



Year Environment Plan

Denton's Annabel Hodge and Laura Mackett look in greater detail at the Government's recently published – and long-awaited – 25-year plan for the environment...

The idea of a 25-year framework to maintain and improve natural capital was first proposed by the Natural Committee Capital (NCC), an independent advisory committee to the Government, back in March 2014. Following increasing pressure from the NCC, on 11 January 2018 Defra published its long-awaited 25-Year Environment Plan (the Plan), which sits alongside the Industrial Strategy and the Clean Growth Strategy.

The Plan sets out the Government's aspirations for protecting and enhancing the natural environment over the next quarter of a century, with the intention to "leave our environment in a better state than we found it".

The Plan is far-reaching, covering all areas of environmental concern from waste reduction and resource efficiency to clean air, water, climate change and biodiversity. It is intended to be an ever evolving and continually updated document – Government intends to engage in regular reviews and risk assess the Plan at least every five years.

With Brexit looming, it was hoped that the Plan would provide clarity on the direction in which UK environmental policy is heading. Whilst the Plan does outline a promising roadmap, it lacks detail. It is effectively a roadmap without street names. That said, it may be unrealistic to expect more at this stage – the point of the

Plan is big picture thinking. It sets generational goals and provides a blueprint upon which legislation and policy can be formed.

Resource efficiency & Waste Targets

CHAPTER 4 of the Plan covers "increasing resource efficiency and reducing pollution and waste". Its ambitions include:

- eliminating all avoidable waste by 2050
- eliminating all avoidable plastic waste by 2042
- cutting by one fifth the greenhouse gas intensity of food and drink consumed in the UK, and also per capita UK food waste by 2025
- working towards no food waste entering landfill by 2030.

"Avoidable" is defined as what is TEEP (Technically, Environmentally and Economically Practicable). This provides leeway for Defra but it also enables what is considered to be "avoidable" to evolve with the Plan and as technology improves. Whilst there is no clear guide as to how the Government believes it will achieve the above-mentioned targets, the Plan does emphasise the benefit of regulation, taxes and charges in contributing to cleaner growth, citing landfill tax and the aggregates levy as examples of success.

A Focus On Plastics

UNSURPRISINGLY, FOLLOWING the increased social awareness of the impact of single-use plastics and the so-called "Attenborough effect", a relatively large section of the Plan is dedicated to plastics. Although the Government previously expressed a preference for industry-led voluntary measures to reduce plastic waste, the Plan suggests there will be a move towards legislative action.

To reduce plastic flow into the seas and meet its zero avoidable plastic waste by 2042 target, the Government proposes a four point action plan, taking action at each stage of the product lifecycle. This includes:

1. Production Stage –

encouraging producers to take more responsibility for the environmental impacts of their products and rationalising the number of different types of plastic in use by, amongst other things, (i) "working with industry to rationalise packaging formats and materials formats", (ii) "reforming our Producer Responsibility systems (including packaging waste regulations) to incentivise producers to take greater responsibility for the environmental impacts of their products" including "exploring extending producer responsibility

requirements not currently covered by our existing regimes”, and (iii) “building on our microbeads ban by exploring whether we can ban other problematic materials where suitable alternatives exist”.

2. **Consumption Stage** – reducing the amount of plastic in circulation through reducing demand for single-use plastic. Actions for this consumer-focused stage include extending uptake of the 5p plastic bag charge to small retailers on a voluntary basis (it currently only applies to retailers with over 250 employees), supporting water companies and retailers to offer new free refill points for drinking water bottles, and working with retailers and WRAP to “explore introducing plastic-free supermarket aisles”.
3. **End of use stage** – making it easier for people to recycle.
4. **End of life/waste management stage** – improving the rate of recycling, through measures including “ensuring that a consistent set of materials are collected by all local authorities” and “working with the waste management industry and re-processors to significantly increase the proportion of plastic packaging that is collected and recycled” (although no clarity is provided on what “significant” may mean).

EU policy appears to be following a broadly similar direction. For example, the new European Plastics Strategy, launched in January as part of the wider Circular Economy Package, addresses single-use plastics. The European Commission’s Vice President has also confirmed that EU legislation on single-use plastics will be published by summer 2018.

A New Regulator

THE GOVERNMENT has confirmed that it will consult in “early 2018” on setting up a new independent environmental body to hold Government to account. The Plan states that it will be a “world-leading, independent, statutory body” aimed at “championing and upholding environmental standards as we leave the EU” and it will likely have a role in “scrutinising and advising” on the Plan.

Legislation will be required to create such a body. Creating it from statute and not from delegated legislation would entail greater legislative scrutiny and could help ensure that it does not have funding and political ties to Defra, however no detail has been provided as yet on how this body will be funded. There is also no information yet on how the enforcement function would operate, however commentators have suggested it may first deal with infringements via negotiation rather than a full complaints procedure, and turn to the Supreme Court for the final say over which claims are brought to court.

Whatever shape that the body takes, it is clear the Government faces a real challenge in setting it up and funding it by 29 March 2019 (the point at which we are set to leave the EU).

Industry Engagement

OVER THE next few months the Government intends to publish a number of consultations and calls for evidence. These include consultations on single-use plastics and on the new statutory body, both planned for “early 2018”, and a call for evidence (already published and expiring on 18 May 2018) to explore how changes to the tax system or charges could be used to reduce the amount of single-use plastic waste. A new Environment Act may also be on the cards – this is unlikely to materialise for at least another year, but we should all keep an eye out for more detailed proposals on this. Industry also needs to watch out for the Resources and Waste Strategy, to be published “in 2018”, to gain a clearer picture of the potential impacts of the Plan.

The 25-Year Ambition

WHILST THE Plan lacks detail, it does not lack ambition. The vision created by the Plan is not yet strong enough to replace the clear strategic direction of environmental law set out by the EU, but it is certainly a promising start. It outlines a strong Government commitment to resource productivity and zero “avoidable” waste and sets clear next steps.

We would encourage industry to seize the numerous upcoming opportunities to help shape the detail and implementation of this Plan. ■

A Nottinghamshire company has been fined £15,000 for operating an illegal waste site on land adjacent to Sandy Lane in Worksop. The company was also ordered to pay costs of £7,200 and a victim surcharge of £120. The case against Yorkshire Waste Services Ltd of Gateford Road, Worksop, was proven in the absence of a company representative at the trial on Friday 2 March 2018 at Mansfield Magistrates’ Court. Officers from the Environment Agency told the court that the site had been previously used by a company called Trent Valley Recycling Ltd. The site itself is one with a high fire risk due to the waste operations conducted by the previous owners. This company did have an environmental permit for the site, however this was disclaimed once the company went into liquidation. Officers discovered that Yorkshire Waste were storing a significant quantity of baled textile waste on the site between April and June last year.

A South Devon waste processing company has been ordered to pay £16,404 in fines and costs for failing to remove thousands of tonnes of hazardous waste from two sites in Torbay. Armabridge Ltd, trading as Skip-It Torbay, operates from a waste transfer station at Barton Hill Way, Torquay. In July 2017 an Environment Agency officer visited its Kerswell Gardens site and found hazardous waste was present and that a previous enforcement notice had been breached. The company was fined a total of £13,334 and ordered to pay £3,070 costs by Plymouth magistrates after pleading guilty to two offences of failing to comply with enforcement notices relating to Barton Hill Way and Kerswell Gardens, Torquay contrary to Regulation 38(3) of the Environmental Permitting (England and Wales) Regulations 2010.

A Newcastle man has been fined for operating a vehicle scrapyards without a permit in a prosecution brought by the Environment Agency. Ronald Coulson Vincent Grieveson, 23, of Forest Hall, appeared at Newcastle Magistrates’ Court on February 23. He pleaded guilty to illegally storing and treating waste vehicles and parts without a permit. He was fined £3,628, and ordered to pay costs of £3,273.58 and a victim surcharge of £362. Acting on behalf of the Environment Agency, solicitor Chris Bunting told the court Grieveson had been operating an illegal waste site without an environmental permit.