

Briefing: The Environmental Targets (Public Authorities) Bill

The Environmental Targets (Public Authorities) Bill has been proposed by crossbench peer Lord Krebs and came ninth in the July 2024 ballot for Lords Private Members' Bills.¹ It was introduced to the House of Lords on 3rd September 2024, Second Reading is scheduled for 18th October. The Bill requires specified public bodies to contribute to the delivery of statutory targets established under the Environment Act 2021 and the Climate Change Act 2008. We urge peers to support the Bill, and to ask Ministers to give it Government backing.

The need for the Bill

The Government has been elected on a manifesto which promised a priority mission to address the climate and nature crisis, as the *'greatest long-term global challenge that we face'*.²

This mission reflects the Government's legal obligation to meet statutory climate and nature targets set under the Climate Change Act 2008 and the Environment Act 2021. The Environment Act includes a legally-binding target to halt the decline in species abundance by 2030. Further biodiversity targets include the target to reduce the risk of species extinction and the target to create 500,000 hectares of wildlife-rich habitats by 2042. The Climate Change Act commits the UK government to reducing greenhouse gas emissions by at least 100% of 1990 levels (net zero) by 2050, with a further target to reduce carbon emissions by 68% by 2030.

The UK is currently a long way from achieving the targets. 16% of species are threatened with extinction in Great Britain and only 7% of woodlands and only 25% of peatlands are in good condition.³ The Office for Environmental Protection has concluded that the UK is "largely offtrack" to meet its environmental goals.⁴

Progress has been similarly slow towards achieving the Climate Change Act⁵, both in terms of mitigation and in delivering the adaptation programme required by section 58 of the Act.⁶ The Climate Change Committee concluded in 2024 that "most of our delivery indicators are off track" (this assessment pre-dated policies from the new Government elected in July).⁷

The role of public bodies

Every day, public bodies make many hundreds of spending, planning, consenting and enforcement decisions that will affect the UK's chances of achieving its environmental targets. National targets are important, but it is the everyday decisions of public bodies that ultimately determine success or failure.

¹ <https://bills.parliament.uk/bills/3749>

² <https://labour.org.uk/change/>

³ <https://stateofnature.org.uk/>

⁴ <https://www.theoep.org.uk/report/government-remains-largely-track-meet-its-environmental-ambitions-finds-oep-annual-progress>

⁵ <https://www.theccc.org.uk/publication/letter-2023-progress-report-to-parliament-to-rt-hon-prime-minister/>

⁶ <https://www.theccc.org.uk/wp-content/uploads/2024/03/Independent-Assessment-of-the-Third-National-Adaptation-Programme-NAP3.pdf>

⁷ <https://www.theccc.org.uk/uk-action-on-climate-change/progress-snapshot/>

At the moment, however, many relevant decisions do not take the Climate Change Act or Environment Act targets into account. Most public bodies were established well before climate and nature action became a national priority and their statutory purposes do not include clear environmental goals. Although some public bodies do have general environmental duties, they are often weak and unspecific. This means that many opportunities for better environmental practice are missed.

The primary current nature duty on public bodies is the biodiversity duty, established under the Natural Environment and Rural Communities Act 2006 and updated through the Environment Act 2021. The duty requires public bodies in England to consider what they can do to conserve and enhance biodiversity.⁸ This is a weak duty, lacking a requirement to make actual contributions to nature recovery, which can be discharged through a simple declaration that nature has been considered. Public bodies subject to the duty (as updated through the Environment Act) were required to report on their consideration by January 2024. Ongoing Freedom of Information work by Link has found that of 23 public bodies, 6 had published consideration reports containing no agreed policies or actions and 7 had (at time of writing on 08.10.24) still not published a report, ten months after the deadline.⁹ A below-50% rate for publication of meaningful compliance reports does not suggest a strong or effective duty.

Attempts made by peers during the passage of the Environment Act to put a more directional, active duty on public bodies were rejected by the then Government.¹⁰ Similar efforts in 2023 led to the then Government conceding that a duty on public bodies to consider how they could further National Park and National Landscapes statutory purposes was not sufficient. The duty was changed through the Levelling Up & Regeneration Act to a requirement to ‘further’ National Park and National Landscapes statutory purposes.¹¹ This lesson on the rigour environmental duties need to be effective has yet to be applied more widely.

Although more public bodies now have a clear climate role, similar problems still remain in some areas. Between 2008 and 2010 local authorities were required to report on their performance in a range of areas against a set of national indicators. The framework included three national indicators for climate change progress; CO₂ reduction from local authority operations, per capita CO₂ emissions in the local authority area and adaption to climate change. The framework only included local authorities, rather than all public bodies whose work had an environmental bearing. In 2010 this requirement was scrapped¹², subsequently no replacement has come forward in England and Northern Ireland (statutory duties have come forward in Wales & Scotland). Despite repeated recommendations for a statutory climate duty on local authorities in England and Northern Ireland from the Climate Change Committee¹³ and the Independent Review of Net Zero¹⁴, no such duty has been established.

⁸ <https://www.gov.uk/guidance/complying-with-the-biodiversity-duty>

⁹ Ongoing Link research. Full results will be published later in 2024.

¹⁰ For more on these rejected amendments, see this 2021 briefing from Greener UK and Link: <https://www.wcl.org.uk/docs/Environment%20Bill%20-%20Greener%20UK%20Link%20briefing%20-%20Committee%20Day%20%20-%20environmental%20principles.pdf>

¹¹ <https://www.wcl.org.uk/the-planning-system-and-nature-what-next.asp>

¹² https://policy.friendsoftheearth.uk/sites/default/files/documents/2019-02/impact_abolish_ni186.pdf

¹³ https://www.theccc.org.uk/wp-content/uploads/2012/05/LA-Report_final.pdf

¹⁴ <https://assets.publishing.service.gov.uk/media/63c0299ee90e0771c128965b/mission-zero-independent-review.pdf>

Work by Climate Emergency UK has found that 94% of the 52 worst performing UK councils for climate are in England and Northern Ireland, a disproportionately high amount thought to reflect the lack of a climate duty in those two nations. Councils in Scotland were assessed as the best in the UK in terms of their climate performance, reflecting that statutory duty in place there.¹⁵

The lightness of the environmental duties on public authorities is in stark contrast to the weight of their economic objectives. Many authorities were founded on a purely commercial remit, such as the Forestry Commission, established by the Forestry Act 1919 to promote the production and supply of timber.¹⁶ This focus on economic considerations has been added to in more recent years by the application of a specific 'growth duty' to have regard to the desirability of growing the economy, set under the Deregulation Act 2015.¹⁷ As the nature and climate crisis has grown, the historic preponderance of economic duties on public authorities has been exacerbated rather than resolved.

This imbalance leads to policy decisions which fail to fully consider environmental costs and benefits. Despite some good practice, Forestry England continues in many places to prioritise commercial considerations over growing and maintaining biodiverse woodland habitats on the Public Forest Estate.¹⁸ Network Rail does not act decisively to remove the invasive non-native species finding footholds in railway banks in its ownership.¹⁹ The water regulator, Ofwat, struggles to properly hold water companies to account for river pollution, due to its lack of an environmental remit.²⁰

Overall, Environment Act and Climate Change Act targets often fail to factor into policy decisions made outside of central Government. Outside Westminster, the targets are increasingly untethered from on-the-ground decisions. This problem could grow as the new Government implements its devolutionary commitments and more decisions are taken away from Westminster.²¹ This missed opportunity for nature and climate will grow yet further, if new public bodies like Great British Energy and newly empowered bodies like the Crown Estate, are not given sufficient environmental objectives which include nature.²²

¹⁵ https://climateemergency.uk/wp-content/uploads/2024/03/Scorecards_Successes_report_CEUK_DIGITAL.pdf

¹⁶ <https://vlex.co.uk/vid/forestry-act-1919-808303297>

¹⁷ See for example the extension of the Growth Duty to Ofwat in Spring 2024:

https://www.wcl.org.uk/docs/assets/uploads/April_24_Briefing_Draft_Economic_Growth_Regulatory_Functions_Amendment_Order_2024_accompanying_Statutory_Guidance.pdf

¹⁸ See for example the decisions made around the replanting of Wareham Forest in Dorset in 2021:

<https://anewnatureblog.com/2021/02/11/forestry-commission-ignores-pleas-and-replant-conifers-after-wareham-heath-fire/>

See also proposals for coniferous planting on an important bird breeding site within Northumberland National Park:

<https://www.northumberlandnationalpark.org.uk/wp-content/uploads/2020/12/Report-5-Woodland-Creation-Grant-Wallshield-Consultation.pdf>

¹⁹ <https://www.thetimes.com/uk/transport/article/network-rail-lets-japanese-knotweed-blight-homes-pqtq5bjz>

²⁰ https://wcl.org.uk/docs/assets/uploads/The_state_of_pollution_in_rivers_Briefing_note_Feb_2024_1.pdf

²¹ <https://www.gov.uk/government/news/devolution-delivery-for-first-mayoral-meeting>

²² See <https://www.wcl.org.uk/docs/GB%20Energy%20Bill%20-%202nd%20Reading%20briefing%20from%20Link.pdf> &

<https://www.wcl.org.uk/docs/The%20Crown%20Estate%20Bill%20-%202nd%20Reading%20Briefing%20from%20Link.pdf>

& https://www.wcl.org.uk/docs/Crown_Estate_Bill_Committee_Stage_Briefing.pdf

To stand any chance of being met, responsibility for achieving nature and climate targets need to be cascaded beyond Westminster, across more decision making bodies.

The impact of the Bill

The Private Members Bill proposed by Lord Krebs would bring Environment Act and Climate Change Act target delivery to life across relevant public bodies.

Clause 1 would apply an “environmental recovery objective” to a set list of public authorities, including public bodies overseen by DEFRA and DESNZ and all local authorities. In pursuit of the objective, Clause 2 would introduce a duty for public authorities to take all reasonable steps to contribute to:

- The achievement of targets set under sections 1 to 3 of the Environment Act 2021.
- The achievement of targets set under Part 1 of the Climate Change Act 2008.
- The delivery of the programme for adaptation to climate change under section 58 of the Climate Change Act 2008.

In this way, public bodies would have a clear purpose to contribute to target-delivery, influencing corporate strategy, reporting and governance, as well as an active duty to contribute to target-delivery in the exercise of their day-to-day responsibilities.

This set of requirements covers nature recovery, climate mitigation and climate adaptation, the key environmental objectives the Government is working towards. The duty is specific and active, rather than general and passive, requiring an intervention to make a contribution to measurable, timebound targets rather than merely registering a consideration of broad aspirations.

There is a helpful, recent precedent for making nature a statutory objective for organisations. Thanks to cross party efforts, the UK Infrastructure Bank Act was amended during its passage in 2023 to state that the Bank had an objective to promote investment in nature-based solutions.²³ This has already yielded progress for nature, with the UK Infrastructure Bank committing in March 2024 to finance a £50 million fund to promote biodiversity and environmental science innovation.²⁴

Applying this approach to other public bodies through the Environmental Targets (Public Authorities) Bill would yield significant benefits for nature and climate change. Welcome but ad-hoc attempts by the Forestry Commission to restore native woodland habitats in parts of the Public Forest Estate²⁵ could be replaced by sustained strategic efforts to supply from their holdings (489,000 hectares in England²⁶) a significant proportion of the Environment Act target for 500,000 hectares of wildlife-rich habitats. The Rural Payments Agency could have the statutory justification to restructure their operations to fully align with the climate and nature objectives of the Environmental Land Management schemes they administer. Local authorities could have the legal steer they need to properly plan for climate

²³ <https://www.legislation.gov.uk/ukpga/2023/10> (section 2:5)

²⁴ <https://www.ukib.org.uk/news/uk-infrastructure-bank-backs-greensphere-capitals-innovative-british-climate-and-nature-fund>

²⁵ For example, see <https://www.forestryengland.uk/news/new-wild-areas-nature-recovery-the-nations-forests>

²⁶ <https://whoownsengland.org/2020/11/02/who-owns-englands-woods/>

adaptation, and create local incentives for nature-based solutions to protect local residents from increased heat and flood risks.

With 8% of land in England in public ownership, the application of the environmental recovery objective across the suggested range of public authorities could unlock the nature recovery, climate mitigation and climate adaptation potential of thousands of hectares, from road verges to city parks to county farms.²⁷ More land being put into environmental recovery will also drive increases in public access to nature, with associated health benefits.²⁸ The last sustained effort to increase nature recovery on public land, a Public Forest Estate programme undertaken around the millennium, achieved a 30% increase in the number of people living close to and being able to access woodland.²⁹

This additional progress towards the achievement of environmental targets, and associated social benefits, would be cost-effective. The Environmental Targets (Public Authorities) Bill would present minimal upfront costs for the Government, being confined to the administrative burden of legislating and some support for the sponsoring Departments (DEFRA and DESNZ) to oversee implementation of the environmental recovery objective. Public bodies would face some compliance costs, with staff time being required to embed the duty in decision making process. The costs of this are likely to be operationally manageable. A 2013 review of the Public Sector Equality Duty, a new duty imposed on a range of public bodies by the Equality Act 2010, found '*little evidence*' that it had significantly increased costs for authorities it applied to.³⁰

This cost-effective, environmentally impactful Bill would deliver on an array of official recommendations for greater statutory weight for nature and climate objectives:

- The 2012 the Independent Panel on Forestry recommended that the main purpose of the management of the Public Forest Estate be changed to maximising its value for wildlife, access, recreation, education and cultural heritage.³¹
- The 2018 Glover Review recommended that national landscapes should have clearer statutory purposes for nature recovery.³²
- In 2022 the Independent Review of Net Zero recommended '*statutory duties for local authorities to take account of the UK's net zero targets, based on a clear framework of local roles and responsibilities*'.
- The Environmental Audit Committee's 2022 'Water quality in rivers' report called for new directions to Ofwat and National Highways stressing that '*natural capital needs to be taken into account in all economic decision making*.'³³

²⁷ <https://www.theguardian.com/money/2019/apr/17/who-owns-england-thousand-secret-landowners-author>

²⁸ <https://www.wcl.org.uk/docs/Improving%20public%20access%20to%20nature%20-%20Link%20briefing%20-%2002.05.2023.pdf>

²⁹ <https://commonslibrary.parliament.uk/research-briefings/sn05734/> See p5

³⁰ https://assets.publishing.service.gov.uk/media/5a7c3768e5274a1f5cc76931/Review_of_the_Public_Sector_Equality_Duty_by_the_Independent_Steering_Group.pdf

³¹ <https://assets.publishing.service.gov.uk/media/5a7a381440f0b66a2fc00c12/Independent-Panel-on-Forestry-Final-Report1.pdf> p51

³² <https://www.gov.uk/government/publications/designated-landscapes-national-parks-and-aonbs-2018-review>

³³ <https://committees.parliament.uk/work/891/water-quality-in-rivers/publications/>

- Reviewing the Environmental Improvement Plan in 2024, the Office for Environmental Protection highlighted that, in order to achieve key targets: *'Delivery bodies, local government, businesses and the environment sector need to know in full, what part they must play. In our view, government must do more to set out for Parliament, the public and all those who must play a role in this how it intends to deliver its ambition.'*³⁴

The Government should act on these recommendations to align more public body weight behind efforts to achieve Environment Act and Climate Change Act targets. The Environmental Targets (Public Authorities) Bill would achieve this in a cost-effective and impactful manner, providing a statutory boost to cascade national environmental targets down to day-to-day decision makers to ensure that these vital objectives are met. This would accelerate the progress of the Government's environmental mission, benefiting nature, climate and people.

Key questions

Is the Bill really necessary?

Yes. The main existing nature duty on public bodies in England is the general duty to conserve and enhance biodiversity, established under the Natural Environment and Rural Communities Act 2006 and slightly updated through the Environment Act 2021.³⁵ The 'general' in the title is illustrative, the duty requires a 'time to time' consideration of actions the public body can take to further biodiversity, consistent with the proper exercise of its functions.

This reflective, intermittent duty has not hindered a range of harmful public body decisions for the environment since the duty's updating in 2021, from the granting of new oil and gas licenses in Marine Protected Areas by the North Sea Transition Authority³⁶ to Highways England pursuing damaging road construction projections on the edges of National Parks.³⁷ The duty has also failed to generate significant constructive actions for nature. Similarly, non-binding central Government documents intended to coordinate gains for nature, including the 25 Year Environment Plan and the subsequent Environmental Improvement Plan, have failed to generate meaningful responses from public bodies.

A binding, proactive duty to actively contribute to the achievement of specific (Environment Act) targets is required to address the poor performance of the current general duty to conserve and enhance biodiversity.

Will the new duty be too onerous?

No. The new duty on public bodies to take steps to achieve environmental targets applies only to the exercise of their functions, it will not require bodies to take on new roles and functions. Within their

³⁴ <https://www.theoep.org.uk/report/government-remains-largely-track-meet-its-environmental-ambitions-finds-oep-annual-progress>

³⁵ [https://www.legislation.gov.uk/ukpga/2021/30/part/6/crossheading/biodiversity-objective-and-reporting#:~:text=102General%20duty%20to%20conserve%20and%20enhance%20biodiversity&text=\(1\)A%20public%20authority%20which,further%20the%20general%20biodiversity%20objective.](https://www.legislation.gov.uk/ukpga/2021/30/part/6/crossheading/biodiversity-objective-and-reporting#:~:text=102General%20duty%20to%20conserve%20and%20enhance%20biodiversity&text=(1)A%20public%20authority%20which,further%20the%20general%20biodiversity%20objective.)

³⁶ https://www.wcl.org.uk/assets/uploads/img/files/OPL_Bill_Lords_report_Link_briefing.pdf

³⁷ <https://sussexwildlifetrust.org.uk/news/stop-the-arundel-bypass>

existing functions, the duty will require public bodies to take all reasonable steps to contribute to the achievement of Environment Act and Climate Change Act targets. The 'reasonable steps' wording is well established in law. Recent precedents include The Worker Protection (Amendment of Equality Act 2010) Act 2023, which requires employers to take reasonable steps to protect employees from sexual harassment.³⁸ There have been no reports of this new duty creating an excessive burden on business. There is no reason to expect the implementation of the reasonable steps requirement in the Environmental Targets Bill to differ.

What is the geographic coverage of the Bill?

The Bill would cover England and Wales. In Wales, the new duty will co-exist with environmental duties imposed by the Well-being of Future Generations (Wales) Act 2015³⁹ and The Environment (Wales) Act 2016.⁴⁰ These existing Welsh duties are stronger than the general duty to conserve and enhance biodiversity applying in England. However the new duty to take steps to achieve environmental targets will provide a useful complement to the existent two, which predate the Environment Act 2021.

UK-wide public bodies would be required to comply with the Environmental Targets Bill duty when undertaking all functions and making all decisions that have any affect in England or Wales. Functions or decisions which affect only Scotland or Northern Ireland (for example only concerning a project solely located in one of those nations) would not be subject to the duty.

[Wildlife & Countryside Link](#) is the largest environmental coalition in England, bringing together 85 organisations to campaign for the natural world.

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³⁸ <https://www.legislation.gov.uk/ukpga/2023/51/section/1>

³⁹ <https://www.gov.wales/written-statement-additional-public-bodies-subject-well-being-duty-part-2-well-being-future>

⁴⁰ <https://www.gov.wales/sites/default/files/publications/2022-04/introduction-section-6-biodiversity-resilience-ecosystems-duty.pdf>