



The Scottish Parliament  
Pàrlamaid na h-Alba

Roseanna Cunningham  
Cabinet Secretary for Environment,  
Climate Change and Land Reform

c/o Clerk to the Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
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***By email only***

(RNID Typetalk calls welcome)  
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29 March 2017

Dear Roseanna,

## **ENVIRONMENTAL IMPLICATIONS FOR SCOTLAND OF THE UK LEAVING THE EU**

I am writing in reference to a recent meeting of the Environment, Climate Change and Land Reform Committee of the Scottish Parliament at which the Committee took evidence on the environmental implications of the outcome of the referendum on the UK's membership of the European Union. This meeting took place on the 14 March 2017 and the [Official Report of the meeting is available here](#).

At this meeting, the Committee heard from a panel of academics, specialising in environmental law in Scotland, on the implications of the UK's departure from the EU.

The session covered a wide range of topics and the Committee has initially identified key areas which it wishes to highlight and request details of the Scottish Government's view.

### **REGULATION AND ENFORCEMENT**

The Committee heard a consequence with significant impact could be on the required stringency of domestic enforcement of environmental law. Options such as an ombudsman or an environmental court were mooted during discussions of the levels of appellate courts and enforcement mechanisms available in a post-Brexit scenario, during which Elisa Morgera [said](#) "*Lack of enforcement will probably be the biggest threat deriving from Brexit*".

Professor Colin Reid of the University of Dundee [posed a number of questions](#) to the Committee by way of example:

*“Members could consider the example of the bathing water standards. The great repeal bill might say that we will simply transfer the bathing water standards into domestic law. However, if it was discovered that the bathing water standards were not being met, who would have the right to go to court or wherever to enforce them? What would be the process for doing that? What remedy would be provided? The Government and the Scottish Environment Protection Agency would be responsible for reaching the targets, but if it was claimed that they had failed, they would obviously not have done that, so we could not rely on them. Would every citizen have the right to go to court? If so, through what process and to what tribunal? There are big issues there.”*

**The Committee would welcome your views on how regulatory bodies in Scotland would be able to ensure adherence to environmental law, how this would be policed, and what recourse would be available in the event of infringement. The Committee would further welcome comment on how this might affect international trade and Scotland’s economic prospects.**

#### **CIVIL SERVICE CAPACITY**

During discussion of the long term stability resulting from EU environmental law making, the Committee was told of the capacity within the EU for developing law and the significant resource and experience developed within networks at EU level. An example was provided of the potential need for the UK to develop an alternative to the Emissions Trading Scheme (ETS), a subject the Committee has previously raised with you in the context of seeking updates in this area.

The Committee also explored the issue of external states taking a parallel approach with EU law, an option posed in terms of future policy making, and the consequent need for tracking of EU directives and legislation. It was also suggested to the Committee trade deals may mandate an approach complimentary to future EU schemes.

**The Committee seeks details of the assessments undertaken by the Scottish Government to date of the resource which will be required within the Scottish Civil Service to deliver the changes mandated as a result of the Great Repeal Bill and for ensuring environmental law in the future continues to protect Scotland’s natural assets and ensures Scotland can secure prosperity through international trade with ease.**

On behalf of the Committee, I kindly request a response from you by 25 April 2017 and I look forward to hearing from you.

Kind regards,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Graeme Dey', with a stylized flourish at the end.

Graeme Dey MSP

Convener

Environment, Climate Change and Land Reform Committee