

## Brexit risk tracker 9

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### Verdicts key

-  Low risk
-  Medium risk
-  High risk

Visit the [Greener UK website](#) to find out more.

## General summary

After three tumultuous months in Westminster, it is difficult not to conclude that the environment is under greater threat than at any other point in the past three years. Hopes for a greener UK have been replaced by deep concerns and fears for the future of environmental protections.

There is a new prime minister and a new advisory team. While the prime minister has outlined a number of environmental aspirations, he has also made it clear that he wishes his government – and the country – to have the right to diverge from existing rules and regulations after Brexit. This, he [wrote](#) to European Council President Donald Tusk, is ‘the point’ of leaving the EU.

A central element of the government’s Brexit strategy is to remove the backstop from the Withdrawal Agreement, but the backstop contains at least some environmental commitments and points towards a close future UK-EU relationship. The prime minister says the UK will remain committed to ‘world-class’ environment standards post-Brexit, but provides no details of how these would be provided, why achieving them necessitates the UK’s divergence from the already high standards of the EU, or how maintaining world class standards can be squared with an apparent desire to [rush through](#) a trade agreement with the United States.

Severe doubts remain as to the true purpose of regulatory divergence.

Many of the new prime minister’s [ministers and advisers](#) are strong advocates of deregulation and a distant relationship with the EU. Many [moderate voices](#) within the governing party, who have historically supported green initiatives, have lost the whip for dissenting on Brexit policy. Many green-minded Conservative MPs are standing down at the next election, a considerable blow to the representation of environmental issues in parliament.

The flagship agriculture bill, which set out an ambitious and potentially transformative future for UK farming and land use, has been delayed, partly by the government’s unlawful decision to prorogue parliament. The same fate has befallen the much less progressive fisheries bill. Moreover, UK fisheries and fishers will be in a perilous position should there be a no-deal Brexit.

The government is still to publish its full proposals for the new environment bill. Shortly before the reshuffle Michael Gove [was able to announce improvements to the draft bill](#), including powers for the new Office for Environmental Protection (OEP) to initiate its own investigations and provide a free-to-use complaints system. It is, however, imperative that further improvements are made to the powers, independence and funding of the OEP, and that its remit is extended to cover climate change.

It is clear that if the UK leaves the EU without a deal on 31 October, the environment will be much less well protected in all four UK nations. The European Commission

and European Court of Justice will cease to have a role in upholding environmental law, and the interim arrangements proposed so far are inadequate.

Prime Minister Boris Johnson has highlighted the importance of climate change for his administration in his speeches domestically and at the recent G7 meeting in [Biarritz](#). However, his apparent determination to exit with or without a deal by 31 October undermines this position. While the threat of a no-deal Brexit remains, the environment is at severe risk from harmful stockpiles of waste and threats to sustainable fishing levels, to lower chemical safety and an influx of poor quality food imports that would undermine UK farmers.

The impact of a potential no-deal Brexit, together with wider concerns about the direction of the government, lead us to conclude that there are extremely high risks to the environment across the board.

## **Air pollution**

In his outgoing speech as Secretary of State for the Environment in July, Michael Gove acknowledged that the UK has [previously failed](#) to live up to its obligations to improve air quality.

He stated that the forthcoming environment bill needed to include a legally binding commitment to meet World Health Organisation (WHO) guideline levels for particulate matter (although he did not suggest an attainment date). He was also clear that local bodies need more comprehensive powers and should be required to act in a coordinated way to control emissions, and highlighted the need to require public bodies to pay particular attention to the protection of vulnerable groups such as children and older people.

Later in July, Defra published a [report](#) on the feasibility of achieving the WHO guideline level of 10 micrograms per cubic metre for fine particulate matter. The report concluded that it would be technically feasible to meet the WHO guideline level across the UK, but that further analysis was needed to understand what would be an appropriate timescale and means, factoring in full economic, social and technological feasibility to do this.

Both Mr Gove's speech and the Defra report indicate that there may be appetite for stronger clean air laws in government, but with the increasing likelihood of a no-deal Brexit, and delays to the government's legislative programme, it remains unclear whether the new government will prioritise this as an issue.

All of this emphasises the need to bring forward the new [environment bill](#) at the earliest available opportunity, and for it to establish a framework for legally binding air quality targets, 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, and for the UK's ability to continue to cooperate across borders to tackle transboundary pollution.



## Chemicals

As the exit day of 31 October fast approaches, it appears more and more probable that the UK will leave the European Chemicals Agency (ECHA), the world-leading chemicals regulatory body, and replace its membership with a weak and closed domestic system.

In March, parliament approved the [statutory instrument \(SI\) on REACH](#), which serves to copy the EU's REACH regulation into domestic law and create a new UK chemical agency in the Health and Safety Executive (HSE), in the event of a no-deal. Due to serious deficiencies in the plans, 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 in the plans include the lack of commitment to mirror future EU outcomes on chemicals and related regulations, and the removal of vital mechanisms for stakeholder engagement and public participation that exist within ECHA. There are further concerns around the capacity of 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, or if the government, as indicated in [the prime minister's letter to European Council President Donald Tusk](#), chooses to diverge from EU rules and regulations. Such an approach would almost certainly see the government decline to pursue associate membership of REACH as part of the future EU-UK relationship.

A Brexit scenario involving the UK leaving REACH remains a severe risk to environmental and public health protections and is likely to worsen under pressure to negotiate a US-UK trade deal. It is difficult to imagine how the UK could deliver world-class standards on chemical regulation without remaining dynamically aligned to REACH and the EU's chemical related laws, whatever the shape of its future relationship with the EU



## Climate & energy

Prime Minister Boris Johnson has highlighted the importance of climate change for his administration in his speeches domestically and at the recent G7 meeting in [Biarritz](#). However, his apparent determination to exit with or without a deal by 31 October undermines his position on climate change.

The UK exiting the EU without a deal remains a critical risk to urgent progress on energy and climate change policy. The key risks include: the potential for [a rise in energy bills](#) owing to volatility in wholesale markets with prominent impacts on Northern Ireland; a drop in carbon price relative to the EU and a loss to the exchequer of over [£1 billion](#) in foregone auction revenue; and a significant impact on the [automotive industry](#) and UK's ability to assemble electric cars cheaply.

Dealing with the ramifications of a no-deal Brexit would dominate civil service capacity and result in further delays in implementing urgent policy to get us on track to net zero. A considerable associated risk is the potential for an indefinite slowdown in investment in clean energy as policy and political uncertainty deters investors to the UK.

The spending review also failed to match the urgency of the environmental crisis or the rhetoric of government. The paltry sum of £30 million was [allocated by the chancellor](#) for net zero preparations, shortly after climate campaigners called for a doubling of the existing public spending to [£42 billion annually](#).

## **Farming & land use**

Following the government's unlawful decision to prorogue parliament, it was thought that the agriculture bill had fallen at the start of the September. The bill had codified the government's design for a progressive new system of payments based on the provision of public goods rather than land ownership. Following the Supreme Court's decision, the bill could now resume its parliamentary journey, but hopes for its progress are tempered by the likely onset of a general election.

NFU President Minette Batters caused alarm in July by suggesting the union would [back a deregulatory agenda](#) should farmers be forced to contend with a no-deal Brexit. This view is certainly not shared by all farmers, and the government continues to affirm its aspirations for world-class standards while [supposedly repudiating chlorinated chicken](#).

Nevertheless, many farmers are seriously concerned at the prospect of no deal, and its potential impact on export tariffs and the quality of food imports under quickly-signed trade agreements. If farmers are forced to compete with cheaper food, there are concerns that work to enhance the environment and restore nature will be compromised in a desire to boost profits quickly.

Natural England chair Tony Juniper [expressed frustration](#) with the new government's spending review, after just £30 million was allocated to improving global biodiversity (in comparison to [£1.1 billion allocated for roadbuilding](#)). This would appear to fall significantly short of the action necessary to tackle the global environmental crisis.

## **Fisheries**

After the government's unlawful decision to prorogue parliament it was thought that the fisheries bill had fallen. Following the Supreme Court's decision, it could now resume its journey through parliament, but its progress is likely to be limited due to the current parliamentary arithmetic (the lack of an effective working majority will make it extremely difficult for the government to pass legislation) and the likelihood of a general election.

Fisheries management is now of great concern in the Brexit process. If it returns as is, the fisheries bill is considerably flawed, with no legal duty on relevant public authorities to ensure sustainable fishing and no commitment to set fishing limits at scientifically defined sustainable levels. This is a [clear regression](#) on current environmental standards under the Common Fisheries Policy (CFP).

Should there be a no-deal Brexit, most of the general framework of the CFP would apply via the EU Withdrawal Act. However, certain important provisions on conservation measures and control and enforcement are not carried over into our domestic statute book, and the CFP has its own flaws.

Without a deal it will be illegal for UK vessels to fish in non-UK waters and vice versa (EU vessels to fish in UK waters) – until an arrangement can be brokered. This will be unlikely for the last two months of the year if we leave without a deal at the end of October. And leaving without a deal includes the risk that the UK and the EU could unilaterally set their own quotas, [risking another ‘mackerel wars’](#) scenario with worrying knock-on effects for sustainable fish stocks.

This should all be viewed in the context of the [climate and environment emergency](#) declared by the UK parliament in May this year as well as the recent [ICES scientific advice](#) that recommended a drastic 70% reduction in the North Sea cod quota.

## **Nature protection**

Of late the prime minister has made some significant announcements in relation to UK nature policy. His [announcement](#) at the G7 summit – that the UK would call for the Aichi targets adopted under the Convention on Biological Diversity to “be replaced with new, more ambitious targets to help us get back the biodiversity that this planet is losing, and has lost” – represents a significant stepping up in UK ambition post-Brexit.

This ambition, however, does not appear to tally with recent government choices and political developments. The Chancellor’s recent spending review included announcements of an additional [£30 million](#) to support the maintenance and restoration of vital habitats for wildlife, develop nature-based solutions for climate change mitigation and adaptation, and deliver the 25 Year Environment Plan.

Meanwhile, the prime minister has confirmed that it is the [government’s intention](#) to diverge from EU rules and regulations after Brexit, which puts into question the UK’s valuable membership of the European Environment Agency and its commitment to maintaining the protections of the EU’s Habitats Directive.

The environment bill, seen by many as the cornerstone of our response to the environmental crisis, is yet to be published. The agriculture bill, which foresaw environmental improvements underpinning future farming payments, has been repeatedly delayed. And there is the continuing threat of a no-deal Brexit, with all the associated environmental risks – including animal welfare concerns at borders.

There is also [significant concern in Northern Ireland](#) that no deal would be catastrophic for the agri-food industry and result in unmitigated environmental impacts compounded by having no agreement on the Irish border.

Set against this backdrop, evidence continues to mount that the UK is not tackling the ecological emergency: the latest periodic progress report under the EU Habitats Directive has shown the UK is failing to deliver any significant improvement in the status of habitats and species protected under the directive.

## **Waste and Resources**

The government's [summer policy statement on the environment bill](#) confirmed that it intends to adopt a more ambitious approach to resource use and the circular economy. Through the bill, Defra intends to take the powers to implement several of the policies it announced in the 2018 resources and waste strategy. These include implementing resource efficiency standards for products, streamlining recycling collections, introducing a deposit return scheme for drinks containers and overhauling extended producer responsibility so producers of packaging and other products are held responsible for end of life costs for what they place on the market.

It is therefore very concerning that the bill is likely to be delayed, and that the Office for Environmental Protection will not be in place to hold the government to account on its many promises on resources and waste.

The increasing risk of a no-deal exit is a matter of grave 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, as the country is reliant on the UK to treat its hazardous waste. 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 concerning given the history of [problems with waste crime along the Irish border](#).

## **Water**

Overall the prospects for water post-Brexit remain poor.

The environment bill, although stalled, remains an important opportunity to make significant improvements to safeguarding and enhancing water and wetlands.

The repeated delays to the progressive agriculture bill are disappointing, since the principle of 'public funds for public goods' is put at risk. When it returns the bill will need to seize the opportunity to include measures that would significantly benefit water and wetlands, and in particular natural flood management, as a component of the new environmental land management system.

There is a risk that a no-deal Brexit could result in pressure to relax standards in the regulations that aim to control diffuse pollution of watercourses from agricultural sources. This would be a seriously retrograde step with potentially disastrous consequences for water quality and wetlands already affected by polluting runoff from farmland.

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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.

## GREENER UK

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