as they become involved in the development of policy that falls within the scope of the EPPS.

Annex 3 Methodology

Overview

This section sets out the methodology used for the study, covering the theory of change, evaluation framework, and approaches to engagement, government information requests and analysis.

Theory of Change

For policymaking, a ToC serves as a structured and evidence-based framework which outlines the rationale and expected outcomes of the implementation of an intervention, policy, or policy change. In this case, the ToC outlines how the EPPS is intended to influence government policymaking and policymakers to enable positive environmental effects to be delivered or to avoid, reduce or mitigate negative outcomes. The ToC has been developed by the study team, and therefore should not be considered to represent the government's own rationale or expectations behind the EPPS. The theory is presented in the form of a diagram (Figure A3-1) showing the connections and causal pathways between interventions and impacts. It is ground up, starting at the bottom with inputs, and scaling through activities, outputs, outcomes to the impacts, and in turn, to achieving the vision. The ToC therefore demonstrates what *should* happen for the vision to be met, where this vision is that:

'The purpose of the principles is to guide ministers and policymakers towards opportunities to prevent environmental damage and enhance the environment as required by section 17(4) of the Act... Application of the environmental principles to policymaking and by policymakers will enhance environmental protection and promote sustainable development.'⁶⁵

The ToC aims to set out all the steps that are expected to be involved in the process to achieve the desired impacts, together with the assumptions that have been made, and consideration of the wider contextual factors and external influences. The ToC is, in short, a description of how and why the objectives of the EPPS are expected to be achieved.

An initial draft ToC was developed by the study team (RPA) as a nominal starting point for comment and revision. This initial draft ToC built upon a literature review, and was then developed further through two internal team workshops and followed the guidance in HM Treasury Magenta Book⁶⁶. Table A3-1 shows a list of the literature sources that were reviewed; these pieces of literature were either provided to the evaluation team, or found through a Google search using relevant key terms. The aim of the workshops was to develop a first draft ToC for comment by the OEP and Defra, rather than being an attempt to develop a comprehensive ToC. The draft ToC was presented at an OEP/Defra meeting on 19 July 2023, with minor edits then made based on immediate feedback received. This revised version was then included in the scoping report submitted to the OEP on 21 July 2023.

⁶⁵ HM Government (2023): Environmental Principles Policy Statement. Policy paper by the Department for Environment Food and Rural Affairs for HM Government. Available at: <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> on 19 July 2024.

⁶⁶ HM Treasury (2020). The Magenta Book: Central Government guidance on evaluation. Available at: https://assets.publishing.service.gov.uk/media/5e96cab9d3bf7f412b2264b1/HMT_Magenta_Book.pdf on 20 August 2024.

Comments from the OEP on the scoping report were incorporated into a further revised version, which was then presented to Defra for comment in August 2023. A draft of this report was provided to the OEP and the OEP's EPPS advisory group on the 15 September 2023 for comment, with this revised version being the most up to date and submitted on 30 October 2023.

Table A3-1: Literature sources consulted for the draft ToC		
Source title	Description	Link
Draft environmental principles policy statement (June 2022)	An outline of the EPPS in context of the five principles and its purpose, development, and a summary of the reaction to the draft plans across government departments prior to its presentation to the House of Lords.	https://lordslibrary.parliament.uk/draft-environmental-principles-policy-statement/
Final environmental principles policy statement (January 2023)	The final version of the EPPS as published on gov.uk which sets out the role of the statement, defines key terms, and explains the five principles.	https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement
OEP advice on the draft environmental principles policy statement (July 2021)	A response from the OEP with recommendations and advice on the draft version of the EPPS, following a request made by the Minister for the Environment.	https://www.theoep.org.uk/report/advice-draft-environmental-principles-policy-statement
Draft environmental Principles Policy Statement: House of Lords debate Volume 823: debated on Thursday 30 June 2022	Transcript of the House of Lords Grand Committee debate held on Thursday 30 th June 2022 to consider the responses to parliamentary scrutiny as the final version of the EPPS is drafted.	https://hansard.parliament.uk/lords/2022-06-30/debates/B2CF8766-65AF-47D0-9105-CFFBC3AD21A0/EnvironmentalPrinciplesPolicyStatement
Draft Environmental Principles Policy Statement: Volume 826: debated on Monday 9 January 2023	Transcript of debate held in the House of Lords Chamber on Monday 9 th January 2023, following a question by Baroness Hayman to the government on when the final version of the EPPS will be presented to Parliament.	https://hansard.parliament.uk/Lords/2023-01-09/debates/72960B94-28E6-4E9C-8661-91E6208587F2/EnvironmentalPrinciplesPolicyStatement
Environment Bill: Briefing for Commons Committee (November 2020). Environmental principles and protection (Clauses 16 to 20)	Briefing prepared by Greener UK and Wildlife and Countryside Link for the Commons Committee scrutinising the Environment Bill during its draft stages.	https://www.wcl.org.uk/docs/Greener UK and Link briefing Environment Bill Committee environmental principles.pdf
Defra Consultation Response: Environmental Principles and Governance. Anglian Water Services Ltd.	Anglian Water's response to the Defra consultation on Environmental Principles and Governance.	https://www.anglianwater.co.uk/siteassets/household/about-us/public-affairs-pre-2018/defra--environmental-principles-and-governance-consultation---august.pdf
Consultation outcome: Summary of responses and government response (May 2022)	A summary of the responses to public consultation on the draft EPPS which closed in June 2021, which primarily sought feedback on the content and structure of the draft EPPS. A response from	https://www.gov.uk/government/consultations/environmental-principles-draft-policy-statement/outcome/summary-of-responses-and-government-response

Table A3-1: Literature sources consulted for the draft ToC		
Source title	Description	Link
	the government on the feedback is also included.	
Brighton & Hove City Council Response: Environmental Principles Consultation	Brighton and Hove City Council's response to the public consultation on the draft EPPS, which is included in the Defra consultation outcome.	https://democracy.brighton-hove.gov.uk/documents/s167346/National%20Resources%20and%20Waste%20Strategy%20%20Responses%20to%20Government%20consultations%20APX.%20n%201.pdf
RTPI response to DEFRA Consultation on the Draft Policy Statement on Environmental Principles	The Royal Town Planning Institute's response to the public consultation on the draft EPPS, which is included in the Defra consultation outcome.	https://www.rtpi.org.uk/media/8581/final-rtpi-response-policy-statement-on-environmental-principles.pdf
Case Commentary: How the OEP fits into the environmental governance jigsaw. Vaughan (2020): 32 ELM	Commentary piece published by the Environmental Law & Management journal providing a summary on the creation of the OEP, and how its roles and functions fit into other areas of environmental governance across executive, legislative and other public and private bodies.	https://www.herbertsmithfreehills.com/lang-es/file/63891/download?token=qCikopoH

Causal pathways

The ToC is designed to show the causal pathways, i.e., what needs to happen for the vision to be delivered. The causal pathways required to deliver the vision are shown by the linkages (the arrows in Figure A3-1) between impacts, outcomes, outputs, activities, and inputs. Each of these terms is defined in Box A3-1, with these definitions following those in the Magenta Book, with the slight adaptation of having 'Activities' as a separate term (instead of being considered under 'Inputs') and the inclusion of the 'Vision' definition. This way, the ToC shows what needs to happen for the vision to be achieved. If each step is successfully implemented, then the next level up shows what should be achieved, working up from the inputs at the bottom to the vision at the top.

Box A3-1: Definition of key terms used in ToCs
<p>Vision: the overall goal that is the intention of the intervention (here the intervention is the requirement to have due regard to the EPPS)</p>
<p>Impacts: the longer-term changes that ensure the vision is achieved often identified as the benefits of the intervention</p>
<p>Outcomes: the early or medium-term changes that arise from the outputs and which enable the longer-term impacts to be realised. They can include skill development, uptake of tools, use of plans and behavioural change</p>
<p>Outputs: the things that the intervention is delivering or producing. These are often easily countable things such as the number of policies that have the principles embedded, or qualitative things such as the record of how the principles have been considered</p>

Box A3-1: Definition of key terms used in ToCs

Activities: the planned actions undertaken to deliver the intervention, often including services, methods, collaboration, and research

Inputs: the resources committed to the intervention including time, people, money, and existing knowledge

Inputs are required for activities to take place. The activities then deliver the outputs, delivery of the outputs enables the outcomes to be realised which over time will lead to the impacts. Achieving the impacts results in the vision being met.

Inputs

Inputs are the enablers required for the activities to be put in place. They are typically in place at the outset of a programme. The main inputs identified in the ToC are:

- **The Environmental Principles Policy Statement (EPPS):** The EPPS is comprised of descriptions of the five principles and how they are to be interpreted and proportionately applied: integration principle; prevention principle; polluter pays principle; rectification at source principle; and precautionary principle. These principles are the main input into the ToC, along with the explanatory memorandum to the EPPS which contains government's understanding of the policy and international context of the EPPS;
- **Defra toolkit:** A toolkit of resources, developed by Defra and shared across government in September 2023, in advance of the need to have due regard to the EPPS. Whilst this toolkit is not necessarily a 'gold standard', it will potentially help through acting as a template that other departments will be able to use when developing their own processes and guidance related to their respective policy expertise. Defra envision the toolkit to be a 'living document' that will can be updated based on future learning and feedback. The toolkit contains a policymaker's template to take ministers/civil servants through steps to see whether the decision/policy is in scope of the EPPS, how to consider environmental consequences, and the processes of considering the principles;
- **Other (non-toolkit) departmental guidance and templates:** This refers to other template documents and guidance notes designed to assist policymakers in departments across government when considering the principles, created either based off the Defra template or independently;
- **Civil service learning module:** An online learning course, designed for policymakers, explaining what the EPPS is, who is responsible for the legal duty, how and when the duty needs to be applied, and the application of the environmental principles⁶⁷.
- **Comms, legal, and other support for the implementation:** Reflects support from comms team, legal team and other teams or resources within departments across government supporting policymakers in their consideration of the duty; and
- **Cross-Departmental Working group on EPPS:** This group is formed of officials from across government. It provides a mechanism to exchange information and discuss approaches and

⁶⁷ Previously this online learning module was reflected in the ToC through a number of assumptions that the government will put in place effective tools and processes to enable proper consideration and due regard being applied to the principles. It has now been added directly as an input, to make its impact more apparent.

issues relating to their various departments' implementation of the EPPS into the apparatus applied in policymaking and by policymakers.

Activities

Activities are needed to translate inputs into outputs. The activities are spread across Defra and other government department ministers and officials, and involve each department developing awareness of the EPPS and putting their own systems and practices in place to give effect to the EPPS, based on the inputs. This will then allow the following activities to occur:

- **Policymakers consider potential unintended or unwanted environmental consequences and increasing environmental improvement:** by using the EPPS and the toolkit (or their own processes, which may have been developed taking account of the toolkit), government ministers and officials should have due regard to the EPPS when making policy; and through considering the principles, policies can be adapted to reduce or prevent unintended environmental consequences and/or achieve or increase environmental benefits;
- **Knowledge and best practice sharing across departments:** this will include the cross-departmental working group helping to ensure knowledge and best practice sharing across departments, and the monitoring of departments' approaches;
- **Departmental record-keeping of approach used to show due regard to the principles:** record-keeping of processes across departments will provide the evidence base illustrating how the principles have been considered and with what impact. These can be used to inform monitoring of departmental approaches via the working group and through RPA/OEP engagement with departments. This is an important activity in demonstrating how and why the outputs have been produced. RPA are aware that departments will likely not be willing or able to share records about policies currently in development – this is discussed further in Section 7;
- **Government departments use the toolkit as a starting point for developing their own systems and processes:** departments amend Defra's toolkit where they see fit, using it as a basis from which to develop more specific procedures and processes based on their particular department's needs.

Outputs

Outputs are measurable results occurring from the activities. The key output in this ToC is whether clear and effective systems have been put in place and applied to support the consideration of the EPPS when designing, revising, and working on ministerial policy. A way to measure this will be analysis of completed templates (and other forms of documentation or record-keeping used by departments) that show the process of how policymakers have due regard to the EPPS in individual cases. RPA is aware that it is unlikely that the study team will receive completed templates or other information for policies that are still in development, and this could form a significant data gap for the study as it progresses.

Outcomes

Outcomes are those changes that are typically seen in a shorter time frame (than impacts) once the outputs have been produced. The outcomes are based around the five principles within the EPPS. If the policy and decision-making processes put in place to have due regard to the EPPS are clear and effective, and the outputs mentioned above can be demonstrated, then the outcome will be that the duty has been met.

It is important to remember that the EPPS is intended to help create a system that places environmental considerations at the heart of policymaking across government, through ensuring Ministers, and those working on policy that will ultimately require ministerial sign off, to have due regard. Therefore, the outcomes from the EPPS would typically be limited to how they have influenced policymaking and policymakers, rather than capturing the creation or benefits of the policies themselves. In other words, the outcome of considering the EPPS is not the creation of new policy, but policies under development instead being influenced by the five principles and wider EPPS statement.

This is an important distinction which makes attribution of benefits to the new duty quite difficult since it cannot easily take account of the benefits delivered by the policies once they are implemented, even though it may have increased the environmental benefits that are realised as a result of the duty. Thus, the short-term outcomes can be best reflected in terms of⁶⁸:

- **Changing attitudes:** the extent to which giving due regard to the EPPS draws attention to environmental issues and specifically the five principles and the need for these to be considered during policymaking and by policymakers;
- **Securing procedural change:** the extent to which there are new processes in place that offer space for dialogue on the five principles during policymaking;
- **Affecting policy content:** the extent to which there is change made to policy decisions as a result of the duty⁶⁹;
- **Influencing behaviour change:** the extent to which consideration of the environment through the principles is meaningfully and sustainably delivered, such as where consideration of the environment may not have occurred previously.

It is also important to note the specific outcomes that the [EPPS itself lists](#). These are possible actions that could be taken, as a result of having considered the principles:

- Amending policy options or including an additional policy option in the initial design of a policy, which reflects consideration of the environmental principles. In some cases, considering a principle may introduce a new option as a different solution to the policy problem. For example, one where the polluter may pay. This option would then be subject to the same policy evaluation as the existing options;
- Reframing the policy to accommodate the principles. In some cases, the policy design may need to be amended to ensure that a specific principle is applied. This could include the framing of the problem, the detail of how the policy option may work, or how it may be implemented;
- Embedding a principle in law or guidance. If policymakers want the principles to be used in decision-making or the implementation of a policy, this approach may be appropriate. This could be relevant where proposed legislation might include associated powers, duties or obligations that may have a significant effect on the environment;

⁶⁸ Based on CIPPEC (2012): How can we monitor and evaluate policy influence? Toolkit Number 4. Available at: <https://assets.publishing.service.gov.uk/media/57a08a6c40f0b649740005b2/guia04inglescippecme1.pdf> on 8 August 2023.

⁶⁹ This is assessed through questions in interviews with policy officials around whether change occurred. RPA was not able to review any policies before and after policies were sent to Ministers to assess what changes might have been made due to sensitivity during the policymaking process.

- Postponing a policy until further evidence is gained. If a policymaker is unsure on whether action is appropriate, they should gather further evidence. Applying the precautionary principle may encourage policymakers to explore the potential environmental damage before moving forwards. Or, where the risk is serious, they may amend, postpone or discontinue the policy in rare cases.

Impacts

Impacts tend to be the long-term changes resulting from the outcomes and contribute towards the overall vision. The proper, thorough application and interpretation of the principles should result in opportunities for positive effects in terms of environmental outcomes which leads to the impacts:

- Identified opportunities lead to action over the course of the policy’s implementation to prevent or reduce environmental damage (or restore or compensate for it where it occurs);
- Identified opportunities lead to action to enhance the environment; and
- Identified opportunities lead to action to promote sustainable development.

These impacts are in-line with the purpose of the principles, which is to guide ministers and policymakers towards opportunities to prevent or reduce environmental damage and enhance the environment whilst promoting sustainable development.

Assumptions

Table A3-2 shows the assumptions used within the ToC and their respective implications. The assumptions need to be met in order for the outputs, outcomes and impacts to be delivered and are assigned numbers according to their positioning within the ToC. For instance, assumptions A1 to A6 need to hold for the inputs to deliver the activities.

Reference	Assumption	Benefits where assumption holds	Position in ToC
A1	Government’s frameworks for application of the principles are clear and transparent	If the frameworks within and across departments are clear and transparent it should lead to the principles being effectively implemented	Inputs and activities
A2	Government officials and ministers understand the requirement to have due regard to EPPS and look at the EPPS	If government officials and ministers understand the reasoning behind the principles, what the principles policy is meant to achieve and what is required of them, the principles are more likely to be considered in the intended way with substantive and beneficial effect where appropriate.	Inputs and activities
A3	Toolkit and training contain the necessary guidance to help policymakers apply the EPPS appropriately	If the toolkit and other training contains the necessary information then it will help departments to develop their own effective processes based on it	Inputs and activities

Table A3-2: Assumptions and benefits of assumptions			
Reference	Assumption	Benefits where assumption holds	Position in ToC
A4	Toolkit is considered and used as intended	If Defra's toolkit is sufficiently visible and considered as helpful and relevant to policymaking and policymakers then it will be applied as a starting block across departments, with the result that policymakers will be considering the principles in policy and decision-making	Inputs and activities
A5	Government puts in place effective framework of tools and processes	If the framework of tools and processes is effectively put in place in individual departments and across government, then this will allow for effective and substantive consideration of the principles	Inputs and activities
A6	Effective governance across government	Assumes that all government departments implement the duty and have appropriate governance procedures in place to ensure consideration of the EPPS is occurring	Inputs and activities
A7	Framework is effectively and meaningfully applied	Once the framework described in A5 is put in place, then assumes ministers and civil servants will apply said tools and processes effectively and proportionately, as per Article 19(2) of the Act	Activities and outputs
A8	Environmental principles have been proportionately applied in accordance with the EPPS when making policy	Proportionate application of the environmental principles will improve positive outputs and outcomes whilst limiting any negative consequences	Activities and outputs
A9	Application and interpretation of principles are robust, objective, and consistent with intended meaning	Principles are applied as intended and consistently (in terms of due regard and consideration of principles)	Activities and outputs
A10	Application and interpretation of principles have usefully informed policymaking (where appropriate)	Principles have a net positive influence on policymaking and consideration of the environment	Activities and outputs
A11	Application and interpretation in individual cases is clear and transparent	Every time due regard is paid to the EPPS, it can be demonstrated how this has been conducted and with what outcomes	Activities and outputs
A12	Principles make a demonstrable and positive difference (where appropriate) to the substance/content of policies	Principles being embedded into policymaking has an overall positive effect in protecting and improving the natural environment, helping to achieve	Outputs and outcomes

Table A3-2: Assumptions and benefits of assumptions			
Reference	Assumption	Benefits where assumption holds	Position in ToC
		the ambition of the Environmental Improvement Plan and wider environmental objectives	
A13	Application and interpretation of principles result in opportunities for positive effects in terms of environmental outcomes	The principles are applied correctly and in turn have led to policies that better consider the environment, which in turn enable positive environmental effects and avoids potential negative environmental outcomes	Outcomes and impacts

External influences

The external influences affecting the EPPS, along with the implications of these influences, are presented in Table A3-3.

Table A3-3: Key external influences	
Influence	Implications
Public opinion (shifts in social norms, beliefs, attitudes)	Shifts in public opinion could reduce or raise environmental concerns among general public, and raise or reduce clamour for stronger environmental policies, affecting the context in which decision-makers have due regard to the EPPS
Cost of living crisis and inflation	Shock events and pressures such as cost of living and inflation can cause changes in both government priorities and wider public priorities which could reduce the emphasis placed on environmental protection and enhancement
Technological change	Development of new technologies may change our knowledge and understanding of environmental issues and how best to deal with them
Interest groups (i.e. lobbying, unions, associations)	External interest groups, such as groups lobbying on behalf of industry organisations, could lobby for weakening of policies or attempt to seek lesser need for consideration of the principles if consideration leads to adverse effects for industry, or the opposite by environmental interest groups
Geopolitical issues	Geopolitical issues can cause external shocks that lead to changing priorities, meaning, for instance, that faster decisions may need to be made with the effect that the due regard paid to the EPPS is reduced, has to be completed more expeditiously, or receives reduced weighting compared to other policy objectives
Change of government (elections/purdah)	A change in government may result in a greater or reduced impetus being placed on environmental issues or a different government may interpret the principles within the EPPS differently. A change of government may also lead to policies that were “in flight” being revisited or amended, necessitating some reconsideration of the principles previously considered under the previous administration
Resource constraints within the civil service	Risk that constraints on resourcing and capability within the civil service could affect the extent to which due regard is paid to the EPPS and could result in lesser degree of consideration to the principles due to less time being available for policymaking and policymakers/ reviewing drafts (this risk could also affect policymaking more generally)

The ToC is presented in Figure A3-1 below.

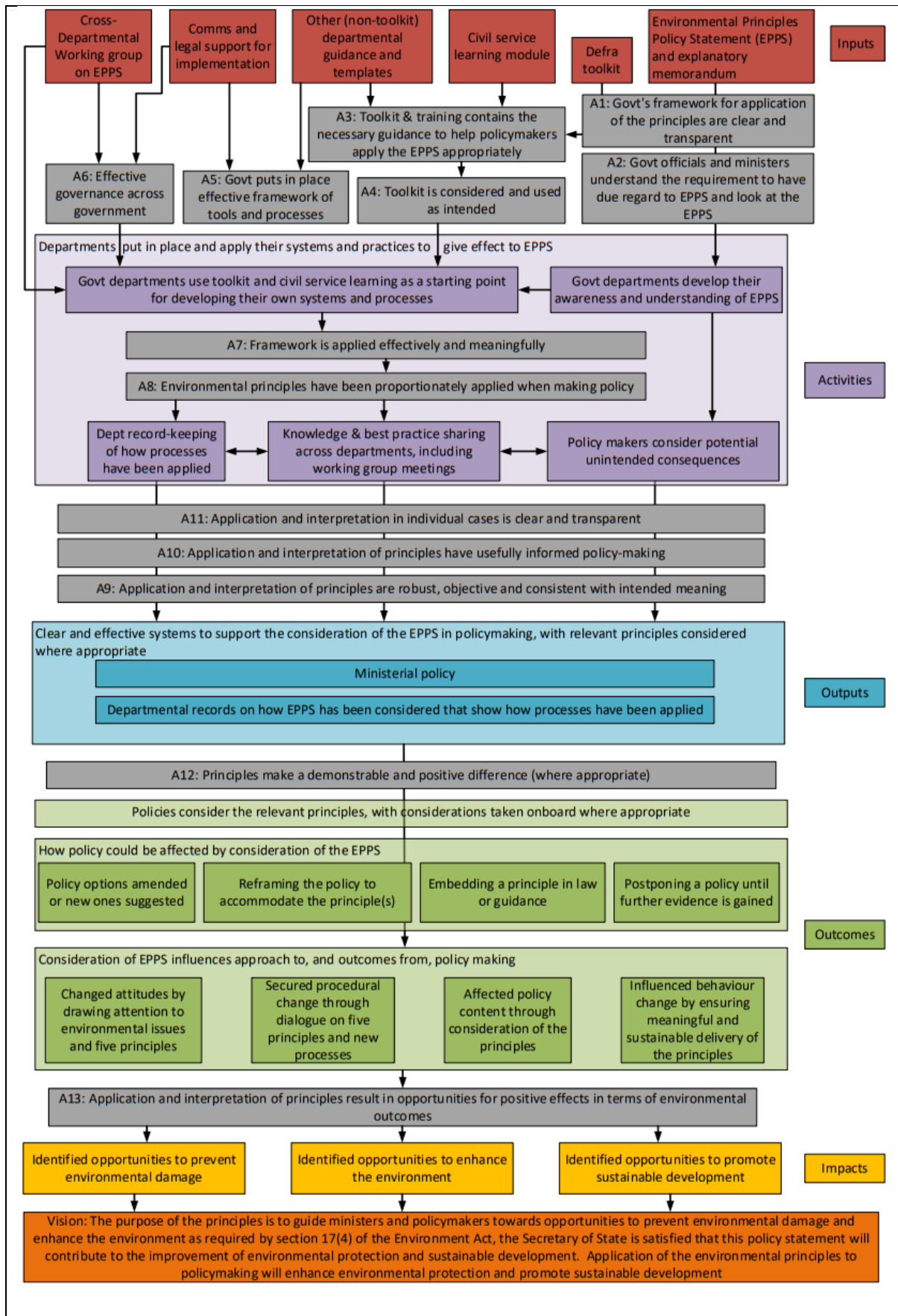


Figure A3-1: ToC for the implementation and application of the EPPS in policymaking and policymakers

Table A3-4 below provides the assumptions that are in place to deliver the vision of the EPPS across government, and, in turn, policymaking. These assumptions have been tested throughout analysis to assess the extent to which they hold true.

Table A3-4: Assumptions and benefits of assumptions			
Reference	Assumption	Benefits where assumption holds	Position in ToC
A1	Government’s frameworks for application of the principles are clear and transparent	If the frameworks within and across departments are clear and transparent it should lead to the principles being effectively implemented	Inputs and activities
A2	Government officials and ministers understand the requirement to have due regard to EPPS and look at the EPPS	If government officials and ministers understand the reasoning behind the principles, what the principles policy is meant to achieve and what is required of them, the principles are more likely to be considered in the intended way with substantive and beneficial effect where appropriate.	Inputs and activities
A3	Toolkit and training contain the necessary guidance to help policymakers apply the EPPS appropriately	If the toolkit and other training contains the necessary information then it will help departments to develop their own effective processes based on it	Inputs and activities
A4	Toolkit is considered and used as intended	If Defra’s toolkit is sufficiently visible and considered as helpful and relevant to policymaking and policymakers then it will be applied as a starting block across departments, with the result that policymakers will be considering the principles in policy and decision-making	Inputs and activities
A5	Government puts in place effective framework of tools and processes	If the framework of tools and processes is effectively put in place in individual departments and across government, then this will allow for effective and substantive consideration of the principles	Inputs and activities
A6	Effective governance across government	Assumes that all government departments implement the duty and have appropriate governance procedures in place to ensure consideration of the EPPS is occurring	Inputs and activities
A7	Framework is effectively and meaningfully applied	Once the framework described in A5 is put in place, then assumes ministers and civil servants will apply said tools and processes effectively and proportionately,	Activities and outputs

Table A3-4: Assumptions and benefits of assumptions			
Reference	Assumption	Benefits where assumption holds	Position in ToC
		as per Article 19(2) of the Act 2021	
A8	Environmental principles have been proportionately applied in accordance with the EPPS when making policy	Proportionate application of the environmental principles will improve positive outputs and outcomes whilst limiting any negative consequences	Activities and outputs
A9	Application and interpretation of principles are robust, objective, and consistent with intended meaning	Principles are applied as intended and consistently (in terms of due regard and consideration of principles)	Activities and outputs
A10	Application and interpretation of principles have usefully informed policymaking (where appropriate)	Principles have a net positive influence on policymaking and consideration of the environment	Activities and outputs
A11	Application and interpretation in individual cases is clear and transparent	Every time due regard is paid to the EPPS, it can be demonstrated how this has been conducted and with what outcomes	Activities and outputs
A12	Principles make a demonstrable and positive difference (where appropriate) to the substance/content of policies	Principles being embedded into policymaking has an overall positive effect in protecting and improving the natural environment, helping to achieve the ambition of the Environmental Improvement Plan and wider environmental objectives	Outputs and outcomes
A13	Application and interpretation of principles result in opportunities for positive effects in terms of environmental outcomes	The principles are applied correctly and in turn have led to policies that better consider the environment, which in turn enable positive environmental effects and avoids potential negative environmental outcomes	Outcomes and impacts

Evaluation framework

Overview of approaches to evaluation framework

Scope

The evaluation framework was developed to assist in clarifying the objectives of the study, to guide the evaluation itself, and to provide a transparent methodology that can be replicated or adjusted if needed in the future. The ToC provided the foundation for the evaluation questions, and was used as the starting point for developing the evaluation questions. The evaluation questions set the scope for the evaluation and cover:

- **Process evaluation:** A process evaluation examines activities involved in an intervention’s implementation and the pathways by which the intervention was delivered. They cover subjective issues, such as perceptions of how well a policy has operated, and objective issues, such as the factual details of how an intervention has operated. The process evaluation questions in this study focus on whether the EPPS is being implemented as intended; the operational aspects of the EPPS; the systems put in place to ensure consideration of the EPPS; and which elements have (in practice) worked well (or less well) and why; and
- **Impact evaluation:** An impact evaluation focuses on the changes caused by an intervention, including observing measurable achievements which either are themselves, or contribute to, the objectives of the intervention. In this study, the impact evaluation questions focus on identifying the impacts from consideration of the EPPS in policy and decision-making, and the extent to which these can be attributed to the EPPS versus other factors. Additionally, these also ask what can be learned to inform future consideration of the principles in policymaking and policymakers as well as potential areas where the statement might be revised.

Approach

The study team’s original proposal set out some initial evaluation questions, which, alongside the initial draft ToC, were used as the foundation to develop a set of questions for both the process and impact evaluation. These initial evaluation questions were refined through review and comment from the OEP and Defra. Where appropriate, sub-questions have been added, to allow for deeper research and analysis, and to ensure the high-level questions do not become too numerous and burdensome to the evaluation.

The study team identified data sources and indicators for each evaluation question and sub-question. Nearly all questions were designed to rely on both interviews and data from government departments, with desk research by RPA’s team supporting this when appropriate.

Data sources

For the evaluation questions and sub-questions to be answered data was collected on the associated indicators in the table. There are a number of data sources which, at the time of designing the evaluation framework, RPA and the OEP believed would be accessible, and which would contribute to providing the required data. The data requested from government departments is discussed below. These data were targeted because they formed what would be required to undertake a thorough interrogation of the evaluation questions and, in turn, allow them to be answered effectively.

Process evaluation questions

Table A3-4 shows the process evaluation questions, sub-questions, and the associated indicators, showing the data the study team aimed to collect in order to answer the evaluation questions.

Table A3-4: Process evaluation questions		
Evaluation question	Sub-question	Indicator
P1: How successfully have departments prepared for the need to have due regard to the EPPS?	P1a. What mechanisms and processes were put in place to support the need to have due regard to the EPPS?	Templates, guides, and record of processes provided by departments
	P1b. How clear and transparent are these mechanisms and processes?	Record of processes used to apply due regard

Table A3-4: Process evaluation questions

Evaluation question	Sub-question	Indicator
		Interviewees explain how process/mechanism is intended to be applied
	P1c. How are these mechanisms working? Are they working as intended?	How mechanisms have been applied (drawing on P1b) explained in interview
	P1d. How much room is there for interpretation of the processes for applying due regard?	Interviews with civil servants show consistency in how the principles are being considered and whether this was considered a positive or negative outcome
	P1e. What issues have been caused linked to the time required to have due regard to the EPPS?	Interviewees note that time spent considering the principles has/has not taken resourcing away from other work and has/has not caused issues within the department
	P1f. What training on the duty and the EPPS is provided to ministers and civil servants in different departments and what is the uptake of this training? Does this influence the departments' consideration of the EPPS?	Record of training/ uptake of use of the EPPS training on civil service learning Training materials provided to study team
	P1g. What further or more detailed guidance, if any, was needed alongside the statement to deliver consistent approaches?	Interviewees consider the EPPS to need/not to need clearer or additional guidance Data (from emails/departmental records) shows that processes are/are not always being followed (in a way that is attributable to issues in the EPPS or guidance on it)
P2: To what extent, and how, are ministers and departments interpreting and applying the principles differently (including differences in the same departments)?	P2a. How do the processes used to ensure due regard to the EPPS vary between departments? What are the main differences between departments in how the EPPS is considered/applied?	Record of processes used to ensure due regard (also drawing on P1) Review of processes indicates extent to which there is divergence ⁷⁰ (also drawing on P1)
	P2b. How do ministers understand the need to have due regard to the EPPS?	Record of processes showing role for minister in consideration of principles Record of ministerial scrutiny/ consideration

⁷⁰ Divergence of process is not in itself a problem if the different approaches lead to the same end result of substantive and purposeful consideration of the EPPS in a way that meets the requirements of the Env Act. However, it may be useful where there are differences if this does result in the legal duty not being met or on the other hand where learning can be shared if it has led to more effective or efficient consideration of the EPPS.

Table A3-4: Process evaluation questions

Evaluation question	Sub-question	Indicator
	P2c. How do civil servants understand the need to have due regard to the EPPS? Who is responsible for which aspects of EPPS consideration?	Record of processes indicating role for senior staff in consideration of principles Interviews with civil servants affirm this consideration occurs
	P2d. Where applicable, how have different departments amended the toolkit provided by Defra? Have amendments led to changes in how the EPPS is being considered?	Record of changes made by departments to the Defra toolkit (also drawing on P2a) Interviewees explain if and how the amendments led to any changes in consideration
P3: Whether, and how consistently, the legal requirement to have due regard to the EPPS is being met?	P3a. How is the legal requirement to have due regard to the EPPS being met e.g. internal legal oversight?	Confirmation of existence of a legal process that observes and pays due regard to EPPS
	P3b. How consistently is the duty to have due regard being met (allowing for departmental differences in how due regard is being met)?	Records indicating the process for consideration of principles Records showing how this process has been followed for every relevant policy during the data collection window
P4: How are the individual principles being considered?	P4a. Is any principle(s) given more consideration than others? If so, why?	Records on reasons behind level of consideration (also drawing on P1, P2)
	P4b. To what extent is consideration of the different principles within the EPPS coherent /do the different principles work well together and pull in the same direction (to enhance environmental protection and promote sustainable development)?	Records indicating friction or conflicts identified between principles, or synergies Interviews with civil servants provide qualitative feedback on coherency issues between principles. If said issues exist
P5: What initial learning, from the first six months of the need to have due regard, is there to inform future consideration of the principles and potential future reviews and revisions of the EPPS, and how is it being shared and acted on?	P5a. To what extent is best practice and knowledge sharing concerning the need to have due regard to the EPPS happening across government? Is this helping improve consideration of the EPPS? What is the process of learning within the department and how is knowledge shared?	Records indicating if processes for consideration of the principles have been altered to reflect best practice from elsewhere in government Meeting minutes and interviews indicate whether best practice has been shared or not Interviewees note whether they have shared/received advice on consideration of the principles Engagement and information from Defra EPPS team who are doing their own review

Table A3-4: Process evaluation questions		
Evaluation question	Sub-question	Indicator
	P5b. What, within the EPPS' implementation, could be improved, and how?	Interviews or departmental assessments suggest ways in which the EPPS could be considered better (also drawing on P1, P2, P3, P4, P5)
	P5c. What initial lessons can be learned from how the EPPS was implemented, and in how the principles were considered, across departments during the first six months of the need to have due regard	Record of processes over time, including any changes made (and why) – i.e. to incorporate improvements to the way consideration is paid to principles (also drawing on P1, P2, P3, P4) Interviews provide feedback on if processes have been altered, and why

Impact evaluation questions

Table A3-5 shows the impact evaluation questions, sub-questions, and the associated indicators, showing the data the study team aims to collect to answer the evaluation questions.

Table A3-5: Impact evaluation questions		
Evaluation	Sub-question	Indicator
I1: To what extent did the introduction of the need to have due regard to the EPPS lead to greater consideration of the environment within policymaking and by policymakers?	I1a. How has paying due regard to the polluter pays principle changed consideration of the environment within policy and decision-making processes?	Record of how polluter pays principle has been considered and where appropriate used to maximise positive impacts and minimise negative impacts Interviews or other information explain how greater consideration is now paid to the polluter pays principle
	I1b. How has paying due regard to the prevention principle changed consideration of the environment within policy and decision-making processes?	Record of how prevention principle has been considered and where appropriate used to maximise positive impacts and minimise negative impacts Interviews or other information explain how greater consideration is now paid to the prevention principle
	I1c. How has paying due regard to the rectification at source principle changed consideration of the environment within policy and decision-making processes?	Record of how rectification at source principle has been considered and where appropriate used to maximise positive impacts and minimise negative impacts Interviews or other information explain how greater consideration is now paid to the rectification at source principle

Table A3-5: Impact evaluation questions		
Evaluation	Sub-question	Indicator
	I1d. How has paying due regard to the integration principle changed consideration of the environment within policy and decision-making processes?	Record of how integration principle has been considered and where appropriate used to maximise positive impacts and minimise negative impacts Interviews or other information explain how greater consideration is now paid to the integration principle
	I1e. How has paying due regard to the precautionary principle changed consideration of the environment within policy and decision-making processes?	Record of how precautionary principle has been considered and where appropriate used to maximise positive impacts and minimise negative impacts Interviews or other information explain how greater consideration is now paid to the precautionary principle
I2: To what degree is the statement achieving its intended impact (enhancing environmental protection and promoting sustainable)?	I2a. To what extent has the duty contributed towards enhancements in environmental protection?	Record of processes and their application showing how consideration of the principles has guided policymakers and ministers towards opportunities to prevent environmental damage/enhance the environment Interviews qualitatively indicate that the EPPS has led to enhanced environmental protection
	I2b. To what extent has the duty promoted sustainable development?	Record of processes and their application showing how consideration of the principles has contributed towards promoting sustainable development Interviews qualitatively indicate that the EPPS has made contributions towards promoting sustainable development
I3: To what extent has consideration of the EPPS in policymaking resulted in unintended consequences?	I3a. To what extent has consideration of the EPPS had any consequences (positive or negative) in relation to the promotion of innovation and new technologies?	Evidence of consideration of the EPPS impacting innovation (positively or negatively) in departmental records Interviews provide detail on how innovation has been affected (positively or negatively) due to need to have due regard to principles
	I3b. How were any exemptions properly and clearly applied in relevant cases? To what extent were any policies misclassified as exempt, or have there	Departmental records showing details on how the exemptions were applied Interviews provide information on the application of the exemptions

Table A3-5: Impact evaluation questions		
Evaluation	Sub-question	Indicator
	been any areas of uncertainty with the exemptions?	
	I3c. To what extent have there been any unintended consequences as a result of the need to have due regard to the EPPS?	Interviews and desk research identify any unintended consequences of the requirement to have due regard to the EPPS
I4: How has the introduction of the EPPS influenced policymaking and policymakers?	I4a. To what extent has the EPPS affected the way policy officials think about environmental issues and the five principles? Has this led to behavioural changes?	Interviews or evidence of departmental processes and their application identify extent to which attitudes within the civil service have changed due to the EPPS Interviewees can point to noticeable behavioural changes in policymakers, such as increased awareness of environmental issues
	I4b. To what extent have policymaking and policies been changed as a result of the duty?	Interviewees and documentation from policymaking processes can point to changes in policy due to the influence of the EPPS and consideration of the principles
	I4c. To what extent is there now more dialogue around the principles, or the environment more broadly, to ensure these are explicitly considered during policymaking?	Interviewees are aware of greater dialogue around the principles due to awareness of EPPS. Records from policymaking demonstrate such dialogue having taken place.

Engagement

The study team engaged with eight departments and one ALB identified by the OEP as being of particular interest. These departments were of the following three categories:

- Departments with a very high degree of environmental policy remit
 - Department for Environment, Food and Rural Affairs (Defra)
 - Department for Energy Security and Net Zero (DESNZ)
- Departments that have a medium degree of environmental policy remit and are environmental-adjacent
 - Department for Transport (DfT)
- Departments that do not have a traditionally large environmental policy remit, but for whom it is important to assess whether the EPPS is encouraging more consideration of the environment than prior to the implementation of the EPPS
 - Department for Culture, Media and Sport (DCMS)
 - Department for Work and Pensions (DWP)
 - Department for Education (DfE)
 - His Majesty's Treasury (HMT)
 - Department for Business and Trade (DBT)

DLUHC was also interviewed with to discuss how the EPPS affected a specific policy, but too late into the study to feed into this report. One ALB, the Health and Safety Executive (HSE), was engaged with. The discussions with HSE focused on the extent to which they engaged with the EPPS during the provision of guidance to departments and ministers, and how their policy development process consider the EPPS.

The study team also engaged with the OEP’s EPPS advisory group, the Defra-OEP working group, and the cross-governmental EPPS working group on a regular basis throughout the project, to discuss the study’s progress, seek feedback on evaluation questions, and undertake introductions of the study team to departments. Detail on the specific terms of reference of each of these groups can be found in the main body of the report in Section 2.4.

Interviewees fell into one of three broad categories – those responsible for the implementation of the EPPS in their department, communications officials who created and shared inter and/or cross-departmental communication materials on the duty, and policy officials who had to engage with departmental processes to ensure due regard was given to the statement and principles during the development of policy.

Meetings were first held with the implementation leads in each department, before moving on to communications and/or policy interviewees. Using a snowball sampling methodology, the implementation leads were asked to suggest policy colleagues within their department that they knew had engaged with the EPPS. The study team were conscious throughout that this method ran the risk of policy leads with positive experiences of the EPPS being more likely to put themselves forward for an interview than those who had a negative experience of considering the EPPS.

The implementation leads led the development of tools and processes within their department to embed the principles and EPPS, and attended the cross-governmental working group for the EPPS set up by Defra. Meeting them first allowed the study team to get an understanding of the nuances and differences in each department’s approach to implementing the EPPS. This was then discussed further, where possible, with policy officials who had interacted with their department’s own processes in practice, while developing policy to be sent to ministers, and who had received training and guidance, as well as communications teams who published relevant material, which in some cases, was specific to the developed processes.

Table 3-6 provides a breakdown of the number of civil servants interviewed, by stakeholder type and department.

Table A3-6: Breakdown of civil servants interviewed by stakeholder type and department				
Department	Implementation	Policy	Comms	Total
Defra	3	5	3	9
DESNZ	1	-	-	1
DHLUC	-	-	1	1
DfT	3	1	-	4
DCMS	3	-	-	3

DWP	2	-	-	2
DfE	2	1	-	3
HSE	2	-	-	2
DBT	2	1	-	3
Total				28

Interview topics

RPA and the OEP iteratively created a list of topics and questions for semi-structured interview, with variations of questions asked for the respective categories of stakeholder. Interviews cover the following broad topics:

- General introductory questions: discussing the individual’s role, how it relates to the duty to have due regard to the EPPS, summary of the extent of the individual’s engagement with the EPPS to-date;
- Processes and procedures: how the EPPS has been embedded in policymaking processes within departments, how records are kept, whether Defra’s toolkit was used to help design departmental processes, how the process of having due regard has worked in practice, how individual principles are considered;
- Training, preparation and guidelines: training for officials (and new joiners), whether the training could have been expanded, whether ministers were offered training, how widely training materials were accessed;
- Best practice and knowledge sharing: any feedback loops or review mechanisms used by departments, any cross-government knowledge sharing on the duty to have due regard to the EPPS; and
- Application of the principles: how the duty to have due regard has affected policy and decision-making, whether policies have been amended or reframed as a result of the EPPS, whether policies now better prevent or reduce environment damage and/or enhance the environment, and changes in attitudes to the environment.

Information collected via interviews was combined with data from document sources and recorded in a framework matrix. All the evidence was then coded by one team member before being verified by a second team member. Coding was done by hand due to the limited number of interviews that were available within the timeframe for the study. This was considered to be the most efficient and effective method of analysing the qualitative data set.

Data requests to government departments

Under section 27 of the Act 2021, the OEP are able to request government departments to cooperate and provide reasonable assistance as the OEP may request, including the provision of information. Through this, information requests were sent to departments to request the provision of the following documents, grouped under the process and impact evaluations:

Process evaluation – to understand what has been or is being put into place to implement the duty:

- Copies of any written guidance that is provided to policy officials on EPPS, as well as any written processes officials were expected to use from 1 November to give effect to the requirement to have due regard to the EPPS;
- How details about the duty, and the processes and guidance to give effect to it, have been or are being communicated across ministers and policy teams or other officials;
- Details of the main governance mechanisms and assurance processes put in place to use from 1 November at department, directorate or other levels in Defra and across government to oversee and support implementation of the duty;
- How departments are keeping track of what policy decisions have considered the EPPS, which have not, and why.

Impact evaluation – to understand how the duty is being implemented, and with what effect, in relation to individual policies. In particular, for any such policies the following:

- For cases where the duty is relevant (i.e. policies that are not excluded), how, when and by whom the principles were considered during the development of the policy, and with what (if any) effect in terms of influences on the policy itself or action decided to be taken to maximise the environmental benefit or mitigate any damage associated with the policy. This might be demonstrated, for example, by contemporaneously completed templates from the EPPS toolkit, options analyses, impact assessments or other material produced to support the policy development process.
- Specifically for such cases, what and when the minister(s) who made the decision were made aware of in relation to the consideration of principles for the policy in question. This might be demonstrated, for example, by information contained in submissions put to ministers or in “write-round” materials circulated across government departments.
- For cases when the duty is not relevant (i.e. excluded policies), how the assessment that the policy could be excluded was made, when and by whom, and how it was confirmed.

Review of available data

RPA monitored published impact assessments and analysed these for references to the principles or the statement. Integrating proof that the EPPS was considered was not a legal requirement for impact assessments, but those that do mention the statement provide an interesting insight into how a departmental views their responsibilities with regard to the EPPS.

Throughout the study, RPA reviewed relevant published material to information in the public domain, such as published articles and blogs, government announcements (such as changes to the Green Book to include reference to the EPPS) and other relevant materials that were pertinent to the evaluation. All of this fed, where appropriate, into the analysis against the evaluation questions.

Data analysis

The data analysis for this study consists of triangulating the evidence, thorough collating all data received from interviews, departmental information requests and the study team’s research in to a framework matrix to assess the extent to which the EPPS is operating as intended across government. To the extent that data allows, an overview of how each department has integrated the EPPS will be provided in descriptive fashion alongside the analysis against the process and impact evaluations.

Process tracing has been used by the study team to aid in qualitative analysis. Process tracing can be defined as the systematic examination of diagnostic evidence to establish whether, and how, a potential cause influenced a specified change, and analysing the evidence in light of the evaluation questions and hypotheses posed by the study; for instance, in this context, is the EPPS being implemented as intended, and how does the evidence gathered indicate this? The theory set out in the policymaking section above is tested by considering the strength of evidence collected and whether this hints at, suggests, supports or proves the theory. Ideally, evidence is sought that will prove the theory, but uncertainties and availability of evidence can affect the weight of evidence available. This is clearly identified in our analysis in Section 5, with the specific definitions used to rate the level of evidence set out in Table A1-5.

Table A1-5: Assessing the evidence – definitions behind the strength of evidence reported					
Assumption	Strength and summary of evidence				
	No evidence	Limited	Some	Good	Strong
Assumption for which evidence is collected and reported against	No evidence has been gathered to support a summary of whether the assumption holds or not	Evidence identifies information against assumption but does not specify any particular action to hint that assumption might hold	Evidence identifies action but does not indicate how this is to be implemented to suggest that assumption could hold	Evidence identifies action and how this is to be implemented to support that assumption holds	Evidence shows action that has been taken that confirms assumption

Annex 4 Review of OEP advice to Defra on the draft EPPS

Government consulted on the statement in 2021. Minister Pow asked the OEP to provide advice to Defra on the statement⁷¹. In response, the interim OEP⁷² advised that the statement be strengthened in seven areas⁷³, in addition to wider advice. The government published its response to those comments, and comments from other stakeholders⁷⁴, and laid the revised draft EPPS before Parliament for scrutiny on 12 May 2022. The government also produced an explanatory memorandum on the revised draft EPPS.

The analysis provided below reflects comments made by the OEP on the draft EPPS before Parliamentary scrutiny. Defra's response to the parliamentary scrutiny sets out how that process, including the OEP's intervention, had influenced the final EPPS. This section explores whether the OEP's initial comments and concerns were addressed in the final EPPS.

In a letter to Baroness Parminter⁷⁵, the OEP noted that five of their seven specific pieces of advice were followed either in whole or in part. The pieces of advice were as follows:

- a) The OEP recommended changing the structure to avoid the unintended consequences of policymakers not applying the principles in cases where there could be environmental benefits (rather than only applying them to reduce environmental harm), or only applying them too late in policy development.
- b) The OEP recommended a more ambitious tone and clearer direction to policymakers on applying the principles.
- c) The OEP recommended changing the language from "environmental impacts" to "environmental effects", to make it clear that environmental benefits were just as relevant as harms.
- d) The OEP recommended consistency in the degree of certainty needed for a policymaker to consider an environmental effect or apply the principles. The OEP advised that effects which have the potential to arise should be considered.

⁷¹ Defra (2021): Interim OEP advice on the draft Environmental Principles Policy Statement. Available at: <https://www.theoep.org.uk/sites/default/files/reports-files/Letter%20from%20Minister%20Pow.pdf> on 20 August 2024.

⁷² Future references to the OEP in Section 1.5 refer to the then interim OEP and the guidance they provided to Government.

⁷³ The Office for Environmental Protection (2021): Advice on the Draft Environmental Principles Policy Statement. Article by the Office of Environmental Protection. Available at: <https://www.theoep.org.uk/sites/default/files/reports-files/letter-to-minister-pow-advice-on-environmental-principles.pdf> on 20 August 2024.

⁷⁴ Defra (2022): Summary of responses and government response. Consultation outcome by the Department for Environment Food and Rural Affairs. Available at: <https://www.gov.uk/government/consultations/environmental-principles-draft-policy-statement/outcome/summary-of-responses-and-government-response> on 20 August 2024.

⁷⁵ OEP (2022): OEP's views on government's draft Environmental Principles Policy Statement. Advisory note by the Office for Environmental Protection. Available at: <https://www.theoep.org.uk/sites/default/files/reports-files/Dame%20Glenys%20to%20Baroness%20Parminter%20EPPS1.pdf> on 19 July 2024.

- e) The OEP queried the restrictive approach to proportionality, which treated as disproportionate any consideration of environmental effects other than those which were likely to arise and be substantial.
- f) The OEP queried the limited definition of the integration principle, which risked undermining the government’s ambitions for joined-up policymaking.
- g) The OEP queried the narrow approach to the precautionary principle and its unusual emphasis on innovation.

The OEP noted that their advice on bullets *a*, *b*, *c*, *d* and *f* above were followed either in full or in part:

- a) The structure of the draft EPPS has been changed to make it clearer that policymakers should “use the principles iteratively from the outset and during all subsequent stages in policy development”.
- b) The role of the statement has been made clearer: “to improve environmental protection and sustainable development”. Its status and use have also been clarified: “The legal duty to have due regard to this policy statement applies to ministers when making policy.”
 - a. That said, the OEP still considered the tone, whilst improved from the initial draft, still reflected a relatively limited degree of ambition, and pointed out that DLUHC’s National Planning Policy Framework (NPPF)⁷⁶ advocates, in places, for more ambitious environment outcomes in (local) decision-making compared to the EPPS’ cautious tone.
 - b. As such, the OEP considered that there is a risk policymakers would find it easy to identify what the EPPS *does not* require of them, but will be less certain of what it *does* require, or of the advantages to their policymaking of applying the environmental principles.
- c) The language has been changed to refer to “environmental effects” rather than just “environmental harms”, and the definition has been updated to make it clear that effects could be positive or negative.
- d) The language has been made clearer and more consistent. The revised draft EPPS now more consistently states that “potential environmental effects” should be considered.
- e) **See remaining issues below.**
- f) The integration principle is still defined as requiring that policymakers “look for opportunities” to integrate environmental considerations into other policy areas, rather than (as defined in all other places we are aware of) as a requirement “to integrate” environmental considerations. This relatively limited definition risks limiting the achievement of government’s ambition. It also risks being out of alignment with the expression of the principle in international instruments to which the UK is committed, including the Rio Declaration, the UN Framework Convention on Climate Change, the Convention on Biological Diversity and the UK-EU Trade and Cooperation Agreement.
- g) **See remaining issues below.**

However, on a number of areas, the OEP believe issues still remained:

- a) On proportionality, the draft EPPS makes a different statement to that made under s.19 of the Act 2021. The OEP advised that this guidance goes further than s.19, and risks weakening the intent behind the principles. The OEP therefore proposed that the test should include

⁷⁶ DLUHC (2023): National Planning Policy Framework. Policy framework by the Department for Levelling Up, Housing and Communities. Available at: https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf on 20 August 2024.

situations where effects were possible (rather than likely), but with serious environmental consequences if they did occur. The emphasis on situations where policymakers could “apply the policy statement in a lighter-touch way, where appropriate and where the potential environmental effect is limited”, also suggests that, in many cases, it would be disproportionate to think about potential environmental effects.

- a. In a different part of the draft EPPS (“Criteria for taking action”), the discussion of proportionality goes beyond considering the likelihood of environmental effects occurring and whether they are likely to be significant, and includes balancing social and economic considerations. Again, the OEP suggested this goes further than s.19 of the Act, and risks undermining environmental protection.
- b) On the precautionary principle, the OEP advised the approach taken in the draft EPPS was too limited. The revised draft still stated that “the precautionary principle is applicable where there is plausible evidence of a risk that a particular policy could cause serious or irreversible damage to the environment, alongside a lack of scientific certainty about the likelihood and severity of the damage”.
 - a. The OEP advised that this is not how the principle is usually understood and applied, on which Baroness Parminter and the Lords Environment and Climate Change Committee agreed⁷⁷. This wording suggests that the principle is relevant only when there is scientific uncertainty over both the likelihood and the severity of environmental damage. It is usually understood to apply where there is a risk of serious or irreversible damage, in which case, as a precaution, the potentially damaging action or inaction should be avoided even if there is a lack of full scientific certainty.
 - b. The precautionary principle is not mentioned in the section on “the interaction between the principles” in the EPPS. Nor is it mentioned in relation to proportionality, despite the statement that “Policymakers are not expected to carry out a “deep-dive” assessment into all environmental effects, as these may not be known”. This is the sort of situation where the precautionary principle can protect the environment, until more is known.
 - c. Despite some changes to the wording, the OEP still considered the way innovation is linked with the precautionary principle risks diluting its purpose, or conflating the intention of the principle (dealing with uncertainty) with a different policy objective (promoting innovation). The OEP previously advised, and still consider, that promoting innovation is not generally understood to be an integral part of the precautionary principle itself.
- c) At the time, the OEP advised that the previous draft lacked sufficiently detailed guidance to support policymakers across government to implement it thoroughly and consistently. The OEP suggested that Defra should consider the appropriate level of guidance to be provided within or alongside the EPPS, including better integration with the natural capital guidance set out in the Green Book.
 - a. The OEP also advised that Defra should consider how it will ensure the EPPS is embedded in the practice of wider government decision-making and the governance arrangements in place to secure this. The OEP noted that this

⁷⁷ House of Lords (2022): Environmental Principles Policy Statement volume 823: debated on Thursday 30 June 2022. Available at: <https://hansard.parliament.uk/lords/2022-06-30/debates/B2CF8766-65AF-47D0-9105-CFFBC3AD21A0/EnvironmentalPrinciplesPolicyStatement> on 20 August 2024.

might be, for example, via the functioning of cross-government regulatory scrutiny and assessment mechanisms.

- b. The OEP suggested that Defra should include considering how to link the EPPS with government's wider environmental goals and the natural capital approach. The revised draft EPPS does not itself address these issues other than at a general level, for example by noting that the statement “should be read alongside other government documents such as national EPPSs”.

Assessment of potential risks to the environment as a result of issues being realised

During the study, RPA analysed whether these issues could result in these risks to the environment highlighted by the OEP being realised. Risks identified by the OEP were shown in red, then reassessed based on the evidence reviewed as red (high), amber (moderate), green (low) or grey (no evidence to allow a robust reassessment). This analysis drew on the evidence collected, through engagement and information requests to departments as to how the EPPS has been considered, and how the principles have been interpreted. This analysis also looks at how Defra changed the statement in light of the Issues with the statement originally identified by the OEP

The analysis of issues relates to those issues reported by the OEP as still remaining after revisions, as summarised in Section 1.5. There are three overarching issues, each of which raises a number of risks: the guidance on proportionality, the definition of the precautionary principle, and a lack of guidance in the EPPS to support policymakers. Each risk is considered in turn below, with conclusions drawn as to the extent to which each risk is confirmed or otherwise by the evidence. The risk itself is shown in red (high) as the perception of the OEP and then reassessed based on the evidence reviewed as red (high), amber (moderate), green (low) or grey (no evidence to allow a robust reassessment). The issues around proportionality and precautionary approaches are addressed by consideration of policymaking templates and example policies provided by departments.

Proportionality: situations where effects were possible rather than likely

The risk with this issue is that serious environmental consequences could be missed if situations where effects could occur are not considered.

The Defra, HMT, and DfT templates list out different types of environmental effects. All three templates include the need to consider direct and indirect effects; one-off, repeated or cumulative effects; and short-term, medium-term, long-term, permanent, temporary, positive or negative effects. The question initially asked is if the policy “could have any environmental effects”. There is no mention of “likely” or “possible”⁷⁸.

DLUHC examples provided take account of proportionality once it has been reported on whether each principle is relevant. The DLUHC template requires policymakers to identify if there are environmental

- ⁷⁸ *Though the question in the HMT template on whether the policy “could have any environmental effects” does not mention “likely” or “possible”, the description below this question notes that if any of the natural capital screening questions suggest a “possible” effect, then the answer to this question should be noted as “yes”.*

effects, and then break down the types of impacts into a series of questions: primary (direct) or secondary (indirect); occur once, repeatedly or cumulatively; permanent or temporary, and short-, medium- or long-term. The template also adds whether the impacts are local, regional, national or transboundary. Although the questions say 'or', the national significant infrastructure example shows that more than one response can be checked.

The risk appears to be low given the types of risks that policymakers are asked to consider and because questions are framed around "if" policies will have environmental effects.

Proportionality: lighter touch approach

The risk with this issue is that it could be interpreted as being disproportionate to think about potential environmental effects and hence take a lighter touch rather than properly considering environmental effects.

The Defra toolkit refers to where effects may be limited and so a "lighter touch" approach could be used, but this needs to be supported with the record that is kept and provided to ministers. The DfE training pack takes the same approach. The requirement to keep this record is repeated several times throughout the Defra toolkit.

There may be a risk from a lighter touch being used incorrectly in some policies, perhaps due to the experience of the policy team. The emphasis within the templates on recording why a lighter touch approach has been used should help minimise the risk that it is considered disproportionate to think about environmental effects. This is because significant effort would be required to complete the record and provide a robust explanation as to why a lighter touch has been applied.

Proportionality: balancing economic and social considerations

The risk with this issue is that balancing economic and social considerations could undermine environmental protection.

The Defra policymakers template includes a specific section on proportionality covering environmental factors versus social and economic factors. This requests policymakers to record how they have balanced environmental effects in relation to broader considerations and/or government objectives, which are listed as including economic, social, technological, legal (statutory/non-statutory obligations) or other relevant factors.

The FMP example from Defra identifies actions already in place or in development to protect the environment and the other pillars of sustainability that need to be considered (biological/environmental, social, economic).

There is clear indication in the FMP example, in particular, that there is a need to balance economic and social considerations. However, it is not the intention of the EPPS to result in significant economic or social harm for communities or specific groups (e.g. fishers) as a result of proportionality.

Precautionary principle: approach too limited

The risk with this issue is that the wording suggests the principle is only relevant where there is scientific certainty over likelihood or severity of environmental damage, whereas it is usually understood that the principle applies where damaging action or inaction should be avoided even if there is a lack of full scientific certainty.

The DfE guidance defines each principle as part of understanding whether the principles are relevant, with this stating that this should be considered even if there is a lack of full scientific certainty. This same wording is used on the DLUHC template. This suggests that the wording has been aligned with the OEP suggestion. This is the same as the wording in the Defra policymakers template which refers to ‘alongside a lack of scientific certainty’. No examples are available from the DfE so it is not possible to assess whether the approach to the precautionary principle is different to that of the Defra example policies. However, the FMP assessment does refer to taking a precautionary approach where there is a lack of scientific certainty about the likelihood and severity of future environmental harm. The DfT and HMT templates use the same wording as the Defra template.

There may be some differences in interpretation of the precautionary principle with some departments using wording that aligns with the OEP’s advice (OEP, 2022). There may therefore be a risk that the approach is limited in some departments, although the examples provided by Defra suggest that this is not the case.

Precautionary principle: not mentioned in interaction or in relation to proportionality

The risk is that the precautionary principle may not be fully taken into account when considering interaction between principles or where it could be interpreted that a deep-dive of environmental effects is not required⁷⁹.

The FMP assessment notes that the precautionary principle has been included as part of a precautionary approach to fisheries management using an evidence-based approach in line with the obligation set out in the Fisheries Act 2020.

There is limited evidence on which to judge this risk. The examples provided all consider environmental effects.

Precautionary principle: innovation dilutes the purpose of the principle

The risk is that the way innovation is linked with the precautionary principle dilutes its purpose and the OEP advised that promoting innovation is not understood as part of the precautionary principle itself.

The Defra policymakers template refers to technological factors as part of assessment of proportionality but neither of the templates for the example policies provided mention innovation. The summary assessments provided for the specific FMPs do highlight collaboration across government, industry and academia to understand gaps and innovations that could help support the UK fishing fleet, in relation to the rectification at source principle (not the precautionary principle). One also highlights the importance of avoiding constraints in existing rules that impede innovation that could lead to environmental improvement (for the prevention principle). The DfT and HMT templates include the same wording as the Defra template.

The DLUHC template identifies that an alternative technology could offer significant potential to reduce risk, and that the risk from established practices may be greater than the risk of facilitating a

⁷⁹ Note the EPPS neither demands nor rules out a deep-dive analysis and does not provide a threshold where one might be necessary. In addition, the EPPS does not define what a deep-dive might look like so this is left to interpretation related to the specific policy in question.

cautious deployment of new technology and new innovations. However, neither of the example templates cover innovations.

Technology and innovation are mentioned but typically in relation to the potential for them to reduce environmental harm. The DLUHC policy on Modern Methods of Construction (MMC) specifically highlights that these could improve housing practices, for example. As a result, the risk that innovation dilutes the purpose of the principle appears low based on examples provided.

Lack of guidance: need for guidance and integration with Green Book

The risk is that policymakers would not fully implement the EPPS nor implement it consistently.

Defra has developed a toolkit of resources, which was made available across government. The aim was to provide resources that would support other departments through the implementation and early operational phases. This was on the basis that it became apparent that more advice was needed on how to interpret and apply the duty. Every department and ALB interviewed in the study used the toolkit in developing their own processes to comply with the duty.

The Defra policymakers template includes specific links to the Green Book as part of a list of potential impacts, with links to specific sections within the Green Book.

Four departments commented on the potential for consistent application with three (of 4) feeling that the processes support consistent interpretation. The other department felt that there was potential for interpretation and consistency would need to be developed through sharing of experiences.

The conclusion is that this risk is low as the guidance produced has enabled full implementation with specific links to the Green Book. Consistency is generally considered likely to occur but is difficult to assess given the small number of example policies reviewed to date.

Lack of guidance: needs governance arrangements

The risk is that the EPPS would not be embedded into wider government decision-making.

The Defra policymaking template requests policymakers to briefly describe the policy aim/objective and link to existing documents.

The Simpler Recycling reforms template includes links to other policies and relevant documents, including to the consultation, impact assessment, and relevant legislation.

The FMP assessment includes applying the precautionary approach when considering the impacts of fishing in relation to Marine Protected Areas (MPAs) as part of the Habitat Regulations 2017 (SI 2017/1012) and Marine and Coastal Access Act 2009.

The toolkit, as developed by departments, appears to embed the EPPS into other government processes. It is considered that this risk is low as governance arrangements have been put in place, although there is limited evidence to date as to their effectiveness given the short time since the duty came into effect.

Lack of guidance: needs to link to wider goals and approaches

The risk is that the EPPS would not be considered alongside wider environmental goals and natural capital approach.

The Defra policymakers template includes specific reference to the Green Book and ENCA guidance on natural capital assessment. HMT, meanwhile, are updating documents like the Green Book to include EPPS references.

The FMP assessment builds the precautionary approach into goals 6 and 7 of the FMP to meet sustainability targets, and also lists the EIP goals that the FMPs will contribute towards.

This risk is considered low since the templates include specific reference to wider goals and approaches, including the natural capital approach. Limited reference is made to the EIP goals in the template, although the FMP template does specifically reflect which goals are relevant. Interviews also noted it is important to reflect key policy gateways, and link to other key pieces of guidance such as the Green Book and natural capital approach.



Risk & Policy Analysts Limited
Suite C, Floor 2, The Atrium, St Georges Street
Norwich, Norfolk, NR3 1AB, United Kingdom

Tel: 01603 558442
E-mail: post@rpald.co.uk
Website: www.rpald.co.uk

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