



Department
for Environment
Food & Rural Affairs



Foreign, Commonwealth
& Development Office

The Rt Hon the Lord Goldsmith of Richmond Park
Minister of State

30 June 2021

To: All Peers

My Lords,

Day 3 of Committee Stage for the Environment Bill

I am very grateful to noble Peers for their contributions at the third day of Committee for the Environment Bill on 28 June. This letter responds to points that I and my noble friend Baroness Bloomfield of Hinton Waldrist were unable, due to time restraints, to address during proceedings.

Office for Environmental Protection Independence

The noble Lord Hope of Craighead questioned the link between the duty on the Secretary of State in paragraph 17 of Schedule 1, which requires the Secretary of State to have regard to the need to protect the OEP's independence, and the guidance power provided for in clause 24.

The government does not consider that these two provisions are incompatible. The guidance power in clause 24 must be exercised consistently with the independence duty in Schedule 1, and the Secretary of State would need to consider this when preparing any guidance to the OEP. This power could be used in a way which seeks to ensure the OEP is exercising its functions as is set out in the Environment Bill, and as has always been intended. The government would not envisage a need to issue guidance to the OEP as a matter of course, and would instead reserve it as an important safeguard to ensure accountability should the OEP not be focusing on the most serious strategic cases.

It is important that the OEP's need for operational independence is balanced with the need for appropriate levels of ministerial accountability, given the OEP will be an unelected body reliant on public funds. Indeed, this is why the duty in Paragraph 17 of Schedule 1 cannot be an absolute duty to protect the OEP's independence. This would prevent the Secretary of State, as the Minister ultimately accountable to Parliament for the OEP's use of public money, from fully fulfilling their responsibilities in the interest of good corporate governance. The government considers that these provisions strike this balance.

Devolution - Common Frameworks

The noble Duke, the Duke of Montrose and the noble Lord Krebs both asked how many common frameworks the Government is expecting to have in relation to the environment.

Common frameworks are currently being developed through constructive discussions between the UK Government and devolved administrations. They set out arrangements by which the administrations will work together to manage future regulatory or policy divergence now that the UK is outside of the EU.

A number of the frameworks are, to a greater or lesser extent, relevant to the environment including those on Air Quality, Best Available Techniques, Ozone-depleting substances & F-Gases, Resources & Waste, Chemicals & Pesticides, Fisheries Management & Support, Agricultural Support, Fertiliser Regulations and Organic Farming. These frameworks were provisionally agreed between the UK Government and the devolved administrations in December 2020 and are currently undergoing further development, both on their policy-specific elements and cross-cutting issues, including but not limited to, the UK Internal Market, the Trade and Cooperation Agreement, and the Northern Ireland Protocol.

We anticipate that these frameworks will be scrutinised by the Common Frameworks Scrutiny Committee of this House in the autumn. Further information on the common frameworks programme is published on GOV.UK at [UK Common Frameworks - GOV.UK \(www.gov.uk\)](https://www.gov.uk).

REACH

The noble Lord Teverson requested further information on REACH regulations and divergence. Schedule 20 gives the Government the power to amend the UK REACH Regulation. That will allow us to ensure a smooth transition to UK REACH now we have left the EU and keep that regime up to date. That could mean mirroring changes in the EU, but only if that is what is best for us. There are also limits on what changes we would be able to mirror using this power because of the special status of the protected provisions listed in the Schedule which cover various fundamental principles, the importance of transparency in regulatory decision-making, and the role of the Devolved Administrations. The Government has no intention of diverging for the sake of it.

I hope noble Peers find these responses to be useful. I am copying this letter to all Peers who took part in Monday's debate and I am arranging for copies to be placed in the Libraries of both Houses.

Yours sincerely,



THE RT HON THE LORD GOLDSMITH OF RICHMOND PARK