

Memorandum of Understanding between the Office for Environmental Protection, Environmental Standards Scotland, and Interim Environmental Protection Assessor for Wales

1. Background

This Memorandum sets out the framework for a working relationship between Environmental Standards Scotland (ESS), the Interim Environmental Protection Assessor for Wales (IEPAW) and the Office for Environmental Protection (OEP) in England and Northern Ireland.

The environment does not acknowledge borders, so the need to build and maintain strong working relationships with each other is fundamental. This, in turn, will help each organisation achieve the parties' common goal of better environmental protection and enhancement.

This Memorandum aims to aid collaboration and co-operation between the parties on areas of common interest.

2. Roles and Responsibilities

Office for Environmental Protection

The OEP was established under the Environment Act 2021 and its role is to protect and improve the environment by holding government and other public authorities to account. Their work covers England and Northern Ireland and environmental matters reserved to the UK government. They are responsible for scrutinising environmental improvement plans and targets, scrutinising environmental law, advising government on environmental law and matters related to the natural environment, and investigating and enforcing serious breaches of environmental law by public authorities.

Environmental Standards Scotland

ESS was established under the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (Continuity Act), to ensure environmental laws and standards are adhered to in Scotland. The role of ESS is to scrutinise, investigate and secure improvements in public authorities' compliance with environmental law, the effectiveness of environmental law, and the way it is being implemented and applied in Scotland.

Interim Environmental Protection Assessor for Wales

The role of the IEPAW was established to provide members of the public with a mechanism to raise concerns about the functioning of environmental law in Wales. The IEPAW considers such submissions and, if appropriate, produces advice for the Welsh Ministers making recommendations for any action they consider may need to be taken. Unlike the OEP and ESS, the IEPAW cannot consider breaches of the law. The IEPAW's terms of reference are available [here](#).

3. Principles of Co-operation

There are legal duties for the OEP to consult with ESS and IEPAW where relevant as stated under section 27(4) of the Environment Act 2021, similar provisions apply for ESS to consult OEP and any other governance body in the UK as relevant under S23(3) of the Continuity Act. ESS, IEPAW and the OEP intend that their working relationship is characterised by a shared intent to co-operate on the basis of the following principles:

- a) Respect for each party's independent status
- b) Intent for collaborative working in areas where the parties consider this beneficial, for example in areas where there are common interests, to improve efficiency and avoid duplication
- c) Focus on areas where there is shared purpose and where the parties can make a difference by co-operating

- d) Subject to any applicable legal restrictions, openness, and transparency in the parties' dealings with each other, and as to how they exercise statutory functions requiring the sharing of information
- e) Operating a 'no surprises' approach, in particular where decisions and actions contemplated by one party could have implications for the other(s)

4. Areas of Collaboration

ESS, IEPAW and the OEP intend to collaborate in the following areas as and when deemed appropriate and necessary:

- a) The transfer and signposting of representations, submissions, and complaints between the parties where they relate to the jurisdiction of another party
- b) The sharing of publicly available environmental data and other environmental data where legally able to
- c) The sharing of knowledge, experience, and best practice
- d) The sharing of horizon scanning information and any useful intelligence which may aid each party in its functions
- e) Discussion of shared questions on the interpretation and approach to the implementation of environmental law
- f) Sharing best practice and insight with each other on the operational work a party is conducting, on a case-by-case basis when deemed helpful
- g) Sharing approaches to addressing cross-border environmental issues, both physical and jurisdictional (including in relation to reserved matters)
- h) Joint working on specific projects where it is clear collaboration will be of benefit
- i) Liaison with international organisations where collaboration is of benefit

5. Ways of Working

5.1. Liaison Meetings

Representatives from the parties will meet on a regular basis to discuss areas of mutual interest. Topic specific groups may also form and meet to collaborate on any of the areas mentioned under section 4.

Each party will nominate a representative for this Memorandum to ensure the principles of co-operation are maintained and the establishment of strong working relationships is continued.

5.2. Meeting of senior staff

There will be meetings for Chief Executives, the Interim Assessor for Wales, Chairs and Executive teams, periodically throughout the year as and when appropriate. These will focus on building constructive relationships and discussing matters of mutual interest.

5.3. Disagreement resolution

Where a party identifies problems or disputes in operating this Memorandum, it will seek to resolve them quickly and informally with the other parties. The parties' representatives (identified under 5.1) will agree how best to resolve the issues at an appropriate level. Escalation to more senior levels would only be done if deemed necessary and their decision will be final.

The parties should be mindful of the principle of co-operation 3(a), respect each other's independent status, and that on occasion there may differences in the interpretation and approaches.

5.4. Confidentiality of Information

ESS, IEPAW and the OEP will take account of each other's statutory responsibilities in relation to the disclosure of sensitive information.

The parties do not intend that this Memorandum shall cover any sharing of personal data between them. If the parties wish to share any personal data, the parties

concerned will comply with its own applicable data protection policy and privacy notices, which may require they enter into a written agreement or arrangement regarding the sharing of such personal data or first seek approval from the individuals concerned.

Where a party receives a request for information under the Freedom of Information Act 2000, Environmental Information Regulations 2004, Freedom of Information (Scotland) Act 2002, Environmental Information (Scotland) Regulations 2004 or the Data Protection Act 1998 or 2018, they will consult with the other parties before disclosing information that would affect, the other party's responsibilities.

5.5. Memorandum Management

Any party may suggest amendments to this Memorandum but the approval of all will be required to make a change.

This Memorandum commences on the date set out at the top of page one. The memorandum will be reviewed initially 12 months after this date and thereafter every two years or when changes to a party's legal status are made. It will also be reviewed if the principles of cooperation described above need to be altered and/or cease to be relevant for any other reason.

This Memorandum is not legally binding, but all parties intend to operate within its terms.

This Memorandum will be published on each party's website to ensure stakeholders can see how the parties aim to work together.

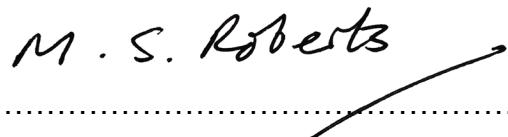
Signed on behalf of the OEP:



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Date: 29/09/2022

Natalie Prosser, Chief Executive Officer of the Office for Environmental Protection.

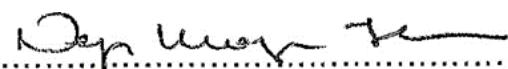
Signed on behalf of the ESS:


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Date: 15/09/2022

Mark Roberts, Chief Executive Officer of Environmental Standards Scotland.

Signed on behalf of the IEPAW:


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Date: 28 9/2022

Dr Nerys Llewelyn Jones, Interim Environmental Protection Assessor for Wales.