

British Overseas Territories environmental governance: three years of progress





The Cayman blue iguana is one of the many unique species expected to benefit from the long-awaited passage of the Cayman National Conservation Law

The purpose of our study: weighing environmental outcomes against ambition

Overseas Territory Governments have made high-level commitments to good environmental governance (see below). The UK Government pledged to play a strong supporting role. This study maps out gains achieved in Overseas Territories' (OT) environmental governance in the past three years, namely between 2012 and 2015.

We believe such an assessment is an important process in order to determine whether stated political ambition is being met, what factors are helping achieve it, whether shared solutions exist for the remaining gaps, and where resources and support should be strategically focussed. The assessment is restricted to legislation and formally-adopted policies, not their implementation.

Four areas of policy focus

Four policy areas have been studied: protection of wild species, valuable wildlife sites, standards in the permitting of development and good governance in these processes. This publication updates a 2012 RSPB study. It shows considerable progress achieved by a significant number of Overseas Territory Governments since then. Positive political will has been the underlying driver of this progress.

Environmental ambitions in the 2014 Joint Ministerial Council communiqué

In 2014, Territory Governments committed "to implementing robust environmental protection legislation, where not yet in place." They renewed "the commitment for Territories to develop these [environmental] roadmaps where they are outstanding"

For its part, the UK Government committed to "support environmental protection in the Territories" alongside a commitment "to work together to support the Overseas Territories in taking further steps to provide legal protection for endemic species"

The southern elephant seal, the largest carnivore alive, was once hunted to the brink of extinction. It now enjoys strong legal protection in South Georgia and the Falkland Islands



Findings

1. Species protection

Protection for species remains one of the strongest areas of legislation. This has been built upon in several Territories.

Positive change:

- Ascension Island has implemented new legislation and a strong biodiversity action plan.
- The Cayman Islands have new legislation with a comprehensive approach to protecting whole species groups, such as birds and marine mammals, as well as wider threatened species.

Remaining challenges:

- The British Virgin Islands have an incomplete species conservation framework.
- In the Turks and Caicos Islands, species protection could be radically improved if the draft Endangered Species Act and the Wildlife and Biodiversity Conservation Bill were passed. They have been delayed for five years.

St Helena's draft Environmental Protection Ordinance will increase protection for species such as the critically endangered spiky yellow woodlouse



2. Site protection

Protection of wildlife sites has been the area of legislation with the greatest positive change. Standards have improved in numerous areas, but several Territories are being left behind – two still lack terrestrial protected areas and four have no marine protected areas. Progress is systematically less advanced in marine protected areas.

Positive change:

- Ascension's site protection framework has been significantly strengthened and new terrestrial protected areas have been designated. The Habitat Action Plans are impressive.
- The passing of the Antarctic Act has strengthened British Antarctic Territory's protection for wildlife sites.
- The Cayman Islands' protected area regime can now be significantly improved under its new National Conservation Law.
- Cyprus is in the process of designating three important protected areas.

Remaining challenges:

- Anguilla's wetlands still remain vulnerable to development. A systematic approach to identification of vulnerable sites and consequent management planning is lacking.
- Site protection in the Falkland Islands remains weak, as does designation of protected sites beyond 15 nautical miles.
- There are currently no protected areas in Pitcairn.
- Montserrat's new legislation provides a good framework, but its Government lacks the capacity to write the necessary regulations and implement plans.

3. Development control

The development control framework is strong in only two Territories. Serious challenges remain in many jurisdictions, leading to inappropriate development. Lack of development plans has led to piecemeal habitat degradation, often in tourist or popular residential destinations. Environmental Impact Assessment procedures are lacking in seven Territories.

Positive change:

- The Falkland Islands Government has overcome political challenges and implemented a new Environmental Impact Assessment regime.
- St Helena has new legislation which ensures that development planning takes protected areas into account.

Remaining challenges:

- In the Turks and Caicos Islands, development sprawl remains a challenge. This has been exacerbated by the timetable to pay back UK Government loans, twinned with the UK Government legacy of "Encouragement of Development" laws propounded under the interim administration. The UK Government bears some responsibility.
- In Cayman, Environmental Impact Assessment is still to be implemented within the new conservation law.
- Major infrastructure projects can occur without any legal requirement for an Environmental Impact Assessment on Ascension.



4. Development governance

Public participation and political accountability in decision making, both for development and sites and species frameworks, remains the weakest area of environmental governance. This is a virtually systemic challenge across the OTs, though for a variety of reasons.

Positive change:

- St Helena's Land Planning and Development Control Ordinance makes some improvements in public accountability and significantly strengthens public participation, transparency and access to justice.

Remaining challenges:

- In the Turks and Caicos Islands, the Encouragement of Development Ordinance has no reference to the environment and many development powers appear vested in the Governor.
- In Bermuda, Ministers can grant Special Development Orders with no public notice and no right of appeal.
- Public participation in development decisions in the Cayman Islands is becoming increasingly restricted under law revisions.

Critically endangered Hawksbill turtles nest on beaches in the Turks and Caicos Islands where species protection and development frameworks are weak



Montserrat's new environmental legislation designates the Centre Hills as a National Park, helping protect the island's water supply

4 recommendations

1. For Overseas Territory governments:

Where development regulation is weak governments should make a formal assessment of how to improve the current situation. For unprogressed legislation, governments should identify the principal hurdles and, where needed, seek support to overcome them.

2. For the Foreign and Commonwealth Office (FCO):

- help arrange dedicated legal drafting support in key Territories where capacity is severely limited, for example in Montserrat
- encourage Governors to offer governments technical support to help with unprogressed legislation
- urgently set up a cross-Overseas Territories Directorate exercise to find out how to improve the almost systemic weakness of governance in development regulation.

3. For Defra:

Defra has shown significant success in improving environmental frameworks (for example, with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)). Defra's Overseas Territories capacity should be increased if it wishes to fulfil its role under the Overseas Territories White Paper.

4. For the Department for International Development (DfID):

For Territories that receive development assistance, DfID should build environmental stipulations into its agreements. This should include a programme to ensure that local environmental capacity and environmental concerns are mainstreamed into development departments. It should reconsider the unintended consequences of accelerated loan repayment schedules on the environment in the Turks and Caicos Islands.

Summary of changes since 2012

	Species protection	Site protection	Development regulation	Development governance	Unprogressed legislation
Anguilla	Moderate	Weak	Very weak/absent	Very weak/absent	
Ascension	STRONG (moderate) ↑	MODERATE (weak) ↑	Very weak/absent	Very weak/absent	
Bermuda	Moderate	Moderate	Moderate	Moderate	Y
British Virgin Islands	Weak	STRONG	Moderate	Weak	Y
Cayman Islands	STRONG (weak) ↑	MODERATE (weak) ↑	Weak	Weak	Y
Cyprus SBAs	STRONG (moderate) ↑	STRONG	Weak	WEAK (Very weak/absent) ↑	
Falkland Islands	Moderate	Weak	MODERATE (weak) ↑	Moderate	
Gibraltar	STRONG	STRONG	STRONG	STRONG	
Montserrat	Moderate	MODERATE (weak) ↑	Moderate	Weak	Y
Pitcairn	Weak	Weak	Weak	Weak	
St Helena	Moderate	MODERATE (weak) ↑	STRONG	Moderate	
Tristan da Cunha	Moderate	Moderate	Very weak/absent	Weak	
Turks and Caicos Islands	Weak	Moderate	Weak	Weak	Y
Uninhabited Territories					
British Antarctic Territory	STRONG	STRONG (moderate) ↑	†	†	
British Indian Ocean Terr.	Moderate	Moderate	†	†	
South Georgia & SSI	Moderate	Moderate	†	†	

↑ Arrows indicate improvement

† Uninhabited Territories and study limitations

This study is a snapshot of legislation and formally-adopted government policy. It does not assess implementation or the de facto levels of environmental protection on the ground. It does not capture regulation in preparation. For some uninhabited Territories, development regulation is less pressing and having similar public participation to other Territories is not possible. Development is de facto managed to high standards in South Georgia. With higher development pressures, British Antarctic Territory has a good institutional framework for developments. In the British Indian Ocean Territory, all activity within the bases is controlled by the Diego Garcia Final Governing Standards and a US-UK agreement on environmental controls, without legislation.

Achievements in the pipeline

South Georgia

South Georgia's draft 2016–2020 Strategy demonstrates strong environmental ambition. If successful, it will introduce further integration of environmental mainstreaming, a new biodiversity strategy, prioritised designation and management of terrestrial protected areas, new Environmental Impact Assessment legislation, and possibly improved transparency policy.

St Helena

Once the St Helena government has adopted the draft Environmental Protection Ordinance, there will be improved protection for species such as the spiky yellow woodlouse, monitoring regimes and site designation. Responsibilities for action will become clearer, too.

Cyprus Sovereign Base Areas

The Cyprus Sovereign Base Areas (SBAs) are developing a Planning Policy Statement setting out principles for development and zoning within base areas. Although not enshrined in legislation, it will hopefully provide robust strategic development planning and control in SBAs.

British Virgin Islands

The Environmental Management and Conservation of Biodiversity Bill and new Planning Regulations are due to be brought forward. Both have been in draft form for some years and should be progressed.



Viaine crevette (shutterstock.com)

Healthy stands of the critically endangered elkhorn coral are still found in the reefs off East Caicos Island

Three years of positive progress

Analysis reveals that environmental governance in many Overseas Territories is advancing at pace. Seven major pieces of environment-related legislation have been adopted, and other legislation is due for adoption by mid-2016. Capacity assistance from the UK Government has helped, in particular on policy relating to trade in endangered species. Reasons for progress include political vision, focus, and injection of capacity and financing assistance. The analysis also reveals at least seven pieces of key legislation remain stalled in administrations. Development regulation and accountability remain the two weakest areas. Although reasons vary, common themes for lack of progress include lack of political will, both in Overseas Territories and the UK, lack of technical knowledge, and lack of legal drafting capacity.

If you wish to see the detail of our territory-by-territory assessments please visit rspb.org.uk/OverseasTerritories

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Front cover: king penguins in the Falkland Islands by David Osborn (rspb-images.com)

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