

15 JUNE 2022

MEMORANDUM OF UNDERSTANDING between
THE OFFICE FOR ENVIRONMENTAL PROTECTION
and
THE CLIMATE CHANGE COMMITTEE

Parties

1. The Office for Environmental Protection (OEP) of Worcestershire County Hall, Spetchley Road, Worcester WR5 2NP, and
2. The Climate Change Committee (CCC), 1 Victoria Street, Westminster, London SW1H 0ET

1 BACKGROUND

- 1.1 The Climate Change Committee (CCC) and the Office for Environmental Protection (OEP) share common interests in respect of addressing climate change. They have separate, but related, statutory functions to scrutinise and give advice to the government, with roles and responsibilities as set out in section 2 below. The OEP can also take enforcement action related to this common interest.
- 1.2 Accordingly, they wish to enter into this Memorandum to maximise their respective contributions to addressing climate change and minimise scope for duplicating and conflicting activity. This includes through data sharing, analysis and communication in order to maximise the value of the resources available to both organisations and to avoid duplication. Specific areas where the parties intend to cooperate, and in what way, are set out in sections 2 to 8 below.
- 1.3 In accordance with section 26 of the Environment Act 2021, this Memorandum sets out how the parties intend to cooperate and avoid overlap between the exercise of their respective functions.

2 ROLES AND RESPONSIBILITIES

- 2.1 In summary, the roles and responsibilities of each organisation are as follows: **The CCC's role as set out in the Climate Change Act 2008**

- The CCC has two Committees and corresponding secretariats, one on climate change mitigation (reducing emissions) and one on adaptation (building resilience to climate change).
- The Mitigation Committee advises the UK Government on the level of carbon budgets and scrutinises progress (reporting to the UK Government and Parliament) towards meeting the carbon budgets and the UK 2050 Net Zero target, reporting in June every year.
- The Adaptation Committee advises the UK Government on the UK Climate Change Risk Assessment, reporting every five years, and scrutinises progress

(reporting to the UK Government and Parliament) on adaptation in England, including through delivering the National Adaptation Programme, reporting every two years.

- The CCC has a role when requested as an independent adviser on climate mitigation and adaptation to the devolved administrations. This role is to provide advice, analysis, information or other assistance in connection with: the national authorities' functions under the Act; the progress made towards meeting the objectives set by or under the Act; adaptation to climate change; or any other matter relating to climate change.
- The CCC also has responsibilities to provide advice under other legislation, including the requirement to provide regular advice on the likely impacts of onshore petroleum extraction on the UK's carbon budgets under the Infrastructure Act.

The OEP's role as set out under the Environment Act 2021

- The OEP scrutinises the UK Government's progress with its Environmental Improvement Plan, which is currently the 25 Year Environment Plan (25YEP, covering the environment in England and overseas), and in achieving environmental targets set under the Environment Act. It reports on these matters annually to the UK Government and Parliament.
- The OEP will also scrutinise progress with the Northern Ireland Environmental Improvement Plan, once adopted by the Department of Agriculture, Environment and Rural Affairs (DAERA), reporting on this annually to DAERA and the Northern Ireland Assembly.
- The OEP has functions that relate to environmental law which applies in or is being developed for England or Northern Ireland, or which concerns a matter reserved to the UK Government. The OEP's remit in relation to reserved matters can extend to the entire UK.
- The OEP will monitor the implementation of environmental law, and report to the UK Government/Northern Ireland Government, and Parliament/the Assembly at a frequency determined by the OEP. This function of monitoring environmental law excludes certain climate change mitigation matters within the remit of the CCC as set out in Part 1 and sections 34 to 36 (Advice in connection with carbon budgets, Advice on emissions from international aviation and international shipping, and Reports on progress towards meeting the carbon budgets respectively) and 48 (Procedure for making Regulations on which the CCC provides advice) of the Climate Change Act 2008.
- The OEP may advise on changes to environmental law proposed by UK Government ministers or Northern Ireland departments, including aspects of environmental law related to climate change. The OEP must give advice about any proposed changes to environmental law, or any other matter related to the natural environment, if asked to do so by a UK Government minister or Northern Ireland department.
- The OEP may investigate and take enforcement action, including legal proceedings, in relation to serious breaches of environmental law by public authorities.

- As part of its enforcement framework, the OEP may serve information notices where it has reasonable grounds for suspecting a serious failure by a public authority to comply with environmental law. The OEP must notify the CCC in advance where it intends to issue information notices relating to greenhouse gas emissions, providing such information as the OEP considers appropriate.

3 PRINCIPLES FOR JOINT WORKING

3.1 The CCC and the OEP will cooperate under the following principles that will underpin the working relationship:

- **shared purpose** in protecting and enhancing the environment in respect of mitigating and adapting to climate change
- **respect** for each other's functions, independent points of view and unique ability to act
- **openness** between each other, for example in discussing work plans, priorities and areas of shared interest, while working in accordance with any legal requirements that limit or prevent disclosure of information
- a '**no surprises**' approach, for example by each party usually providing the other with a reasonable opportunity to see relevant advice in draft, and to offer comment, so that any occasions when the parties' advice to government is not consistent or could be seen to overlap can be managed appropriately
- **collaboration** in good faith when undertaking work of mutual interest and to avoid duplication wherever possible. Agreeing, where relevant, which organisation will lead any particular work, and which will support (and how).

4 ENGAGEMENT

4.1 The parties will each nominate a representative to act as their main point of contact for matters arising under this Memorandum.

4.2 The parties' representatives should meet once every two months, or at such other frequency as the parties may agree, inviting to their meetings such colleagues as they consider appropriate. The aim of such meetings shall be to discuss the parties' overall collaborative working arrangements, including: ongoing and planned projects; developments in the parties' respective work programmes; and other matters of mutual interest such as the parties' ability to act across the UK or in relation to the different national authorities or other public authorities on matters concerning climate adaptation and mitigation. The meetings will be minuted and reported to the CCC and the OEP Chief Executives.

4.3 The CCC adaptation and mitigation Chairs and the OEP Chair, together with the CCC and OEP Chief Executives, should also meet at least twice per year to provide strategic oversight of the parties' relationship.

5 LANGUAGE, TERMINOLOGY, INDICATORS and DATASETS

5.1 The CCC and the OEP will seek to agree common and consistent terminology, indicators and datasets for use by both parties where relevant. Where agreement is not possible, the reasons should be recorded.

5.2 Areas for seeking to agree consistency will include, but not be limited to:

- the use of concepts and definitions such as adaptation, resilience, mitigation, natural capital, and carbon and greenhouse gas accounting
- a common set of climate change indicators and datasets where possible (and working together to define new improved indicators and datasets where required).

5.3 Where relevant, the CCC and the OEP will use the agreed concepts, definitions, indicators and datasets in their reports, including in their established reporting frameworks.

6 AREAS OF COMMON INTEREST

6.1 The CCC has an interest in the OEP's work on:

- Scrutiny of the UK Government's plans and policies that relate to climate change mitigation and adaptation.
- Evidence and analysis on the UK Government's progress towards meeting its environmental targets, where these relate to climate change mitigation and adaptation.
- Scrutinising and advising on environmental law where these matters relate to climate change mitigation and adaptation.
- Investigations into potential breaches of environmental law where the matter relates to climate change mitigation or adaptation (and in respect of enforcement, in relation to greenhouse gas emissions in particular).

6.2 The OEP has an interest in the CCC's work on:

- The UK Government's plans and policies that contribute to climate change mitigation and adaptation, and wider progress on these goals, particularly where these also relate to protection of the natural environment
- Evidence-gathering and analysis, particularly where this indicates a statutory target may be, or has been, missed
- Other areas of advice provided by the CCC where these relate to protection of the natural environment.

7 REPORTING PROCESSES

7.1 The CCC must provide advice to the UK Government on the Climate Change Risk Assessment report every five years, no later than six months before the last date for which the Government is required to lay the report before Parliament. Its reports on each carbon budgetary period are produced every five years, and must be laid before Parliament (and the devolved legislatures) no later than 15 July in those years. The CCC must also report every two years on adaptation progress, and every

year on mitigation progress. It must lay its reports before Parliament (and the devolved legislatures) no later than 30 June in those years for the latter. The CCC also provides advice, analysis, information, or other assistance in connection with matters relating to climate change, to the devolved administrations when requested.

7.2 The OEP must report annually on the UK Government's progress with its Environmental Improvement Plan, and towards meeting targets set under the Environment Act. It must also report annually on progress made with DAERA's Environmental Improvement Plan (once adopted). It must lay its reports before Parliament or the Assembly (as appropriate) no later than six months after the relevant government has laid its annual report.

7.3 Outwith these legal reporting requirements, the CCC and the OEP will seek to agree consistent reporting processes and the sequencing/timing of their respective reports where the parties consider this mutually advantageous. When this occurs, they will seek to agree to a logical timetable for this to facilitate collaboration, and to allow for each party's analysis to feed into the other party's relevant reports, as appropriate.

7.4 Where practicable and subject to confidentiality, resource and timing constraints, the CCC and the OEP will seek to allow each other reasonable opportunity to comment on their draft reports as set out below before publication. The relevant reports are:

The CCC lead

- Relevant sections of carbon budget (mitigation) progress reports.
- Progress report in relation to climate change adaptation (England only), published every other year alongside the mitigation progress report.
- Reports covering the advice of the Adaptation Committee on the UK Climate Change Risk Assessment, published every five years.
- Progress report on climate change mitigation, scrutinising the UK Government's progress in meeting the carbon budgets.
- Relevant sections of other CCC reports that may be relevant to the OEP including the advice, analysis and information requested by the devolved administrations, and other thematic research and analysis.

The OEP lead

- Report in relation to the UK Government's progress with the current Environmental Improvement Plan for England and towards meeting environmental targets as set under the Environment Act.
- Report in relation to the Northern Ireland Government's progress with the current Environmental Improvement Plan for Northern Ireland (once produced).
- Reports on the implementation of environmental law, where relating to matters concerned with climate change adaptation or mitigation. These are to be published and laid before Parliament or the Assembly (as appropriate).
- Advice on proposed changes to environmental law, or other matters concerned with the natural environment, where relating to matters concerned with climate change adaptation or mitigation.
- Thematic and sector focussed reports, where relating to matters concerned with climate change adaptation or mitigation.

- Reports on the investigation of alleged or suspected failures of public authorities to comply with the provisions of the Climate Change Act. Under section 33 of the Environment Act, the OEP must produce, and may publish, a report for each enforcement investigation it undertakes, unless it has applied for an environmental review, judicial review or statutory review.

7.5 Where practical, both parties also agree to share other draft material for comment where the content is of significant interest to both parties – for example written correspondence with parliamentary committees – on matters where there is a clear common interest.

7.6 The OEP may use the CCC's progress reports for climate change (mitigation and adaptation) as inputs into the relevant areas of its annual reports on the Environmental Improvement Plans and targets. Similarly, the CCC may use the OEP's published reports where they are relevant to its work. To facilitate this the CCC and the OEP will share relevant underlying data and analysis with each other in a timely manner.

7.7 When an approach is developed, the OEP will provide the CCC with its approach to monitoring the UK and Northern Ireland Governments' progress with their environmental improvement plans and targets in relation to climate change adaptation and mitigation.

8 SHARING DATA AND INFORMATION SOURCES

8.1 The CCC and the OEP agree to share relevant data, models, and information, whilst taking account of the differing needs related to different datasets. Specific issues the parties will take into account on a case-by-case basis include:

- transparency and confidentiality
- respecting third party rights
- principles governing the sharing of personal data.

8.2 When the CCC and the OEP receive freedom of information requests relating to the other party's information, they will endeavour to consult the other party in advance of responding to the requestor. This consultation will aim to afford the other party reasonable opportunity to comment, whilst retaining ultimate responsibility for how to respond to requests, including whether to disclose the information concerned.

8.3 The parties may enter into data sharing agreements to set out their respective roles and responsibilities in respect of specific datasets, models and information they may share, and the publication of subsequent work using these datasets, models and information.

8.4 The CCC and the OEP will share work plans and consult with each other when commissioning work with a shared interest, and may choose to collaborate on or cofund commissioned work.

9 DISAGREEMENTS

9.1 Where there are disagreements or disputes between the CCC and the OEP in connection with this Memorandum, these should firstly be resolved by consultation between the parties' representatives.

9.2 If disagreements or disputes cannot be resolved within a reasonable time at this level they should be escalated to the parties' Directors of Analysis (or equivalent) then, if necessary, to their Chief Executives. However, if a disagreement or dispute cannot be resolved at Chief Executive level, it may be left unresolved (as a reflection of the parties' distinct legal identities and independence) and the different views of each organisation should be noted. In practice, Chairs and Chief Executives may discuss this through the regular engagement process (see paragraph 4.3).

10 STATUS

10.1 This Memorandum is prepared in fulfilment of a statutory requirement in the Environment Act 2021. It is not itself intended to be legally binding but forms the basis of an agreement to cooperate.

10.2 Nothing in this Memorandum shall be construed as fettering the OEP's discretion in connection with exercising its statutory functions to scrutinise, investigate or, if necessary, take enforcement action in respect of the CCC. Nor does this Memorandum supersede the CCC's duties under the Environment Act in respect of its dealings with the OEP or fetter the CCC's discretion to carry out its statutory duties under the Climate Change Act 2008.

11 REVIEW

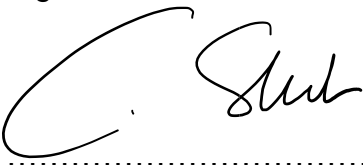
11.1 This Memorandum shall commence on 20 June 2022 and shall be reviewed on or before 23 December 2023 to coincide with the review of the OEP's strategy.

11.2 Following the review, the parties will update the Memorandum if considered appropriate. Any amendment to this Memorandum will only take effect once agreed in writing and signed on behalf of both parties.

12 PUBLICATION

12.1 The CCC and the OEP shall publish this Memorandum, and any subsequent versions amended in accordance with paragraph 11.2, on their respective websites.

Signed on behalf of the CCC:



Date: 15 June 22

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Name and job title: Chris Stark, Chief Executive

Signed on behalf of the OEP:



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Date: 15 June 2022

Name and job title: Natalie Prosser, Chief Executive

