

Concerns raised about how environmental laws will be enforced after Brexit

- As the government prepares to publish its position paper on the European Court of Justice (ECJ) this week, Greener UK, a group of 13 major environmental organisations, says clarity is needed on how environmental law will be enforced after Brexit.
- As legislation is transferred back to the UK, so will the responsibility to enforce it.
- With an estimated 80 per cent of environmental protections stemming from the EU, environmentalists are concerned about whether the government's plans will ensure that courts are sufficiently empowered and accessible to the public.

However the EU and UK decide that cross-border disputes will be settled in future, it's essential that everyone can access the legal system, and that courts are able to apply justice – fairly and impartially.

At the moment, EU institutions can take forward complaints made by individuals and civil society organisations about the actions or inactions of governments or businesses that affect the environment, so justice is relatively affordable. And the ECJ can fine governments if they fail to comply with judgements, so the process has teeth. Conservationists are calling for the UK's future arrangements to continue to be accessible to everyone.

In a new [briefing](#), Greener UK also says institutions must be strengthened to avoid a domestic 'governance gap', in addition to dispute resolution between the EU and UK. As with cross-border complaints, while in the EU, UK citizens could also make complaints cheaply and without special expertise about the actions of the government of the UK itself.

The government's proposals for enforcing domestic environmental law post Brexit rely on judicial review. But judicial review on its own is presently a wholly inadequate and incomplete enforcement mechanism for this task. Amendments in terms of costs and scope are needed as part of an effective system to implement and enforce environmental law and hold public bodies to account.

For example, clean air laws exist to protect people's health, and it is vital that in areas like this, anyone can hold the government to account to act on their legal obligations. The importance of a judicial system with teeth was highlighted this year when the UK government was challenged on its clean air record. Unlike the UK's Supreme Court, the ECJ can ultimately impose fines on the UK government if it refuses to comply – a strong incentive, which could disappear after Brexit.

So the environmental groups are calling on the government to ensure that, if judicial responsibilities are transferred from the EU to the UK, the courts that take them on are sufficiently empowered and accessible.

Shaun Spiers, executive director of Green Alliance and chair of Greener UK, said:

"A week may be a long time in politics, but environmental processes unfold over years and decades. Without strong institutions to hold government to account, nature can't compete with shorter term political pressures - yet a healthy environment is essential to our well-being and prosperity, and that of future generations. If the government is to achieve its environmental aspirations, it must ensure we have robust enforcement mechanisms, rather than hollowing out the law."

Greener UK is a group of 13 major environmental organisations, with a combined public membership of 7.9 million, united in the belief that leaving the EU is a pivotal moment to restore and enhance the UK's environment. For more information visit www.greeneruk.org.

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For further information please contact:

Gareth Brede, senior media officer at RSPB: 01767 693221 / gareth.brede@rspb.org.uk

More information:

Briefing paper: http://greeneruk.org/resources/Greener_UK_Governance_Gap.pdf