

Brexit risk tracker 8

June 2019

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Verdicts key

-  Low risk
-  Medium risk
-  High risk

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General summary

The scale of the environmental crisis hit the headlines multiple times during this quarter. Authoritative reports on [biodiversity](#) and the [feasibility](#) of tackling climate change illustrated the need for urgent action, as did Sir David Attenborough's TV documentaries on [climate change](#) and [nature](#). Thousands of people took to the streets calling for a rapid political response, whether as school strikers or Extinction Rebellion activists, and polls indicated the wider public are [deeply concerned](#).

The prime minister's announcement that the government would follow the Committee on Climate Change's advice to [set a legal target of net zero greenhouse gas emissions by 2050](#) was a huge moment. This is not only a positive legacy for Theresa May, but a major step forward in the UK's attempts to tackle climate change and encourage other nations to follow suit. The next prime minister will be responsible for providing the policies that can get the country on track.

And yet, despite the net zero commitment, protections for the environment are set to be weaker than before Brexit. Rafts of statutory instruments (SIs) designed simply to "correct" EU law to make it operable in the UK have in fact resulted in [significant legal changes](#) that could unravel the effectiveness and oversight of existing environmental law. For example, [SIs on fisheries](#) drop the legal commitment to ensure that fishing limits are set at scientifically defined sustainable levels at or below maximum sustainable yield.

While the announcement of the first environment bill in a generation caused great excitement, analysis of the draft legislation by two select committees has found it to be seriously deficient, marking in some areas "[a significant regression on current standards](#)". Flagship parliamentary bills on agriculture, fisheries and trade have now been on pause for months, with the National Audit Office raising particular concerns over the scope and timescale of the pilot for the proposed environmental land management scheme.

The Conservative party leadership contest, triggered by Theresa May's resignation, is shrinking the time available for parliament to reach agreement on leaving the EU and pass the necessary legislation, and for the UK to undertake complex negotiations on the future EU-UK relationship.

A no-deal Brexit remains a strong possibility and therefore an immense concern, considering its potential impacts on efforts to tackle climate change, restore nature and create a healthier environment. Co-operative mechanisms with the EU would be lost immediately, while domestic replacements for vital EU functions would struggle to do the job. There would be the risk of hasty trade deals being agreed without due process, which could involve concessions harmful to the environment.

The new prime minister and cabinet must take forward and strengthen Theresa May's green promises, and seek a relationship with the EU that enables close co-

operation on the environment. Brexit must not delay the improvements to domestic law that are so desperately needed.

Air pollution

The UK government published its [National Air Pollution Control Programme](#) in April, which is required under The National Emissions Ceilings Regulations 2018. The programme is designed to set out how the UK can meet the legally binding 2020 and 2030 emission reduction commitments for five pollutants, including nitrogen oxides, ammonia and particulate matter.

The programme is disappointing: it lacks detail on the measures committed to by the government, shows there is a risk that legally binding emission reductions for 2020 and 2030 may not be met for a number of pollutants and fails to properly account for illegal levels of nitrogen dioxide.

In May, Secretary of State for Health Matt Hancock announced [a review of the impact of dirty air on health](#), including updated estimates of the number of new cases of illness that could be caused by air pollution by 2035. Whilst this review is welcome, the government is yet to set out how targets in the [Clean Air Strategy](#) will be legally enforceable, and concerns remain about the inadequacy of the government's approach to [complying](#) with legal limits for nitrogen dioxide, which should have been met in 2010.

All of this emphasises the need to establish legally binding targets through the forthcoming [environment bill](#), with a strong and independent body to enforce them. Without this in place, there are serious concerns for air quality upon the UK's departure from the EU. It will also be important to ensure continued co-operation across borders to tackle transboundary pollution.

Chemicals

In March Parliament approved the [statutory instrument \(SI\) on REACH](#), which serves to copy the EU REACH regulation into domestic law and create a new UK Chemical Agency in the Health and Safety Executive (HSE) in the event of no deal. MPs and peers raised serious concerns with the SI during [parliamentary debate](#), and a [motion of regret](#) was passed in the House of Lords noting that the plans "could increase the risks to UK citizens' health, and to our environment".

Deficiencies with the SI include the lack of commitment to mirror future EU decisions on chemicals and related regulations, and the removal of vital mechanisms for stakeholder engagement and public participation that exist within the European Chemicals Agency (ECHA). Further concerns exist around the capacity of the HSE, particularly given its deficiency in environmental and public health expertise.

This legislation will come into force if the UK leaves the EU without a deal in October 2019, or if the government fails to succeed in negotiating associate membership of REACH as part of the future EU-UK relationship. Despite the extension of Article 50 to October, a no-deal scenario involving the UK leaving REACH remains a severe risk to environmental and public health protections. The only mechanism to avoid deregulation is for the UK to remain dynamically aligned to REACH and the EU's chemical related laws, whatever the shape of its future relationship with the EU.

Climate & energy

The Committee on Climate Change (CCC) produced a [seminal report](#) in May on how the UK can end its contribution to climate change, recommending a net zero greenhouse gas target by 2050. Parliament then passed a non-binding motion declaring a [climate and environment emergency](#). This marked a dramatic shift on the narrative around climate change, in large part owing to the efforts of Extinction Rebellion (XR) and the youth climate strikes.

The UK government's decision to [adopt the advice of the Committee on Climate Change](#) and revise the Climate Change Act was a huge moment for Theresa May as she leaves office. This should kick-start measures and policies that slash emissions and create a greener economy, and politics that enhance the UK's climate diplomacy – particularly with the bid to host the 2020 climate conference. Much rests on the next prime minister and chancellor to get the UK on track, with a budget and spending review equal to the challenge.

Hopes on climate progress are, however, tempered by the economic risks associated with a no deal exit, which remains a strong possibility. Despite preliminary preparations and the negotiated extension of the exit day to 31 October, a no deal Brexit would have [particularly damaging outcomes](#) for the Irish energy market and potentially increased costs of decarbonisation. It would also damage relations between the UK and EU, hampering joint leadership ahead of international summits critical for increasing global ambition on climate change.

The continuing political uncertainty means that the environment bill is likely to be delayed until the autumn, which would put significant pressure on the already challenging timescale for establishing the [Office for Environmental Protection](#) (OEP). A delay could result in a significant gap in the public's ability to hold the government to account. The draft bill omits climate change from the OEP's remit. This is a significant oversight, which must be addressed as it threatens environmental standards and climate progress post-Brexit.

Farming & land use

As the Conservative party elects a new leader, and discussions focus on the future of the withdrawal agreement, Defra's progressive agriculture bill has been put on hold. There are few signs it will soon return. This allows for a future prime minister

or different party to deconstruct or reverse the progress made by the bill, which raises concerns.

Furthermore, the current government is leaving little time to resolve how payments will be made available to farmers, and what their value will be. The National Audit Office (NAO) published a [report](#) on the early stages of the government's reform, which highlighted concerns over the scope and timescales of Defra's pilot scheme.

Researchers from the UK Trade Policy Observatory (TPO), meanwhile, flagged concerns that pesticides currently labelled as carcinogenic in the EU [could be allowed in the UK after Brexit](#). Dr Emily Lydgate, fellow of the UK TPO, said that analysis had revealed "significant departures" from EU pesticides legislation.

Discussions over the future of UK food standards resumed as President Trump completed his state visit, with US ambassador Woody Johnson emphasising that agri-food should be "[on the table](#)" in trade talks. Imports such as chlorinated chicken would not only lower food quality, but support agricultural practices that harm the environment and animal welfare and undercut UK producers.

Potential trade alignment with the US has become a more significant talking point through party political divisions over Brexit, with many Conservative party leadership candidates refusing to rule out a [no-deal Brexit](#). As emphasised by Greener UK, as well as sector bodies including the National Farmers Union, no deal would be a [terrible outcome](#) for agriculture, with concerns for animal welfare due to delays at borders; the potential for [agricultural reform to be derailed; and](#) tariff changes that enable cheap imports to undercut domestic farmers who are producing food to higher standards. A chaotic no-deal Brexit that forces farmers to compete with cheap imports [could also result](#) in deregulation that weakens environmental standards.



Fisheries

A recent UN Intergovernmental Science-Policy Platform on Biodiversity & Ecosystem Services report [highlighted the damage being done](#) to marine biodiversity by overfishing. The recent publication of [Defra's Marine Strategy Part One](#) also illustrated that commercial fishing is one of the main pressures preventing the achievement of good environmental status.

It is therefore of great concern that the Fisheries Bill's [passage through parliament](#) remains on hold. The delay to Brexit means that the period for negotiations with the EU on shared stocks is reduced, which has the potential to result in unsustainable quotas being set disregarding scientific advice if parties cannot reach agreement.

It is also of significant concern that the bill's main weaknesses remain. There is still no legal duty on all relevant public authorities to achieve the sustainability objectives set out in the bill; and there is still no commitment to ensure that fishing limits are set at scientifically defined sustainable levels at or below maximum

sustainable yield (MSY). This is a clear regression on current environmental standards under the Common Fisheries Policy (Article 2). As it stands the bill [does not match](#) the protections currently provided by EU law.

Without improvements to the bill, fisheries management will be weakened by Brexit, and the government's promises on enhancing environmental protections will be unfulfilled.

Nature protection

A recent report by the UN's Intergovernmental Science-Policy Platform on Biodiversity & Ecosystem Services ([IPBES](#)) found that nature is declining globally at unprecedented rates and the health of ecosystems on which we and all other species depend is deteriorating more rapidly than ever. It was therefore worrying that the [Environment Implementation Review](#) (IER), published by the European Commission, highlighted issues with the UK's record on diffuse pollution and seabird protection, as well as failures in compliance with existing standards and in taking effective enforcement action at the UK or country level.

The number and range of these breaches underline the need for robust enforcement mechanisms post-Brexit, which is why the substance of and delay to the environment bill is of such concern.

Two select committees recently agreed with civil society in finding the draft bill seriously deficient. The [Environmental Audit Committee](#) identified "serious concerns with the proposals as they currently stand, which must be resolved before the bill is introduced". The [Environment Food and Rural Affairs Committee](#) described an "overwhelming narrative" that the proposals are not equivalent to the current environmental protections provided by membership of the EU. It concluded that, in some areas, they mark "a significant regression on current standards".

Meanwhile, the postponement of the UK's exit from the EU to 31 October 2019 has served to slow the pace of preparations. Government plans to replace EU funding streams, including the LIFE fund and BEST initiative that have supported nature conservation in the UK and in the UK's Overseas Territories, were due to be announced as part of a spending review following the UK's exit in March. The spending review has since been delayed, [possibly to next year](#), in response to the Brexit postponement, along with any announcement on replacements for these key environmental funds.

Waste and Resources

The government has recently conducted a series of consultations based on Defra's [resources and waste strategy](#), with an initial focus on overhauling the packaging system and ensuring greater consistency in household recycling collections. The timeline for implementation of the proposals remains unclear, though, and non-packaging related resource issues are yet to receive concerted attention. This is

concerning as the wider resources and waste strategy does not have statutory underpinning, and fears remain that Defra lacks the capacity to deliver ambitious recycling targets and to transform the use of resources more generally. The UK is [set to miss the EU's 2020 target for 50 per cent recycling](#), and it remains unclear if it will be able to meet the more ambitious goals in its own strategy and in the EU's Circular Economy Package (CEP), which the UK has [promised to adopt](#).

The new environment body, the Office for Environmental Protection, will play a significant role in enforcing these targets, and it is therefore concerning that the environment bill looks likely to be delayed until the autumn, which would put significant pressure on the already challenging timescale for establishing the body.

The continuing risk of a no-deal exit is a matter of concern as it would likely have a large operational impact on the waste industry. There are concerns about shortages of labour and difficulty exporting waste, given the likely backups at UK ports (the UK currently exports 3.6 million tonnes of [refused derived fuel](#) – mainly to northern Europe – as well as many times that amount of material for recycling). It is unclear what will happen with Ireland's waste, which is problematic as the country is reliant on the UK to treat its hazardous material. On exit day, it will become illegal for Ireland to export waste to the UK, as the UK will be a non-EU country. This is particularly worrying given the history of [problems with waste crime along the Irish border](#).



Water

With no substantial changes over recent months there is little to encourage a view that risks to the water environment have altered since the last assessment. The lack of any significant progress on the environment bill and [continued risk of a no-deal Brexit](#) could result in a diminished legal framework in the UK compared with that of the EU.

All of this emphasises the need to establish legally binding targets through the forthcoming environment bill, with a strong and independent body to enforce them. Without this in place, there are serious concerns for water quality upon the UK's departure from the EU. It will also be important to ensure continued co-operation on the island of Ireland to ensure sustainable management of cross-border river catchments.

Should this not be resolved, we fear that the [slow progress](#) made under obligations in the Water Framework Directive and related EU legal instruments could be lost.

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Greener UK is a group of fourteen major environmental organisations, with a combined public membership of over eight million, united in the belief that leaving the EU is a pivotal moment to restore and enhance the UK's environment.

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