

Legislation and policy review

The erosion of environmental protections

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The Institution
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Acknowledgements

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About the Institution of Environmental Sciences

The Institution of Environmental Sciences (the IES) is at the forefront of uniting the environmental sciences around a shared goal: to work with speed, vision and expertise to solve the world's most pressing environmental challenges, together.

As the global professional membership body for environmental scientists, we support a diverse network of professionals all over the world – and at every stage of their education and careers – to connect, develop, progress and inspire.

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Introduction

Table 1 below represents a summary of the gradual erosion of national environmental legislation and policy which has been taking place or is currently being proposed in the UK, and examples of the impact these changes can have on environmental protection.

It covers a selection of environmental legislation and policy and is not a comprehensive list but intended to provoke discussion around this subject:

- How do you anticipate that these changes will impact the projects or work you are currently undertaking?

- What other impacts do you think these changes will have on the environment?
- Do you think these changes will adversely impact environmental jobs and careers in the future?
- What other environmental legislation and policy is currently changing in your sector?

We welcome any further examples of changes to policy or environmental legislation. Please send any changes from your own sector to Joseph Lewis, IES Policy Lead (joseph@the-ies.org), to be added to this briefing.

“The gradual erosion of national environmental legislation and policy ... is having an impact on environmental protection. The mitigation hierarchy is being undermined.”

– Eleni Antoniades

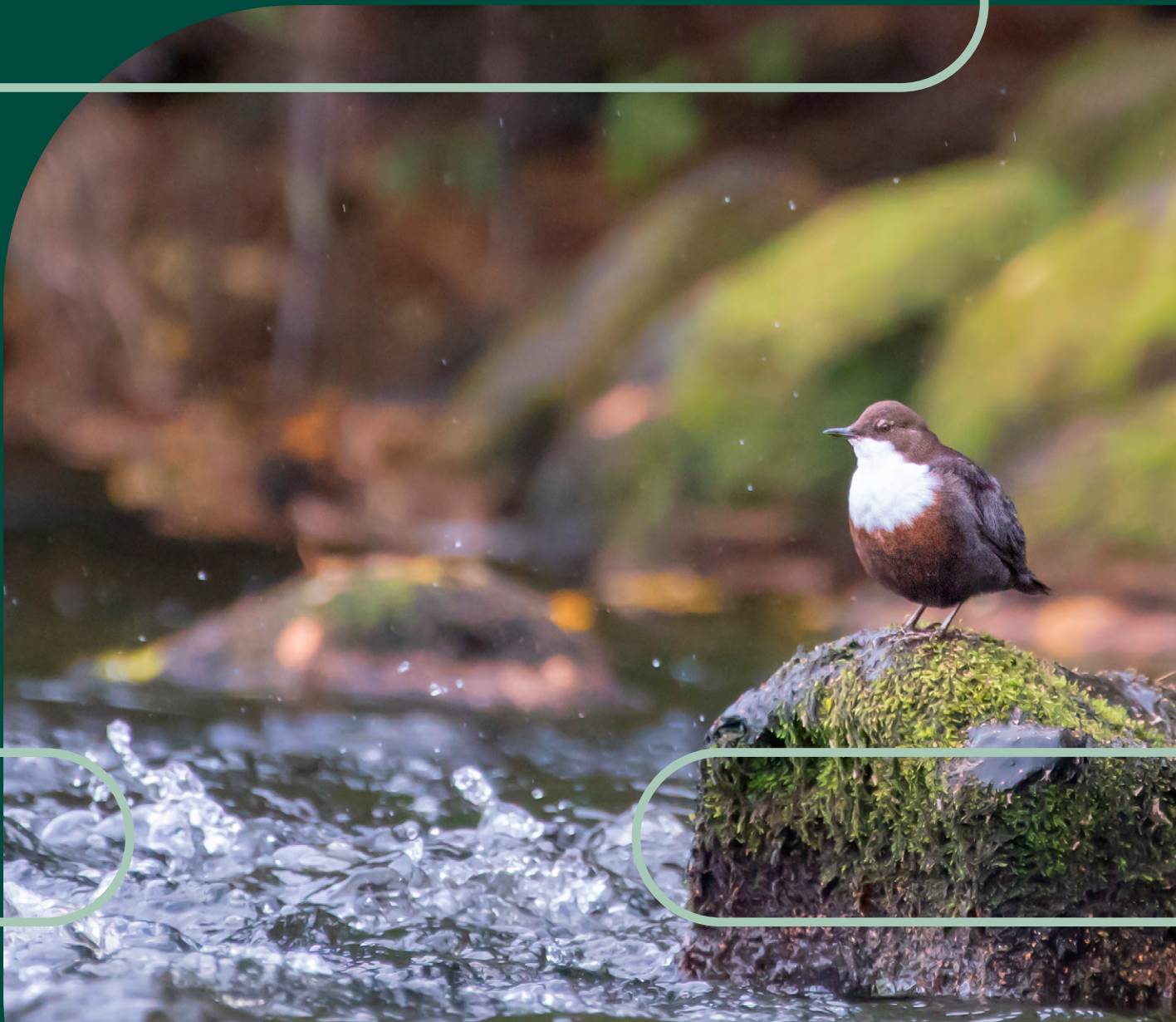


Table 1. The erosion of environmental protections in legislation and policy

Legislation/ mechanism	Change	Consequences for environment
Legal enforcement through the European Court of Justice (ECJ), oversight from the European Commission	<ul style="list-style-type: none"> Office for Environmental Protection (OEP) Enforcement through national courts 	<ul style="list-style-type: none"> The ECJ is a supreme judicial authority with direct enforcement power, able to issue financial penalties for in relation to environmental infringements. The OEP cannot fine directly, can only issue a Decision Note and refer to an upper tribunal.
Local Planning Authority (LPA) Local Plans	<ul style="list-style-type: none"> Levelling up and Regeneration Act 2023 National Development Management Policies (NDMPs) 	<ul style="list-style-type: none"> Levelling Up and Regeneration Act reduces role of local planning authorities with a move towards centralised decision making. Local plans must now be aligned with NDMPs. NDMPs will take precedence over local plans in the case of conflict.
Ambient Air Quality Directive 2008/50/EC	<ul style="list-style-type: none"> Environment Act 2021 	<ul style="list-style-type: none"> Public consultation on national air pollution control programmes is now discretionary and not mandatory. Air quality limits have longer timelines e.g Particulate matter (PM2.5) targets set for 2040.
EU REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals)	<ul style="list-style-type: none"> UK REACH 	<ul style="list-style-type: none"> UK has authorised substances that were previously banned under EU regulations, such as the emergency approval of a neonicotinoid pesticide (toxic to bees) for sugar beets, bifenthrin (toxic to aquatic life).
Environmental Impact Assessments Regulations and Strategic Environmental Assessments	<ul style="list-style-type: none"> Environmental Outcomes Reports Levelling-up and Regeneration (LURB) Act 2023 	<ul style="list-style-type: none"> EORs allow development to bypass or reduce site specific EIAs and replace project/site level assessment with an assessment against national strategic objectives.

Green belt policies (NPPF, Planning Acts (esp. 1947 & 1990))	<ul style="list-style-type: none"> • Grey belt policies 	<ul style="list-style-type: none"> • Policy put forward to reclassify previously protected green belt land as grey belt, in order to permit development which meets certain criteria.
Biodiversity Net Gain (BNG) and the Environment Act 2021	<ul style="list-style-type: none"> • Planning and Infrastructure Bill • Nature Recovery Fund • Levelling-up and Regeneration Act 2023 (LURA) 	<ul style="list-style-type: none"> • Nature Recovery Fund may allow developers to bypass on-site biodiversity enhancements by contributing financially to off-site projects, potentially leading to a net loss in local biodiversity, on some small and medium sites.
Habitats Regulations Assessments (HRA) SAC, SPA	<ul style="list-style-type: none"> • Environmental Development Plans • LURA 2023 	<ul style="list-style-type: none"> • Thresholds for undertaking a HRA for SAC and SPAs have been downgraded through the application of EDP and related planning reforms under the LURA and evolving case law and policy.
SSSI, SAC, SPA, and Ramsar	<ul style="list-style-type: none"> • National Nature Restoration Fund 	<ul style="list-style-type: none"> • Developers can now pay into a national Nature Restoration Fund instead of undertaking surveys and mitigation on each site. • Established mitigation hierarchy of avoid → mitigate → compensate is being undermined; mitigation can be deferred.
Common Agricultural Policy (CAP) – Pillar II (Agri-environment schemes)	<ul style="list-style-type: none"> • Environmental Land Management Schemes (ELMS) 	<ul style="list-style-type: none"> • CAP included cross-compliance rules and Greening measures, which tied direct payments to environmental obligations (e.g., maintaining hedgerows, reducing pesticide use, protecting watercourses). • Under ELMS no baseline environmental protection is guaranteed, farms can opt out completely, leading to a patchwork of protection.

