

# ENVIRONMENTAL POLICY FORUM

c/o Society for the Environment  
297 Euston Road, London, NW1 3AD

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## Response to the DLUHC consultation – Environmental Outcomes Reports: a new approach to environmental assessment

### Introduction

The Environmental Policy Forum (EPF) is a coalition of 13 professional bodies and learned societies representing around 70,000 environmental professionals across a variety of different disciplines. The views expressed are those of professionals, close to practice, duly qualified, and often working in industry, many running successful businesses. The EPF network strives to promote environmental sustainability and resilience for the public benefit.

We are grateful for the opportunity to input into these important reforms. We are more than happy to discuss further and illustrate our arguments with more examples and case studies from our extensive network of environmental professionals.

### Key points

The EPF are not averse to an outcomes approach to environmental assessment in principle, provided that it does indeed focus on delivering better outcomes for the environment. We applaud the Government's aim to improve the clarity and rigour of the environmental assessment process. We shall require more information on how this will be achieved and stand ready, as experts, to shape this.

At this stage of the process, we have summarised below our key concerns relating to how a new approach can be delivered in practice:

- i. **Missing details:** There is a lot of important detail and evidence missing from this consultation, without which some of the questions are difficult to answer as we simply don't know enough about how the proposed new approach will work or be delivered. We've highlighted where detail is most notably missing in our responses to the individual questions.
- ii. **Absence of research and evidence to support claims:** Beyond missing details, we are concerned that there are claims made without the appropriate research and evidence behind them. As just two notable examples, the consultation cites scoping reports can cost £1 million, but consultation with IEMA members found the average cost to be £10K. It is also

stated that most stakeholders don't read EIAs, while acknowledged that environmental professionals haven't been consulted, so there is seemingly insufficient evidence to support this claim.

- iii. **Consultation with the experts:** We are concerned about the lack of consultation with environmental professionals in shaping these proposals. This is in contrast to the consultation that appears to have taken place with developers and planners. We are disappointed that there seems to have been no effort to engage the EIA or SEA community, engage with the academic research, or collect evidence of what has worked and what hasn't worked over 30 years of EIA and 20 years of SEA being in practice.

As those with proven environmental knowledge, our collective members are the experts and must be at the forefront of informing important proposals such as these. For this new approach to be in any way effective, environmental professionals must be at the forefront of every step of the process, from providing evidence on how EIA currently works in practice, to shaping the indicators which will measure the delivery of the environmental outcomes.

- iv. **Assurance of guidance and resource to support effective delivery:** It is vital that any new approach to environmental assessment is accompanied by -
- *Guidance and monitoring:* essential to support effective delivery, thorough guidance and monitoring must be provided, in contrast to the inadequate guidance provided for EIA and SEA. For example, the SEA guidance was rushed out in 2005 and hasn't been updated since. Monitoring is also essential, to ensure awareness of issues and so lessons can be learnt to improve delivery over time.
  - *Resource:* Centralised resource must be provided to develop and update guidance, commission research, consult with experts and disseminate best practice. We also have longstanding concerns over the workload and resource levels of local authorities, which again threaten the delivery of this new approach.
  - *Investment in skills:* Effective delivery of this approach is threatened by the widespread skills gaps and shortages that exist across the environmental profession, demanding greater investment. For this new approach to work in practice, with the associated social, economic, and environmental benefits, this skills challenge must be addressed.

## Response to individual questions

### 1. Do you support the principles that will guide the development of outcomes?

No. This question presumes that an Environmental Outcomes approach is better than the existing SEA and EIA processes. In addition, insufficient detail is provided on the proposed outcomes and so it is not possible to make meaningful judgements about them. For something as important as this, we would have expected fully set out outcomes to be developed and evidence provided to support the claim that an outcomes-based approach will be non-regressive.

The core outcomes should include all the possible effects of a scheme on people and health.

### 2. Do you support the principles that indicators will have to meet?

Once again, this question presumes that an Environmental Outcomes approach using indicators is better than the existing SEA and EIA processes. In addition, insufficient detail is provided on the proposed indicators and so it is not possible to make meaningful judgements about them. For consultees to meaningfully support or contest claims that an outcomes-based approach will be non-regressive, there needs to be a full set of indicators developed to consult on. As this is not the case, we are unable to answer the question to any degree of certainty.

The indicators should include all the possible effects of a scheme on people and health. The indicators should be clearly and directly relevant to the potential impacts and effects of a scheme having regard to the characteristics of the scheme and the receiving environment.

### **3. Are there any other criteria we should consider?**

The EPF feel strongly that the process for determining the indicators should follow from the data necessary to achieve the outcome, as opposed to being based around the data that is available. We understand that the outcomes and their indicators will be based on the DEFRA 66, which while a useful source, gives us some concern that this will put disproportionate emphasis on farming and rural affairs, to the neglect of urban and coastal environments.

One specific consideration should be the sensitivity of the receiving environment and of different receptors/ resources to different types of impacts relevant to the proposed scheme.

### **4. Would you welcome proportionate reporting against all outcomes as the default position?**

Yes, but the EPF would like to ask how such an approach differs from the current EIA regime. It is uncertain how an outcomes-based approach will be different and suggest there is a lack of evidence to support claims that a wholesale change in approach will be better and, as a minimum, not be worse than the current regimes.

### **5. Would proportionate reporting be effective in reducing bureaucratic process, or could this simply result in more documentation?**

Of course, proportionate reporting is necessary to reduce the bureaucratic process, but EPF wish to stress the fact that this should be happening now in any event. We believe this question fails to understand the root causes of any overly bureaucratic process and how any proposed changes to environmental assessment can attempt to overcome these root causes.

Environmental Statements tend to be defensive documents mainly because of the wording of the EIA regulations, which state that decision makers must not grant planning permission or subsequent consent for EIA development, unless an EIA has been carried out in respect of that development. The risk of legal challenge for projects can be more easily overcome by changing the wording of the regulations, not completely replacing them.

The potential for digitalisation to reduce bureaucratic process should also be acknowledged. A broad commitment to digitalisation in these proposals is welcome but lacking in detail. Effective use of digital should be informed by good practice and consultation with the experts.

In any case, as aforementioned, there is a distinct lack of detail with respect to what will be required to be reported on within an outcomes-based approach. Without this detail, it is impossible to state with certainty whether this will lead to reducing bureaucratic process.

**6. Given the issues set out above, and our desire to consider issues where they are most effectively addressed, how can government ensure that EORs support our efforts to adapt to the effects of climate change across all regimes?**

Once again, EPF wish to make the case that insufficient detail is provided for consultees to meaningfully engage with this question. What we need to see are clear proposals on how any environmental assessment regime will work alongside other regimes. Nor do we understand why the question only relates to adaptation rather than climate change in a wider sense.

**7. Do you consider there is value in clarifying requirements regarding the consideration of reasonable alternatives?**

Of course, there is value in clarifying the requirements on alternatives. However, the EIA Regulations already contain provisions to consider and report alternatives, stating the reasons for not considering them further.

It is far from clear what is being proposed as a change to the current provisions. It is not possible therefore to provide any meaningful comments as to whether any changes to the existing regime will be better or worse.

**8. How can the government ensure that the consideration of alternatives is built into the early design stages of the development and design process?**

Through the introduction of specific and clear requirements for the consideration of alternatives. This should relate in terms of what, when and how alternatives should be considered throughout the life cycle of a proposed scheme.

However, to answer the question in a direct sense, the only way the government can ensure this is done is through statutory guidance documents. Although, EPF wish to point out that from a resourcing perspective, many local authorities may struggle to cope with enforcing further statutory guidance.

**9. Do you support the principle of strengthening the screening process to minimise ambiguity?**

Yes, of course. However, it is difficult to fully comment on a principle presented without sufficient detail. Should an outcomes-based approach strengthen the screening process, this would be welcomed, but we want to know how this is to be done. EPF are of the view that with amendments to the current EIA regime, the screening process could be improved without a need to entirely replace it.

**10. Do you consider that proximity or impact pathway to a sensitive area or a protected species could be a better starting point for determining whether a plan or project might require an environmental assessment under Category 2 than simple size thresholds?**

Yes. EPF are of the view that simple size thresholds are too simplistic and combining proximity and impact pathway to a sensitive area or a protected species to be a better approach.

However, once more, EPF wish to state that we find this question to be vague. Without specific detail as to how any new approach, which considers proximity or impact pathways as a starting point for an environmental assessment, would work in practice, we lack the ability to meaningfully engage with this question.

#### **11. If yes, how would this work in practice? What sort of initial information would be required?**

A useful starting point will be the information already required in the EIA Regulations. EPF would query why this is now deemed not fit for purpose now and to enquire as to what exactly is proposed that will result in an improvement to screening provisions?

#### **12. How can we address issues of ineffective mitigation?**

Existing EIA Regulations already contain provisions for dealing with mitigation. What we need to see are clear proposals on how these provisions will be modified and improved. Without more detail, EPF are of the view that it is not possible to provide a meaningful response to such an open and vague question.

#### **13. Is an adaptive approach a good way of dealing with uncertainty?**

In principle, yes. However, there is the potential that an adaptive approach could result in greater uncertainty in practice, creating the perception of 'moving the goalposts' which may erode public trust.

#### **14. Could it work in practice? What would be the challenges in implementation?**

The concern would be that an adaptive approach may provide excuses for developers to defer decisions until later in the scheme development or post-construction. Sufficient safeguards should be built in, therefore, to ensure that mitigation is incorporated or committed to as soon as it is reasonable to do so.

An adaptive approach will need to be fully integrated with strong and robust monitoring provisions.

The biggest challenge to this approach is ensuring that the mitigation is secured, i.e., there is sufficient resources and funds available to secure any mitigation that may be identified and required later.

#### **15. Would you support a more formal and robust approach to monitoring?**

Yes. This is essential for any environmental assessment regime to be effective.

#### **16. How can the government use monitoring to incentivise better assessment practice?**

By factoring in feedback mechanisms to use the results of monitoring to a) reduce the effects of the scheme and, b) use the results of monitoring to provide legacy value.

Government should undertake a review of current best practice in the UK and Europe to establish how monitoring has been used effectively, e.g., the noise monitoring provisions for HS2.

CIEH member, and acoustics expert, Colin Cobbing has contributed to a book entitled '[Uncertainty in Acoustics](#)', which government may be interested in. The book covers, amongst other things, monitoring, and adaptive mitigation as part of the EIA process.

#### **17. How can the government best ensure the ongoing costs of monitoring are met?**

Through the introduction of statutory mechanisms that will ensure the cost of, and resources required, for monitoring are secured in accordance with the polluter pays principle.

One such example is the application of the Landfill Directive, which ensures that a certain percentage of the gate fee is ringfenced, to ensure that funds are invested for the restoration of a landfill site after use. Similar statutory mechanisms could be introduced that ringfence certain fees and charges to ensure ongoing costs of monitoring are met.

#### **18. How should the government address issues such as post-decision costs and liabilities?**

Through the introduction of clear and specific requirements and provisions for dealing with post-decision costs and liabilities. Wherever possible, requirements should be baked into the project for dealing with post-decision costs and liabilities before construction is completed.

#### **19. Do you support the principle of environmental data being made publicly available for future use?**

Yes. Making environmental data publicly available carries with it many benefits – including economic advantages in the long-term.

#### **20. What are the current barriers to sharing data more easily?**

There are several notable barriers, including: a lack of clear and unambiguous requirements and guidance on the effective sharing of data; lack of standardised, centralised, open source data that is publicly available; cultural problems with respect to intelligence sharing within and across some local authorities; intellectual property rights acting as a barrier to data-sharing within the private sector, and inadequate training on using this data effectively. All these issues are barriers to being more readily able to share data.

#### **21. What data would you prioritise for the creation of standards to support environmental assessment?**

Air quality data and public health data.

#### **22. Would you support reporting on the performance of a plan or project against the achievement of outcomes?**

It is unclear what this question is asking, therefore EPF are not prepared to provide an answer.

### 23. What are the opportunities and challenges in reporting on the achievement of outcomes?

It will be necessary to understand what the reporting requirements will be, before any judgment can be made about opportunities and threats.

### 24. Once regulations are laid, what length of transition do you consider is appropriate for your regime?

- i) 6 months
- ii) 1 year
- iii) 2 years

Please state regime.

Again, this question is premature, presumptuous, and difficult to provide a meaningful answer to. Government should not be asking questions about transition, unless and until it has demonstrated that any proposed changes to the EIA Regulations will not be regressive.

However, given that any outcomes-based approach would require further public consultation or perhaps even piloting to understand how it works in practice, as well considerable training provision to get officers up to speed with the new regime, EPF caution against a short transition period.

As a closing comment, we would like to signpost to some further evidence and commentary regarding EIA and how it could be reformed:

[Institution of Environmental Sciences – Reframing EIA as a tool for better design](#)



[envpolicyforum.org.uk](http://envpolicyforum.org.uk)

Signed on behalf of the following organisations,

Dr Daniela Russi  
Senior Policy Manager,  
British Ecological Society



Jason Reeves  
Head of Policy, Chartered Institute of Ecology  
and Environmental Management



Ciaran Donaghy  
Senior Policy and Public Affairs Executive,  
Chartered Institute of Environmental Health



Lee Marshall  
Policy and External Affairs Director,  
Chartered Institution of Wastes Management



Louise Simpson  
Executive Director, Institute of Chartered  
Foresters



Joseph Lewis  
Policy Lead, Institution of Environmental  
Sciences



David Bunt  
Chief Executive, Institute of Fisheries  
Management



Dr Emma Wilcox  
Chief Executive, Society for the Environment





## Notes

1. The British Ecological Society (BES) is the largest scientific society for ecologists in Europe with a membership of 7,000 in over 120 countries around the world. We support the ecology community at all stages of their careers through our journals, meetings, grants, and education and policy work. The first ecology society to be established anywhere in the world, we have been the champion of ecology for more than a century. [britishecologicalsociety.org](http://britishecologicalsociety.org)
2. The Chartered Institute of Ecology and Environmental Management (CIEEM) is the leading professional membership body representing and supporting over 7,300 ecologists and environmental managers in the UK, Ireland and abroad. Their Vision is of a society which values the natural environment and recognises the contribution of professional ecologists and environmental managers to its conservation. [cieem.net](http://cieem.net)
3. The Chartered Institute of Environmental Health (CIEH) is the membership and awarding body for the environmental health sector. Our members work around the world, improving lives and demonstrating excellence across all areas of environmental health including food, public health, housing, environmental protection, and health and safety. [cieh.org](http://cieh.org)
4. The Chartered Institution of Wastes Management (CIWM) is the leading professional body for the waste management sector representing over 5,500 individuals in the UK. Established in 1898, CIWM is a non-profit making organisation, dedicated to the promotion of professional competence amongst waste managers. CIWM seeks to raise standards for those working in and with the sector by producing best practice guidance, developing educational and training initiatives, and providing information on key waste-related issues. [ciwm.co.uk](http://ciwm.co.uk)
5. The Institute of Chartered Foresters (ICF) is the Royal Chartered home for tree professionals across the UK. It is the only UK body to offer both Chartered Forester and Chartered Arboriculturist titles. As part of its ongoing strategic objectives, the Institute regulates standards of entry to the profession; supports members and provides guidance to professionals in other sectors; offers educational advice and training to both students and tree professionals seeking to develop their careers, and works to foster a greater public awareness and understanding of forestry and arboriculture. The Institute has more than 2,000 members who practice forestry, arboriculture and related disciplines in the private sector, central and local government, non-government organisations, charities, universities and colleges throughout England, Northern Ireland, Scotland and Wales. Integrity, excellence, collaboration, sustainability and transparency form the basis on which they operate and these values underpin all of their strategic objectives. The Institute works with forestry sector organisations and higher education institutes to promote forestry and arboricultural career paths to young people, in order to ensure the continued growth of this dynamic sector and address the ongoing skills shortage. [charteredforesters.org](http://charteredforesters.org)
6. The Institution of Environmental Sciences (IES) is a membership organisation representing professionals from fields as diverse as air quality, land contamination and education - wherever environmental work is underpinned by science. We promote and raise public awareness of environmental science by supporting professional scientists and academics and by standing up for the voice of science, scientists, and the natural world in policy. [the-ies.org](http://the-ies.org)

7. The Institute of Fisheries Management (IFM) is an international organisation of people whose aim is to support and promote sustainable fisheries management for the benefit of our members, fisheries, wildlife and society. [ifm.org.uk](http://ifm.org.uk)
8. The Society for the Environment (SocEnv) is comprised of 24 Licenced Bodies, with over 500,000 members between them. It received a Royal Charter in 2004, which empowers it to regulate the Chartered Environmentalist, Registered Environmental Practitioner and Registered Environmental Technician professional registrations globally. There are now over 7,500 environmental professionals currently registered who share a common vision of delivering sustainability through environmental professionalism. [socenv.org.uk](http://socenv.org.uk)