

Greener UK: Final Risk Tracker

March 2021

Following the EU referendum in 2016, Greener UK created a 'Risk Tracker' to measure the strength of environmental protections through the Brexit process. Coalition partners have contributed to 11 different editions across four years, considering the relative state of legislation, cooperation and regulation in eight core areas. A traffic light rating system has been applied to each area, indicating low (green), medium (amber) or high risk (red) to protections.

The UK government has consistently emphasised the opportunities to go further, and to restore nature and our natural resources. This eleventh and final Tracker reflects on the developments catalogued in the previous analyses, and seeks to offer a clear judgement on what has been achieved and the risks that remain.

In March 2021, are protections stronger, similar or weaker when compared with 2016?

Overall summary

The European Union has, in a number of ways, been a force for good environmentally. Our beaches are cleaner, habitats are better protected and pesticides more effectively regulated as a consequence of agreements that we reached since we entered the EU. And I have no intention of weakening the environmental protections that we have put in place while in the European Union...

Leaving the EU gives us a once in a lifetime opportunity to reform how we manage agriculture and fisheries, and therefore how we care for our land, our rivers and our seas/ And we can recast our ambition for our country's environment, and the planet. In short, it means a Green Brexit.

Michael Gove – [The Unfrozen Moment: Delivering A Green Brexit](#) – 21 July 2017

In the summer of 2017 then Defra Secretary Michael Gove declared an 'unfrozen moment'. Brexit, he asserted, was a reset, the chance to transform the UK's efforts in tackling the environmental crises at home and those facing the wider natural world.

A year after the referendum, and a year before the emergence of Greta Thunberg and Extinction Rebellion, [Mr Gove's speech](#) at WWF's Living Planet Centre felt like a profound political moment. For the first time in a long while, a major political speech had captured the depth of the crisis we faced: shattered biodiversity, the fragility of the oceans, degraded soils, the suffocating air pollution cramping our streets, and the poor health of our rivers. And while division still permeated political discourse, Mr Gove acknowledged that the EU had sometimes been good for the environment. Setting the UK as a green world leader with stronger protections could be a project of reform and review, as well as revolution.

Green Brexit

The exact origins of the term 'green Brexit' are difficult to trace, but it was this speech that saw it established as the governing party's landmark promise to the environment. From then to now, successive administrations have pledged that environmental protections would not only be maintained through Brexit, but enhanced.

It is upon this principle that the Greener UK coalition conducted its '[Risk Tracker](#)' analysis for four years, periodically measuring the relative state of standards, legislation, cooperation and regulation

across eight environmental areas. Ten analyses spanned policy developments and key legislation across two general elections, undulating high politics and four different administrations.

However, with the Withdrawal Act passed and UK-EU deal now signed, and adequate time having been available for core environmental legislation to be established, it feels a fair and appropriate time to offer a clear judgement on what has been achieved and the risks that remain. In March 2021, are protections and standards better, the same, or worse than in 2016?

[Note: many environmental and farming policies are devolved. Most of the following analysis applies to the performance of the UK government, and its record in implementing protections that in most cases apply only to England.]

Ag & fish

In the boldest environmental move of the post-referendum era, successive governments have pursued an overhaul of UK farming policy – replacing a payment system based on the area of land farmed with one that will reward farmers for providing ‘public goods’ such as habitats and cleaner water. And the money – of huge importance – will remain at the same level until at least 2024. The transition from the Common Agricultural Policy to the Environmental Land Management scheme could be transformative for land use in England.

Land use, however, remains amber due to several uncertainties and concerns. There is a lot still to work out, including how payments will be determined and distributed, and how rules will be set and enforced. In a challenge to green rhetoric, ministers have launched further ‘[red tape challenges](#)’ and overseen woeful enforcement of [river pollution from farms](#) and [sewage outflows](#). Ministers have also refused to commit in law to maintaining existing food import standards, despite [huge public pressure](#), setting off alarm bells over future trade negotiations with Australia, Brazil and the United States.

Aside from laws, borders and money, the mantra of ‘taking back control’ has been applied most often to our waters. The final UK-EU deal left big discussions over fishing quotas for another day, with potential clashes over rights – which would potentially lead to more overfishing – momentarily avoided. The Fisheries Bill represented the government’s main opportunity to build a more sustainable approach to farming the seas, but its rather truncated passage [saw mixed results](#). The bill neither enshrined sustainable fishing levels nor sustainable fishing practices in UK law. Overfishing is set to continue for many stocks, with the UK’s approach to sustainable quotas now lagging behind that of the Common Fisheries Policy.

Still, there are some promising signs for the marine environment, particularly in a consultation on Remote Electronic Monitoring and through wording in the final UK-EU deal. In fishing, as in agriculture, if ministers can prove their commitment to high standards, alongside long term substantial funding and enforcement, the chances of restoring wildlife and the natural environment are much improved – and protections could yet be in a healthier state than before.

Chemicals and cooperation

The final UK-EU deal was mixed for the environment. Climate was an ‘[essential element](#)’, with any gross undermining of the Paris Agreement from either side potentially seeing the entire deal rendered null. This shows how high climate is on the current political agenda, which is a great development, though it should also not overshadow the disappointing lack of immediate cooperation between the UK and EU on interconnectors and carbon pricing.

By contrast, there was precious little ambition for nature in the final deal. This limited focus reflects nature’s status as a secondary or international issue, rather than an urgent domestic problem. The departure of the UK from the European Environment Agency is a considerable blow to tackling the nature crisis. This Tracker shows the missed opportunities, and urgent action required, to restore UK nature.

The lack of UK-EU cooperation is perhaps most keenly felt in chemical regulation. The UK has left the EU’s world leading chemical regime, REACH, and set up a [cheaper and inferior domestic version](#) with fewer resources (‘UK REACH’). As the chemical industry [warns](#) that it will cost UK businesses £1

billion to duplicate safety data, there are real concerns that the UK will deregulate and become a dumping ground for chemicals outlawed elsewhere. Diverging on chemicals appears to offer no clear advantages and a multitude of risks to public health and the environment. The final Brexit deal does include [non-regression provisions](#) that could apply to chemicals under a trade and investment test, but this is a dubious silver lining. Chemicals is an area of pressing concern.

Law enforcement

The UK government's Environment Bill, variously described as a '[lodestar](#)' and '[flagship](#)', has not lived up to these descriptions. In January 2021 it was delayed for a third time, raising serious doubts over the government's commitments to tackling the crises facing the natural environment.

The first such bill in a generation, it contains a number of exciting proposals, including local nature recovery networks and a framework for legally binding targets on nature, air, water and waste. Ministers are being lobbied hard to set binding interim targets that would ensure progress can be mapped and managed more rapidly.

Via the bill, the UK government has proceeded with plans to create a new green watchdog for England and Northern Ireland – the Office for Environmental Protection (OEP). Plans for the OEP [have improved](#) over the past three years, with its prospective powers and scope increased. It will be able to rule on decisions made by public authorities and initiate investigations. A widely respected chair designate, in Dame Glenys Stacey, has been appointed.

Nevertheless, the OEP [will not enjoy the same independence and powers](#) as its EU equivalent, the European Commission and Court of Justice, in enforcing environmental laws. The OEP will not be able to issue fines and the High Court's discretion to grant remedies on failures to comply with environmental law is severely inhibited. The OEP's [budget and board members will be determined](#) by government, meaning it is less independent than existing domestic oversight bodies such as the Office for Budget Responsibility. In November 2020 ministers gave themselves the power to [issue guidance to the OEP](#) on how it enforces the law – which is difficult to countenance considering the OEP is meant to be holding the government to account. Comparative enforcement bodies such as the Information Commissioner's Office (ICO) and Equality and Human Rights Commission are not hamstrung in this way.

There are a number of other areas where the UK Environment Bill could still be strengthened further. While the UK government has recognised the need for stronger air quality targets, ministers have proved reluctant to set new legally binding limits in line with current [World Health Organization \(WHO\) recommendations](#). The bill is also [set to weaken the status of environmental principles](#) such as the precautionary principle, which provide a general approach to key decisions affecting the environment – whether designing new energy policy or allowing a chemical to be used in farming or cosmetics. Instead of being enshrined in law, the principles [have been listed in a non-binding 'policy statement'](#), with fewer policymakers and decision makers expected to be required to abide by their direction.

The UK government has claimed that it has fully transposed EU protections into UK law via the Withdrawal Act. Analysis by Greener UK and others has [revealed significant gaps](#) in this transposition: binding interim waste targets have been missed out; [rules governing chlorinated chicken have been subtly changed](#); the use of committees and experts has been [watered down](#); and [lists of banned antibiotics have been deleted](#). The government has given ministers the power to [change the rules without rigorous parliamentary scrutiny](#) via statutory instruments. It may of course be that these changes do not result in weakened protections in the longer term, but there are many questions over what happens next.

While this analysis largely focuses on the decisions and policies of the Westminster government, Greener UK has been closely monitoring governance arrangements across devolved governments. Some progress has been made in Northern Ireland and Scotland but the absence of firm environmental governance arrangements in Wales remains especially concerning. Progress in meeting existing legal obligations and going further to protect people's health has been slow, including on the creation of enforcement bodies.

Environmental Standards Scotland came into existence on a non-statutory basis in January 2021, with [longer term plans](#) to 'monitor and investigate public authorities' compliance with environmental law, the 'effectiveness' of environmental law and how it is implemented and applied' on a statutory footing. Plans in Wales have a much longer way to go, leaving a considerable governance gap and uncertainty. An interim assessor [has been appointed](#) to focus on the "functioning" of environmental law rather than receiving complaints from the public. In Northern Ireland, DAERA has published a [discussion document](#) which indicates a slower timetable for establishing the OEP and environmental improvement plans.

Conclusion

From the detailed analysis submitted by policy experts across the sector, we can only conclude that the 'once in a lifetime opportunity' to reverse environmental decline has not yet been seized. In some areas the moment remains frozen, and in others the task in front of us is sterner still.

Of the eight policy areas we consider, four are judged to have similar or the same levels of protection as in 2016, and four to have weaker protections now than in 2016. Those of most concern include chemicals, air, nature and waste. We cannot confirm there has been a 'green Brexit'.

There are two main issues that have led to a situation with either static or weaker protections.

Firstly, there has been a noticeable reluctance to back up rhetoric on 'world leadership' with the required institutions, strength of regulation and legal certainty. It is difficult to claim a world leading governance system when the new mechanisms are manifestly weaker and less independent than those they are immediately replacing or that already exist domestically in other areas. Despite assuring green groups that it has no intention to weaken protections, the UK government has refused to commit in law not to roll back the UK's own standards.

Continual delays to the UK Environment Bill leave the government's promises in particular jeopardy. Coronavirus has undoubtedly had a considerable impact on the parliamentary schedule and the act of governing; but Westminster and devolved governments have had years to prepare for this moment and other legislation has nevertheless progressed despite these challenges. The lack of political prioritisation has left the UK without a functioning system to enforce air pollution limits, or water quality rules. On waste policy, the UK government is becoming a laggard, with supposedly transformative projects kicked into the long grass.

The second main factor contributing to static or weaker protections is the desire to retain a freedom to diverge from EU rules, which has undoubtedly undermined existing levels of protection. This can be seen in the proposed weaker status of the environmental principles; concerning gaps in transposed legislation; and the desire to create from scratch a new chemicals system independent of a gold standard regime the UK helped to build. The final Brexit deal could have heralded more progress on maintaining or enhancing measures around climate, chemicals and nature had the UK government been more willing to entertain closer cooperation.

This said, there is still time for the UK government to enhance protections. There are huge benefits to be won through agriculture reform, if supported with the right resources and regulation, and the UK could yet emerge as a world leader in sustainable fisheries. In time, it may be that close cooperation on issues that will benefit both industry and the public, such as climate and chemicals, will prevail.

And so, even though this analysis is coming to an end, the sector will continue to watch closely – cautioning against further backsliding and welcoming much needed progress. Many of the opportunities of which Michael Gove spoke in 2017 remain. We urge the government to seize them.

Air pollution

Final rating: **RED**

Although the UK government acknowledges that air pollution is the [single largest environmental risk](#) to public health, illegal and harmful levels of air pollution persist across the country. Legal limits for nitrogen dioxide that should have been met in 2010 are [still being breached in 33 out of the UK's 43 air quality zones](#).

The UK government lost three legal challenges between 2011 and 2018 over its repeated failure to produce lawful plans to meet legal limits for nitrogen dioxide in the shortest time possible. The government's response, however, has been to pass responsibility to local authorities in England for meeting legal limits originally established by the EU's Ambient Air Quality directive. This strategy has achieved mixed results: some local leaders have pushed ahead with more ambitious action, such as in Bath, Birmingham and London, but the wider trend has been delayed and weak local air quality plans. Many councils lack the necessary expertise, resources or political will.

The fact that the European Commission considered it necessary to [refer the UK to the European Court of Justice over air pollution](#) demonstrates the need for strong environmental protections and enforcement from 2021. Via its Environment Bill, the UK government has proceeded with plans to create a new green watchdog for England and Northern Ireland – the Office for Environmental Protection (OEP). Plans for the OEP have improved over the past three years, with its prospective powers and scope increased. It will be able to rule on decisions made by public authorities, and initiate investigations. A widely respected chair designate, in Dame Glenys Stacey, has been appointed.

The OEP will not enjoy the same independence and power as its EU equivalent, and it will therefore not be able to enforce air quality laws and limits to the same degree. The OEP will not have powers to issue fines, and its budget and board members will be determined by the government. In October 2020 ministers gave themselves the power to [issue guidance to the OEP](#) on enforcing the law – which is difficult to countenance considering the OEP is meant to be holding the government to account. Comparative enforcement bodies, such as the Information Commissioner's Office (ICO), are not hamstrung in this way.

Concerns remain over the future of existing air quality protections that have been transposed from the EU Ambient Air Quality Directive into domestic law as secondary legislation and the level of ambition set in the Environment Bill.

While the UK government has recognised the need for stronger air quality targets and has committed to setting two new targets in the Environment Bill to reduce levels of and exposure to fine particulate matter (PM2.5) pollution, ministers have proved reluctant to commit to setting new legally binding limits in line with current [World Health Organization \(WHO\) recommendations](#). This is despite the government's own evidence, [published in 2019](#), showing that it is technically feasible to achieve the WHO guideline level for fine particulate matter by 2030. Furthermore, the proposals outlined in the bill for producing plans to meet any new targets fall short of the existing air quality legal framework.

Finally, the outlook for Wales and Scotland remains concerning. Progress in meeting existing legal obligations and going further to protect people's health remains slow. Environmental Standards Scotland came into force on a non-statutory basis on 1 January 2021, with [longer term plans](#) to 'monitor and investigate public authorities' compliance with environmental law, the 'effectiveness' of environmental law and how it is implemented and applied' on a statutory footing. Plans in Wales have a much longer way to go, leaving a considerable governance gap.

Chemicals

Final rating: **RED**

In her [2017 Mansion House speech](#), Theresa May indicated that her government would be seeking 'associate membership' of the European Chemicals Agency (ECHA). This would have allowed continued access to the ECHA database and participation in its transparent, scientifically informed decision making processes. EU REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals) is considered the global gold standard for chemical regulation.

The current UK administration, however, dropped ambitions for associate membership on the basis that the UK should determine its own chemical regulation. Ministers have focused on establishing an independent regulatory regime, known as 'UK REACH', run by the Health and Safety Executive (HSE); Northern Ireland and its businesses will remain under the EU system. The result is a [costly and inferior copy](#) of the EU system, which will put the environment, human health and business interests at risk.

To access the UK market, companies will need to re-register chemicals already registered with ECHA, with up to six years to provide duplicate safety data for those substances. According to UK industry, it [could cost businesses an estimated £1bn to comply with UK REACH](#), including accessing and re-submitting full registration dossiers. In February 2021, UK trade associations wrote to the government arguing that the UK regulator should rely on basic and publicly available data for the vast majority of substances registered with UK REACH, and only request full datasets for chemicals of "most concern to the UK". The government is yet to respond, but [if such proposals were adopted](#) it would represent clear deregulation of chemical protections, break the government's promise not to lower environmental standards, and significantly weaken the ability of the UK regulator to protect health and the environment from harmful chemicals.

For their part, British regulators are expected to deliver a ['better'](#) system than EU REACH with fewer staff and on a much smaller budget. They will not have access to the full chemical safety data held by ECHA and there will not be a comparatively transparent structure to provide effective oversight and scrutiny. It is likely that UK REACH will have to regulate a similar number of substances on an [anticipated annual budget of £13m](#) with [around 40 staff in HSE](#) – in comparison to €100 million and 400 ECHA staff who work specifically on EU REACH. A lack of capacity in the British system could see it fall rapidly behind EU controls, with a risk of unscrupulous manufacturers dumping products on the UK market that fail to meet EU standards.

Ministers have not really assuaged fears that the UK could actively seek to adopt a 'lighter touch' approach to chemical regulation in the coming years. While the government has continually emphasised the importance of high standards, some have advocated a less protective system. Michael Gove, currently the Chancellor of the Duchy of Lancaster, has lauded the potential of being free from the EU's ['often anti-science and anti-innovation approach'](#). The UK government has also resisted implementing a non-regression clause on chemicals, raising fears that standards could be weakened.

With the UK government determined to retain the right to diverge from EU regulation, the final UK-EU deal does not involve a close and cooperative relationship on chemicals. The result more resembles the loose relationship ECHA already has with 'third countries' such as the United States or Australia. This part of the deal gives some regulatory flexibility for the UK to negotiate trade deals with countries such as the United States, which could see the import of products containing problem chemicals currently banned in the EU. Still, there are non-regression and rebalancing provisions in the deal that may constrain the extent to which the UK could deregulate or significantly diverge from future EU protections.

After four years it can only be concluded that protections around chemicals are weaker following the UK's exit from the EU. In 2007, when one of the driving forces behind the creation of EU REACH, the UK recognised that the regulation of chemicals is best achieved through cooperation between countries across Europe, including the central registration of chemical safety data and pooling of

limited resources and expertise. It remains in the UK's interest to negotiate a close partnership with the EU on chemical regulation (such as associate membership of or participation in ECHA) that would avoid the costs and burdens of an unnecessary duplicate system, but retain the high environmental, safety and health standards the UK currently enjoys. This is an option that can be explored by both sides in ongoing post-Brexit trade negotiations.

Climate

Final rating: **AMBER**

Hosting the UN climate conference in Glasgow in November 2021 has given new impetus on tackling climate change. The UK government announced a number of ambitious plans and commitments through 2020, including a [‘Ten point plan for a green industrial revolution’](#). These include an earlier phase out of sales of conventional cars and vans, and continued investment in renewable energy and new technologies like carbon capture and storage (CCS). The UK government has also adopted a tougher net zero aligned emissions target for 2030.

The final [UK-EU deal](#), agreed in December 2020, demonstrates that both sides want to be ambitious on climate. Climate change was one of the [‘essential elements’](#) of the deal, and if one side takes decisions that materially undermine the Paris Agreement then the other could in principle annul the deal. This is a very high threshold to meet but its inclusion for the first time in a trade agreement is a strong statement of intent.

The UK-EU deal fell short, however, on [climate cooperation](#). Talks were made more complicated by the UK initially asking for a separate text on climate and energy issues, and it was clear from a relatively early stage that the UK would not continue to contribute to EU climate targets, which would have helped maintain momentum on the issue inside the bloc.

The UK will now be going it alone on carbon pricing, although both sides have committed to ‘give serious consideration’ to linking the trading systems at some point in the future. The UK has also left the Internal Energy Market, with the two sides only managing to agree to reach a deal on efficient cross-border energy trading in the future. In time, this will facilitate grid decarbonisation, but the delays and lack of cooperation will increase costs and should be considered a missed opportunity.

On enforcement, the decision to add climate to the remit of the Office for Environmental Protection (OEP) – the new green watchdog for England and Northern Ireland – should help keep the government focused on achieving its legally binding climate obligations. The plans for the OEP have been strengthened considerably over the past three years, but [continuing questions](#) over its independence and enforcement mechanisms could see it wield power less effectively than the European Commission and Court of Justice.

On both emissions trading and eco-design the UK government currently envisages going further than the EU. In the case of the [recently announced](#) UK emissions trading system (ETS), it has committed to a review of additional sectors that could be brought into the scheme, and will introduce a slightly tighter cap on emissions than the UK's share under the EU ETS – although not initially as tight as recommended by the Climate Change Committee. On eco-design, there have been commitments to keep pace with the EU regime for energy-related products such as fridges and pumps, which have successfully saved consumers money and reduced carbon emissions. The UK government is also [considering](#) expanding eco-design rules to new products.

Despite strong climate ambition, there are nonetheless no guarantees that the UK's promises of leadership will translate into significant and sustained on-the-ground emissions reductions. It is here that the drivers of EU policy directives such on energy efficiency might be missed. It also remains to be seen whether the UK will adopt measures as bold as the carbon border adjustment mechanism the EU is [looking](#) to introduce. With the co-operative elements of the Brexit deal on climate proving relatively weak, it is fair to wonder how much further the UK could have gone, and how much more it could have achieved, if it found a way to agree strong climate cooperation from the get-go.

Fisheries

Final rating: **AMBER**

The government's much anticipated Fisheries Act passed in November 2020. Despite notable improvements over its course, it fell short of world leading status and failed to guarantee much needed ocean recovery post-Brexit.

The UK government stated [that the legislation included](#) a legal requirement for all fish stocks to be fished at sustainable levels, and that it would ensure fisheries are managed in a sustainable way. Unfortunately, neither of these pledges materialised in the act. There is [no clear commitment](#) to fishing at sustainable levels, which is a regression from the EU's Common Fisheries Policy (CFP) aim of setting catch limits in line with Maximum Sustainable Yield (MSY) to a set timeframe. Peers attempted to make sustainability the [prime objective](#) of the legislation, but the government removed these provisions. The Joint Fisheries Statement, which will set out how the four nations of the UK meet objectives, can be disregarded in a wide range of circumstances.

Nevertheless, six of the eight objectives set out in the act do focus on sustainability. Two are particularly welcome: one focusing on climate change, and another aiming to implement an 'ecosystem-based approach', which acknowledges the link between fishing and the health of the marine environment. The act also includes 'fisheries management plans' as a tool to set out how to restore and maintain stocks at sustainable levels, though further details are needed.

Despite support from peers, [major retailers](#) and the [Scottish government](#), the act does not mandate the rollout of Remote Electronic Monitoring (REM) with cameras on larger vessels. Instead, we need to look to the four UK nations to do this in the coming years. Since the act's passage, Defra has launched [a consultation](#) on additional quota allocation and management, and a call for [evidence](#) on expanding the use of REM. These are both welcome. REM would underpin sustainability by providing vital information on what, where and how fish are caught – supporting management and compliance, as well as providing accountability to consumers.

While the final Brexit deal did not deliver the increase of quota many hoped for, it does mean the UK can take management action in UK waters as long as this is non-discriminatory. A positive example of this was witnessed in February when the Marine Management Organisation announced a [consultation](#) on measures to restrict fishing in four offshore marine protected areas, including the Doggerbank.

Furthermore, under the new [UK-EU deal](#), the parties agreed to exploiting shared stocks at rates intended to maintain and progressively restore populations of harvested species above biomass levels that can produce the maximum sustainable yield (MSY). It stated that the parties 'shall cooperate with a view to ensuring that fishing activities for shared stocks in their waters are environmentally sustainable in the long term'.

Through the Brexit process, discussion of fisheries tended to resolve around sovereignty and politics rather than the ability of nations to manage their shared and finite marine resources. Perhaps as a result neither the Fisheries Act nor the UK-EU deal establishes unequivocally greener seas.

Still, the act provides a framework to turn around the fortunes of our fisheries and the marine environment they rely on. We now urge the UK and devolved governments to agree a swift and ambitious timetable for implementing measures that will improve marine health, help mitigate climate change, provide sustainably set and fairly allocated quota across the UK fleet, and bring an end to damaging unsustainable fishing.

Land use

Final rating: **AMBER**

With its landmark [Agriculture Act](#), the UK government has laid the foundations to deliver on its promise to transform domestic farming policy. The legislation's passage begins a seven-year transition away from economically inefficient and environmentally damaging farm payments, and towards a system that rewards farmers for mitigating climate change, enhancing biodiversity and restoring habitats. With the government having pledged to maintain funding levels until 2024, there is a huge opportunity to create a system that enables farming businesses and nature to thrive.

The act's success, however, still depends on its delivery. The 'Sustainable Farming Incentive' ([SFI](#)) will begin making payments [in 2022](#) ahead of the full rollout of the Environmental Land Management Scheme (ELMS) in late 2024. The SFI will reward farmers who go above regulatory requirements when protecting the environment on their farms. In addition, multi-farm Local Nature Recovery and broader Landscape Recovery schemes will seek to achieve ecological restoration at a larger scale. Further detail on the schemes, and their integration into wider environmental policy, is now needed, alongside assurances of sustained substantial funding for ELMS.

It is also hoped that government support its ambitions for nature friendly farming by ruling out future exemptions for products such as neonicotinoids. The government issued an emergency authorisation for a product containing neonicotinoids in January 2021, but [the pest threshold for its use was in the end not met](#). There remains serious concern over the transparency of the process for authorising such products that harm pollinators and cause nature loss.

The government has committed to consulting on the post-Brexit regulatory system. A new regulatory system with effective compliance and enforcement must be in place by 2024 at the latest as this is when the current compliance arrangements, known as 'cross compliance', will cease. Minimum standards contained in the cross-compliance regulations regarding hedgerow management, soil management and small water bodies must be included in the new regulatory regime if standards are to be maintained. Improved advice for farmers would also be welcome, but commitments to ['risk-based' inspections](#) and fewer penalties are a real cause for concern. It was [revealed in February 2021](#) that not a single one of 243 violations of new water pollution rules has been addressed with a fine or prosecution since April 2018. With a backdrop of ambitious reforms, it would be a poor time to backslide further on regulation and enforcement.

Promising work domestically, however, is tempered by an unconvincing commitment to maintain import standards. In the second half of 2020, [farmers, food campaigners, green groups, newspapers and public health experts](#) came together to urge the government to commit in law to maintaining food import standards. Ministers declined to do so. A cross-sector report from the [Future British Standards Coalition](#) also found that ministers had made it much easier to change food standards without scrutiny or a vote in parliament, and certain standards – including those governing the use of antibiotics in farming – had already been deleted.

In response to public pressure, ministers established a [Trade and Agriculture Commission \(TAC\)](#) for at least three years to scrutinise the impact of new trade deals on food standards. After an amendment to the Trade Bill, the TAC should include representatives with environmental and animal welfare expertise. The government has also committed to producing a report to parliament that outlines the impact on agriculture of each new trade deal. These are welcome developments.

Nevertheless, the TAC remains advisory only, cannot examine public health, and will not consider the impact of trade deals on the UK's global environmental footprint. The government has continually claimed that [standards will not be weakened](#) – but without clear legal guarantees and with major trade deals yet to be signed, we cannot conclude that the government has met its [manifesto commitment](#) of no compromise on environmental, food and animal welfare standards, despite many opportunities to do so.

Nature

Final rating: **RED**

From June 2016 to the present day the risk rating for nature protection has never been lower than medium risk, and for the past two years has been high risk. Ambitious commitments to be an environmental world leader in speeches and pledges that standards would not be weakened after Brexit have not been backed up with the necessary actions.

Instead ministers have launched deregulation initiatives that could see vital protections for nature lost or undermined, including the [Freeports](#) and [Reforming Regulation Initiative](#) consultations, and ill-conceived attacks on [environmental laws](#), [Government amendments](#) to the repeatedly delayed Environment Bill, now set for Royal Assent in late 2021, have sought to weaken protections for biodiversity, the legality of Natural England's approach to [general licences](#) has been called into question, and the government has [fudged the numbers](#) to try to bolster its claims to be a world leader. In early 2021, ministers seriously considered reversing the ban on the use of neonicotinoids as a limited emergency exemption to help certain crops; although it would have been an emergency measure, such a move would neither align with the government's rhetoric on high standards nor its supposed commitment to reverse the declines in indispensable wildlife in the UK, such as bees.

The Environment Bill's long term biodiversity targets should drive the sort of policy responses needed to halt and reverse declines in wildlife, but without binding interim targets and a headline '[state of nature](#)' target it is likely these actions could be delayed until well into the next decade, risking further losses and possibly extinctions. Setting binding interim targets would also be a clear way for the government to demonstrate its commitment to maintain and enhance environmental protections.

Over the past 10 years the government departments and statutory bodies responsible for nature conservation have seen their budgets and resources slashed. In 2018 the [Public Accounts Committee](#) voiced concerns that the Department for the Environment, Food and Rural Affairs (Defra) would not be able to complete all its current work while meeting efficiency savings of £138m. [Natural England's](#) Chair has stated that its current funding is below the level required to deliver all of its statutory duties to a good standard. Funding for environmental initiatives announced by the Chancellor in the recent [Spending Review](#) falls far short of the mark.

The new bodies and structures established to fill the governance gap created by Brexit are yet to be delivered and look set to fall far short of what is required. Significant concerns remain around the enforcement powers of the Office for Environmental Protection (OEP), which do not match those of the European Court and Commission. With the Defra Secretary overseeing the body's finances and appointing its board members, the OEP's ability to take on the government over environmental policy failures is in doubt. Government amendments to the Environment Bill create scope for the government to curtail the OEP's enforcement power, potentially creating a [conflict of interest](#).

The repeated postponement of government announcements on the replacement of EU nature conservation funding, including the LIFE and BEST programmes, is undermining conservation action at a time when the government's stated aim is to be a world leader. Nature was also neglected in the final UK-EU deal, with little evidence of cooperation and the commitment to non-regression on standards limited to situations that affect trade or investment. The UK has [left the European Environment Agency](#) and there is no joint shared ambition on nature, as there is for climate.

In conclusion, the government's failure to back up its rhetoric with actions and funding at the domestic level, its [repeated attacks](#) on vital environmental rules, such as Environmental Impact Assessments, and its resistance to robust accountability call into question the credibility of the pledges on nature made by ministers and the prime minister. Instead of leaving the environment in a better state, the government seems set to preside over a continuing acceleration in the decline of our natural environment.

Waste and resources

Final rating: **RED**

From June 2016 to the present day, the risk rating for resources and waste has never been less than medium, and for the past two years has been high risk. Ambitious commitments to be an environmental world leader in prime ministerial speeches and pledges that environmental standards would not be weakened after Brexit have not always been backed up with the necessary action, particularly in England (as waste is a devolved matter). Following the introduction of a new [resources strategy for England in 2018](#), momentum appears to have waned on improving the UK's waste and resources policies and regulations

On the positive side, the Environment Bill's [long term targets](#) on resources and waste have been broadly welcomed as being in the right area. These targets will focus on resource productivity at the start of the material cycle, and waste minimisation at the end. These should complement existing recycling targets that have been developed with the EU, though many questions remain over how ambitious their final design will be.

In the summer of 2020, the government also [partially adopted the EU's Circular Economy Package](#) (CEP), including the headline target of 65 per cent municipal recycling by 2035. On the one hand, this was very encouraging, as it had [looked like the replacement recycling target would not be made legally binding](#). On the other hand, the UK is set to miss the target that the 65 per cent mark will replace (50 per cent household waste recycling by 2020), and the interim targets of 55 per cent recycling by 2025 and 60 per cent recycling by 2030 will not be legally binding in England.

Beyond the Environment Bill process, it appears that the development of resource policy is stalling. The 2018 Resources and Waste Strategy promised that three major recycling focused reforms would be implemented by 2023 in line with EU requirements in some instances: a new [extended producer responsibility scheme for packaging](#), [consistent recycling collections](#) and a [deposit return scheme](#). The second round of consultations on these measures, planned for early 2020, have not been released at the time of writing and the government quietly indicated in the [National Infrastructure Strategy](#) that none of these reforms will now be introduced before 2024. This means the UK will fall behind the EU, notably on extended producer responsibility, where there have been no proposals beyond the preliminary packaging consultation. The CEP mandated member states implement EPR schemes for packaging, waste electricals and electronics, batteries, and end of life vehicles by January 2023. Many other initiatives that England's strategy proposed are now considerably behind schedule and the update to the waste prevention programme, arguably more important than waste related reforms, was due to be reviewed in 2019 but is [nowhere to be seen](#).

There are also increasing concerns that the EU will now quickly pull away on plastics, as England has [not committed to adopting the Single Use Plastics directive](#), which will ban more applications of plastic. Scotland and Wales have indicated a desire to adopt the package in full and have expressed concern that the UK Internal Market Act could prevent them from taking meaningful action. It is also unclear if the UK nations will follow new EU regulations expected [to prevent more than 90 per cent of intentionally added microplastics](#) from polluting the environment (the UK's partial ban on microbeads, which it describes as 'world leading', is estimated to address [less than ten per cent of such pollution](#)). Falling behind on plastic would be particularly worrying, as the effect of the BBC's Blue Planet and rising public concern should have allowed and encouraged ambitious government action.

The government's failure to back up its rhetoric with actions and funding, not least for policy development to reduce waste in the first place, suggests that there are considerable risks with the UK's approach to resources. Ministers must do more in the coming months to prove their pledges are more than empty rhetoric.

Water

Final rating: **AMBER**

One of the major risks to the water environment brought by Brexit was the potential loss of the [Water Framework Directive \(WFD\)](#), which drives improvements to the chemical and ecological status of waters. The WFD has been brought across into UK law via statutory instruments that broadly replicate the directive's powers and protections, but the fact that these have not been duplicated to the letter creates both opportunities and risks.

Adjusting the potential definition of ecological status, for example, could be exactly the kind of positive environmental change that our departure from EU frameworks would allow us to implement – setting tighter standards that go beyond those set by the WFD. Yet, in the [absence of a clear legal commitment to non-regression of environmental standards](#), regardless of their impact on trade or investment, this flexibility could instead be a risk: standards could be considered too costly or too complicated, and consequently be cast aside. As another example, powers to be given to the Defra secretary via the [Environment Bill](#) similarly allow amendments to aspects relating to chemical status, including the substances to be taken into account, and the standards to be applied to them.

This flexibility is of particular concern when set against the most recent WFD assessment, which saw [none of England's waters](#) achieving requisite standards. Every single waterbody failed due to the presence of priority hazardous substances, largely 'legacy' chemicals that are now controlled but which persist in the environment. There are fears this may prompt calls to remove problem chemicals from the assessment rather than direct funds towards tackling historic pollution, highlighting the importance of taking a robust approach to the regulation of chemicals in future via 'UK REACH' – the new regulatory framework for chemicals that came into effect in January 2021. A strong stance will prevent the 'legacy pollutants of the future' coming onto the market in the first place.

The Office for Environmental Protection will replace the role of the European Commission and Court of Justice in upholding environmental laws in England and Northern Ireland. Introduced via the UK Environment Bill, the OEP will be able to rule on decisions made by public authorities and initiate its own investigations. A widely respected chair, in Dame Glenys Stacey, has been appointed.

There are doubts, however, that the OEP will enjoy the same independence and power as its EU equivalent: the body will not be able to issue fines and will see its [budget and board members determined by the UK government](#). In November 2020 [ministers gave themselves the power to issue guidance to the OEP on enforcing the law](#) – which is difficult to countenance considering the OEP is meant to be holding the UK government to account. Comparative domestic enforcement bodies such as the Information Commissioner's Office (ICO) are not hamstrung in this way. At the time of writing, there is still time for the bill and the OEP to be strengthened.

The [UK-EU Trade and Cooperation Agreement](#) appears to have few additional implications for the water environment, although binding provisions around the monitoring and enforcement of environmental law, and particularly the requirement to 'ensure competent domestic enforcement authorities', may support calls to provide organisations such as the Environment Agency with more resources. It was [revealed in February 2021](#) that not a single one of 243 violations of new water pollution rules has been addressed with a fine or prosecution since April 2018. A comprehensive water quality monitoring regime is important to both support enforcement and target investment in environmental enhancement.

If supported with appropriate funding and resources, the [Agriculture Act](#) should pave the way for greater protection of water quality and should enhance freshwater and wetland habitats to provide natural flood risk management and benefits for wildlife. Whilst there is much to iron out, ambition to align Environmental Land Management (ELM) payments, flood risk funding, water company investment and other funding sources under an overarching 'Nature Recovery Network' is a positive sign for the water environment.

Overall, while many concerns remain around protections and compliance, positive developments will largely rest on the setting of standards and the strength of new enforcement bodies across the UK.