



The Scottish Parliament
Pàrlamaid na h-Alba

Dr Paul Stookes
Law and Policy Advisor
UK Environmental Law Association

**Net Zero, Energy and Transport
Committee**

c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
Edinburgh
EH99 1SP

By email only

netzero.committee@parliament.scot

20 September 2023

Dear Paul,

Guiding Principles on the Environment and Environmental Governance

Guiding Principles on the Environment

As you may be aware, on 14 August the Scottish Government laid before the Parliament *Scotland's Guiding Principles on the Environment: Statutory Guidance*.¹

Under the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, the Scottish Ministers and most public bodies will be required to have due regard to the specified environmental principles when making policy. The recently laid guidance provides information on how they should apply the environmental principles when developing policy.

This guidance is subject to annulment by the Parliament until 29 October, and only thereafter comes formally into effect. The Committee has agreed to seek views on the guidance from a selection of relevant environmental stakeholders during this scrutiny period. To that end, the Committee would be grateful for any views you have on the following:

1. Are you satisfied that the guidance will help the Scottish Government and other public bodies make sound decisions in relation to any matter under consideration that has environmental consequences?
2. Looking at the wording of the guidance, can you envisage scenarios in which it could make a difference; for instance, where it would lead the Scottish Government or a public body to adopt a changed approach on a particular matter?
3. Will the guidance ensure the Scottish Government and public bodies are required to adhere to the environmental principles to the same extent

¹ [Scotland's guiding principles on the environment: statutory guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scotland-s-guiding-principles-on-the-environment-statutory-guidance/pages/1-introduction.aspx)

- that governments and public bodies in the EU are required to adhere to the EU's environmental principles?
4. There is also now a [UK policy statement on environmental principles](#). It applies to the development of policy by UK Ministers including when developing policy relating to Scotland in reserved areas. It does not apply to Scotland where the policy does not relate to reserved areas. Do you have a view on whether there is complementarity between the Scottish guidance and the UK policy statement. If not, could this lead to any difficulties on the ground, for instance in relation to cross-border bodies?
 5. Will the guidance help the Parliament, or members of the public, hold the Scottish Government and public bodies to account on their decision-making?
 6. Any other relevant views you may have on the guidance.

Environmental Governance

In a related development, in June the Scottish Government laid in the Scottish Parliament the *Environmental governance arrangements: report*², required under section 41 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021. This reports on the effectiveness of the governance arrangements introduced by that Act, specifically:

- whether the provisions of Chapter 2 (“Environmental Governance”) have ensured that there continues to be effective and appropriate governance relating to the environment following the withdrawal of the United Kingdom from the EU,
- whether the law in Scotland on access to justice on environmental matters is effective and sufficient, and
- whether and, if so, how the establishment of an environmental court could enhance the governance arrangements.

The committee notes that section 41 also requires the Scottish Ministers to consult on the effectiveness of these governance arrangements. This consultation is currently ongoing, closing on 13 October.

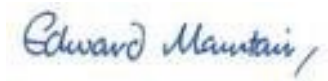
To assist the Committee in determining whether the Scottish Government's work and proposals for further action in these areas are robust and satisfactory, we would welcome any views from you on the matters considered within it (set out above). We are also interested in any views you have on how well governance arrangements currently support achievement of key policies such as statutory net zero targets, topical environmental quality areas such as air or water quality, or access to environmental justice in Scotland.

Given the Parliamentary deadline for consideration of the guidance, it would be helpful to receive any response addressing the points raised in this correspondence by 11 October 2023.

I look forward to hearing from you.

² [Supporting documents - Environmental governance arrangements: report - gov.scot \(www.gov.scot\)](#)

Yours sincerely,

A handwritten signature in blue ink that reads "Edward Mountain". The signature is written in a cursive style with a trailing slash at the end.

Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee