



Mr James Gray MP & Sir George Howarth MP
Co-Chairs of the House of Commons Public Bill Committee on the Environment Bill 2019-21
House of Commons
London SW1A 0AA

By email only

Our email: info@ukela.org, paul@ukela.org

23 November 2020

Dear Sirs

New Clause 24 & amendment 30 of the Environment Bill 2019-2021

We write on behalf of the UK Environmental Law Association (UKELA) and its members. UKELA is grateful for the opportunity to comment on earlier drafts of the Environment Bill, having previously made substantive submissions to the Committee in May 2020 through its Governance and Devolution Group (GDG).

We would like to bring to your attention two important proposed amendments to the Bill that we believe are likely to result in a material change to the ability of the new independent body, the Office for Environmental Protection (OEP), to carry out its functions and obligations as set out in the Bill.

Amendment by New Clause 24

We note that the government's proposed amendment by New Clause 24 (NC24) gives power to the Secretary of State to issue statutory guidance on the OEP's enforcement policy and to review this at any time. If such guidance is issued, the OEP *must* have regard to this statutory guidance in preparing its enforcement policy and exercising its enforcement function.

Evidence on the Bill to Parliamentary Committees has raised concerns over ensuring the independence of the OEP, including that the OEP is dependent on Defra for its funding and that its Chair is appointed by the Secretary of State. NC24 goes beyond funding and public appointment and clearly could bind the OEP to an enforcement strategy set by the Secretary of State and prepared by Defra. Given that the OEP should properly have the power to hold central government, as well as local government, to account for failure to implement environmental laws; NC24 could seriously fetter the OEP's independence, and undermine its work and credibility.

Amendment 30 – the OEP and the Committee on Climate Change

The government's proposed amendment to Clause 26 excludes from the OEP's monitoring function the ability to monitor the implementation of, or report on, matters within the remit of the Committee on Climate Change (CCC).

UK Environmental Law Association: better law for the environment

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President: Rt Hon Lord Carnwath CVO of Notting Hill



UKELA believes that this exclusion could prevent the OEP from independently reviewing carbon budgets, the law on emissions from international aviation and international shipping, and emissions trading law. The government's proposed new amendment NC4, obliging the CCC and the OEP to prepare a memorandum of understanding in order to avoid the overlap of functions, would be sufficient to ensure that both bodies collaborate on aspects of climate change law and its implementation.

In the light of the above we invite you to please give further consideration to the amendments.

As always, we are happy to discuss with you and to clarify anything within this letter.

Yours sincerely

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cc. SCRUTINY@parliament.uk

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