

# The role of legislation in environmental protection and the Jersey legal framework

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At the start of this year, the UN's first-ever global assessment of environmental rule of law demonstrated that environmental laws have been growing dramatically worldwide over the last three decades as society has come to understand the important links between the environment, economic growth, public health, social cohesion and security.

The report noted that 176 countries had put in place environmental framework laws which have been essential in slowing, and in some cases even reversing, the environmental degradation.

But having the legislation in place is not enough - the assessment also found that weak enforcement was a global trend that is exacerbating environmental threats, despite prolific growth in environmental laws and agencies worldwide over the last four decades.

In the words of the report: "...failure to fully implement and enforce these laws is one of the greatest challenges to mitigating climate change, reducing pollution and preventing widespread species and habitat loss".

Legislation can therefore only go so far to help us protect our environment – another crucial tool is an active system of enforcement.

In Jersey, our environmental legislation covers areas including water pollution, nuisance, planning, wildlife and the disposal of waste, and the Minister for Planning and the Environment has the power to exercise enforcement in a number of ways including injunctions, revocation of permits, remedial/removal actions and enforcement notices.

This system ensures that all development within the Island is carried out in accordance with our local legislation and any specific conditions which the Minister may have placed on the planning permit as a condition to the development.

For example, it is an offence to develop land without a permit or in contravention of any

conditions of a permit. Our legislation also ensures the protection of certain trees, making it an offence to cut down, top, lop, uproot or wilfully damage/destroy a protected tree without permission thereby protecting the environment we live in.

In addition to statutory legislation in Jersey we have the Revised 2011 Island Plan which establishes principles and policies to safeguard our environment and countryside to protect the Island from unnecessary intrusive development.

The Island Plan designates ecological Sites of Special Interest and identifies Environmentally Sensitive Areas (which includes coastal habitats, woodlands and grasslands). Where development proposals affect protected sites or sites of wildlife value the impact of the proposed development upon biological diversity is a material consideration.

The Countryside Character Appraisal identifies and highlights the importance of the Island's coast and countryside and establishes a clear and comprehensive approach for their protection. Within the Coastal National Park, those areas of Jersey's coast and countryside which are of national and international importance, planning policy provides the highest level of protection against development in order to ensure the conservation and enhancement of the natural beauty, wildlife and cultural heritage of the Coastal National Park.

We are fortunate in Jersey that the natural beauty of the Island is a crucial part of its identity, essential also for local agriculture and tourism, which makes it vital to ensure our local environment is sufficiently protected.

Measured against that, the scarcity of land in the Island has resulted in the countryside being subject to considerable pressure for development. As a property and planning lawyer I believe it is essential to ensure that whilst legislation is necessary to conserve and protect Jersey's natural environment, there is a need for some flexibility within the legislation and supporting policies to allow Island residents the opportunities for sustainable development; meeting the present needs of the Island without compromising that of future generations.

But even with active and engaged enforcement, legislation can only go so far – the third key tool is the engagement of the wider community. While it can't be legislated, ensuring that we all personally "do our bit" with regards to recycling waste and reducing our carbon footprint still remains essential to ensure our environment is protected for generations to come.

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