

Department for Levelling Up, Housing & Communities: Consultation on Environmental Outcomes Report

Written submission of the IES Environmental Impact Assessment Working Group, June 2023

The [Institution of Environmental Sciences](#) (IES) is a professional body representing more than 5000 environmental scientists and standing up for the voice of science, scientists, and the natural world in policy. We promote and raise public awareness of environmental science by supporting professional scientists and academics. Our members take transdisciplinary approaches to environmental challenges, examining interactions between complex natural and social systems from a scientific perspective.

Our [Environmental Impact Assessment Community](#) provides a forum for thought-provoking, critical conversations around EIA from a science-based perspective. The Community connects and supports environmental scientists and practitioners working across a range of specialisms involved in the EIA process and facilitates meaningful discussion between disciplines on the key issues facing the sector.

The Institution is happy to elaborate on any of the details in this response with further evidence in whatever form the Department finds most appropriate. Our membership includes hundreds of EIA and SEA professionals who are well-positioned to share insights directly from the point of implementation.

Executive Summary

- The Institution supports a transformative change approach to EIA reform: we should transform EIA into a design tool which creates sustainable developments to serve the interests of people and nature. To make EIA fit for the future, reforms should not be limited to minimalist incremental changes to the current regime.
- In that context, the Government's proposals identify many of the issues facing the current EIA and SEA regimes, proposing some strong measures to begin addressing those challenges.
- Early-stage interventions are likely to be the most effective means of improving the process: the full potential of pre-screening stages, the project design stage, and open access data are not yet being unlocked by the proposals, mitigating their potential to improve the process.
- Projects should seek to achieve multiple benefits for communities and the environment, and doing so can improve the value of developments as well as the efficiency and accessibility of the overall process.
- Competency, upskilling, and collaboration are essential to make the most out of limited resources, so supporting them is an efficient way to improve the system.
- The Government's goal of making data publicly available for use is vital, and can be best achieved through a national centralised database and stakeholder data networks.
- Further action is needed to ensure that the EOR regime drives best practice, particularly on key issues such as digital EIA and the integration of environmental professionals from the design stage onwards.

Q.1. Do you support the principles that will guide the development of outcomes? [Yes / No].

No

Q.2. Do you support the principles that indicators will have to meet? [Yes / No].

No

Q.3. Are there any other criteria we should consider?

There are two issues which relate to the current criteria: the absence of consideration of the full set of social factors relevant to sustainable development, and the process around indicator selection which may lead to unintended consequences.

Firstly, the principles outlined for guiding the development of outcomes and indicators do not currently set up a process which sufficiently considers outcomes holistically, potentially at the expense of the ability to achieve multiple functions and co-benefits from developments.

Under the current criteria, it is unlikely that socio-environmental factors such as human health, noise benefits, amenity, material access, open space, disaster resilience, and similar issues will be considered by the process. These factors play a critical role in sustainable development, and although they might not be strictly defined as 'environmental' outcomes, they should nonetheless be factors in considering the broad environmental impacts of a development.

Not only are these factors important to the broader environmental context of designing the built environment and communities, they play a significant role in adding financial and non-financial value to developments, and in many instances saving costs. In order to achieve a systems approach to environmental outcomes, the process should better reflect a holistic perspective to this broader set of factors.

Secondly, the current proposals for determining indicators are likely to raise challenges for securing environmental outcomes. The heavy emphasis on basing outcomes on existing indicators may come at the expense of the rationality of those outcomes. The selection of indicators should follow from the outcome we desire based on how we would know when that outcome would be achieved. In turn, that will demonstrate what data we need to collect.

By comparison, placing too much emphasis on using data which already exists may lead to absurdities where a proximate yet imperfect indicator is used to measure an outcome, ultimately leading to policy failure if the indicator is met but not the outcome itself. The system already faces challenges linked to 'ticking boxes' at the expense of outcomes, so it is of paramount importance that indicators truly reflect the outcome with which they are associated.

In many cases, this will not be an issue, as suitable datasets and indicators already exist, but the Government should take care during the outcome setting process to acknowledge the potential for unintended consequences associated with over-reliance on existing data, particularly where data may be outdated. If existing datasets will be relied upon for establishing outcomes, efforts must be taken to confirm the validity and applicability of that data.

Similarly, the availability of data at appropriate local scales should be considered, as data available in one location may not be available at other localities. Outcomes should be constructed to be applicable across contexts. Equally, enhancement of those outcomes should be a factor, rather than merely preventing further degradation. To that extent, reflection on historic trends should be a factor when considering the setting of outcomes and indicators.

There are two further issues to note, which do not substantively affect the process for developing outcomes, but which factor into the framing around the current proposals. The first relates to responsible 'owners' and the second to the dichotomy between the EOR regime and policy.

The Institution welcomes the proposal for each outcome to have an 'owner' organisation responsible for monitoring the overall progress of specific outcomes. This has the potential to go a significant way towards achieving environmental improvement across the entire system, as long as owner organisations have a close dialogue on the interlinking nature of their relevant outcomes.

To achieve that goal, there must be some oversight of the risks associated with the approach, particularly that these outcomes are still seen as considerations across all relevant stakeholders. At the same time, there must be sufficient organisational capacity for responsible owners to monitor the progress of outcomes, including technical expertise, resourcing, and cooperation to address transboundary issues, particularly between devolved administrations where regimes may differ. The existence of sufficient capacity should also be ensured with reference to the potential cumulative workload imposed where an organisation becomes the responsible owner of multiple environmental outcomes.

A second framing issue arises with regards to the commentary in section 4.13 that: "for some matters, such as issues with an insignificant local impact but which are important cumulatively, addressing an impact through policy, and policy compliance, could be more appropriate and effective at achieving change on the ground than including in the EOR regime."

While the Institution agrees that many environmental outcomes will require action beyond the EOR regime to achieve effective change, the regime should not be seen as separate from policy or policy compliance. It must be a better utilised tool of policy than the existing EIA regime. Developmental regulations are a key component of the policy landscape and in many cases they should be viewed as the most direct and proximate policy tool for influencing these outcomes, particularly in the case of cumulative effects which can only be addressed at the level of the planning system.

The document somewhat recognises this in the context of climate change in section 4.28 and the same is true of the other environmental outcomes addressed under the EORs regime, so the language in section 4.13 should be clarified to ensure that all available policy tools are properly utilised to secure environmental outcomes.

Q.4. Would you welcome proportionate reporting against all outcomes as the default position? [Yes/ No].

Yes

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

While the Institution would welcome the proposals for proportionate reporting, the current proposals are unlikely to be effective in reducing bureaucratic process. There is already a significant degree of good practice during the scoping stage, particularly when environmental professionals are involved early in the EIA process. The goal of improved efficiency would be better achieved by bringing more projects to best practice.

The Institution broadly supports the Government's approach to proportionate reporting as a 'step in the right direction', though our EIA Community has recently published a subtly different approach, which the Government should consider as a slight improvement to the current proposals being considered for testing under the NSIP and Town and Country Planning regimes.

Both approaches achieve the important goal of proportionality by shifting considerations into a pre-screening phase, reducing the burden on the eventual Environmental Statement without compromising on the robustness of the overall impact assessment. In this context, the integration of EIA and SEA within the EOR regime is also a positive contribution towards efficiency.

In that context, proportionality cannot come at the expense of either robust environmental analysis or transparency, both of which will be fundamental to the ensuring that environmental outcomes are balanced against the potential benefits of developments, the scale of projects, and other relevant factors. Without a strong analysis of all those factors and the transparency for external scrutiny, proportionality cannot be achieved.

Where the Government's current approach to proportionality is to conduct minimal assessment of each of the outcomes where a full assessment is not required, the Institution would recommend that the pre-screening stage requires developers to account for how a project will meet the requirements of relevant legislation, such as Biodiversity Net Gain, Air Quality Limits, net zero, and other requirements.

Importantly, the current proposals may not sufficiently account for emerging legislation and other changes to regulation which are not yet forecast by the Government, whereas the Institution's proposed approach would mitigate against future policy changes by integrating them into considerations from the outset.

This approach to pre-screening would better ensure congruency with legislation for all projects moving on to the formal stages of the EOR process. This would also highlight to project developers how they could ensure that their project meets these legislative requirements, directly addressing the fear of litigation identified in the consultation document. As under the current proposals, this pre-screening stage could result in a separate document leaving the screening and scoping reports more succinct.

Alternatively, there are additional measures which could support the reduction of bureaucracy and remove barriers to the efficiency of the process. In particular, the Institution would emphasise the importance of digital EIA and the use of data.

Digital reporting is likely to play a key role in improving the efficiency of the process, which the current proposals do not sufficiently leverage. The Government's reiterated commitment to digital EIA in the consultation document is very positive, however more specific details are needed to drive the types of digital tools and best practice needed to improve efficiency and accessibility.

Specifically, the consultation document does not sufficiently outline which tools and approaches will be promoted, particularly during the EOR process as a way of working, rather than solely as an output for the eventual report. The former has an important role in improving efficiency, whereas the latter is better suited to increasing access. As the focus for the use of digital tools is expected to be on outputs and data visualisation, the current commitments does not yet clearly demonstrate the value that digital EIA can bring to improving process efficiency.

The Government should consider issuing supplementary guidance on best practice in digital EIA, both as an output and as a way of working, which would help to mitigate the risks of the use of digital EIA while simultaneously maximising best practice and efficiency across the new EOR regime. The Institution's EIA Community would be well-placed to support work to establish best practice guidance, and is happy to support such an endeavour through access to case studies and our broad network of EIA professionals.

As a second alternative approach to improving efficiency, a more strategic approach to the use of data across the EOR regime could help to make each project more efficient, increasing the robustness of the process while reducing bureaucracy.

Currently, a considerable amount of data is gathered under the EIA regime which is not used to its full potential. Making this data more accessible, with the goal of achieving widespread open access, would help to reduce the bureaucracy on individual developments. One approach would be the mandatory provision of data for inclusion in an open database. Details of how such an approach could work are given in response to Question 12.

While considerations around the costs, legal status, and management of that data would need to be overcome, making data more accessible would still reduce the burden on process for individual developers, improving overall efficiency.

The Government should investigate international approaches to resolving issues around data collection. Several countries, such as Germany, have approaches to EIA based on the same

regulatory regime that the UK system inherited from the European Union, with solutions which may help to support more efficient and robust action. These regimes take approaches to the use of thresholds for environmental impacts which could further simplify the pre-screening, screening, and scoping stages, with a view to the overall proportionality of the process.

To that end, the Government could seek to inform any ongoing attempts to reduce bureaucracy with reference to a wider view of how other countries have approached the implementation of the EIA Directive.

Bureaucracy and the duration of environmental processes are also likely to be exacerbated by limited resources and capacity in Local Planning Authorities. With greater capacity, processes could be streamlined and better managed to reduce bureaucracy. This is expanded on subsequently, particularly in response to Question 25.

Q.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?

As noted in response to Question 3, the Institution recommends taking a broader perspective on the socio-environmental outcomes associated with sustainable development, including climate mitigation and adaptation, but also the other factors which are likely to have significant co-benefits for resilience and adaptation to climate change and other environmental challenges.

Ultimately, to ensure that adaptation remains a key consideration in projects under the EOR regime, the expectation needs to be aimed at environmentally-ambitious projects which are data-driven, led by engagement with environmental professionals, and designed to achieve multiple outcomes from the earliest stage in the process.

This is also a subject where ambiguous framing associated with the EOR regime has the potential to impede efforts to support adaptation to climate change, so greater clarity on the role of planning and the EOR regime within a wider set of policy tools is critical. The current ambiguity in section 4.13 should be replaced with a more coherent explanation of how the EOR regime can support and align itself with other environmental policy objectives, rather than seeking to separate the regime from its broader policy context.

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

Yes. There would be a significant value in clarifying the requirements for considering reasonable alternatives. As the consultation document identifies, under the current system this is often a generic 'box ticking' exercise and frequently retrofitted, rather than proactively considered.

The current proposals make positive progress, but may not guarantee that reasonable alternatives are considered to a sufficient extent. Overall, the move towards targets and thresholds through recent regulatory developments and the expansion of best practice has

made positive progress for the proper consideration of alternatives. Biodiversity Net Gain, Air Quality Positive developments, and other standards are beginning to improve the consideration of design options which consider a range of benefits, but many of these are not yet universal and may not always be addressed when considering designs.

While the Institution supports the intention behind the summary reporting on alternatives, the process described in the consultation document may not go far enough to resolve the potential for a developer to “*cut and paste’ from assessments carried out for other plans and projects*”. Trivially, this tokenistic consideration of alternatives could be undertaken and assigned to a key date in the high-level summary, without actually increasing the degree of consideration or improving trust in the process.

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

Minor improvements could make a significant difference to overcoming these challenges. Crucially, there must be an expectation of a strong environmental component to the consideration of alternatives. Early stage reporting on design development should include appraisal of environmental impacts where possible, or at the very least the consideration of environmentally-positive alternatives where these are standardised. Where alternatives are typically considered during the design of a project, this is another issue which can be addressed by including environmental professionals earlier in the process.

If developers are properly incentivised or required to involve environmental expertise at this stage, rather than bringing it in at the mitigation stage, then it would increase the likelihood that alternatives would be considered in the bespoke context of the site in question. This would have the likely benefit of increased trust that the mitigation hierarchy was directly applied to the proposal in question, rather than produced in facsimile from another project. Even where developers are already employing best practice, there is likely to be an increase to trust in the process.

The Mersey Gateway project is one case study which demonstrates the value of early integration into the project of design and environmental teams. The case study demonstrates the value of an iterative design process to the overall project, as well as how it can support effective options appraisal.

Useful evidence can also be taken from BREEAM, under which certain activities have been specified against the RIBA Plan of Work stages. This approach could serve as an example of how to effectively implement the consideration of alternatives through iterative design throughout the process.

More information on each of these case studies is available in our EIA Community’s recent report on reframing EIA: <https://www.the-ies.org/resources/reframing-eia-tool-better>

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

Subject to the caveats provided in response to Question 5 with regards to pre-screening, the experience of our EIA Community is that the screening process currently works well in most cases, without a significant degree of ambiguity. While minimising ambiguity is a desirable outcome, the process already achieves this goal in the majority of projects, so any changes to the screening process should weigh the potential benefit against the risks associated with making such a change.

Specifically, adapting to a new screening process could take time and introduce ambiguity during the change in regimes, so the communication of changes to the screening process must be carefully and strategically delivered. While a model based around impact pathways could be implemented effectively and logically, it may also introduce new challenges for the overall reliability of the screening process. The benefits are unlikely to be significant, as good screening practice should already take this kind of approach into account.

The current proposals on screening may also raise challenges around the current role of the SEA regime, which would need to become more rigorous to account for the possibility of unintended consequences.

Where section 5.2 suggests that “*where a local plan has sufficiently addressed an impact through policy, including any required mitigation, the project may not need to assess the effects of the project in full*”, generic mitigations might not properly reflect the specific environmental context of a site or local area. If this approach continues to be included in the proposals, significant further steps should be taken to ensure that the general mitigations applied through a local plan actually achieve states outcomes on project sites.

The dual goals of accessibility and robustness may be jeopardised by weakening these considerations, so the Government should consider clarifying section 5.2 to ensure that there is sufficient potential for public scrutiny (both of these approaches in the Local Plan as well as how they are applied in proposals), as well as to ensure that projects do address whether the general mitigation in the Local Plan is appropriate in the context of the site in question.

Q.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/No].

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

Question 10 has been left unanswered to reflect that a model based around impact pathways could be implemented effectively and logically. However, this would depend considerably on the practical implementation, including the legislative definition used, which could create challenges. Ultimately, this approach could lead to an overly-complex approach, the benefits of which would be better achieved by allowing the process to better leverage the knowledge and perspectives of competent experts.

Including impact pathways in addition to thresholds could have the potential to encourage lateral thinking on the potential for significant effects, though the process would require further measures to avoid jeopardising the short and long-term effectiveness of the screening process, particularly if an impact pathway approach came at the expense of the use of thresholds. Best practice in this area should already identify proximity to sensitive areas during the screening stage, so it may be more effective to promote best practice during screening, rather than adding complexity to the process itself.

These issues may be particularly pronounced for environmental outcomes such as air quality, where significant distances would need to be considered. In these instances, best practice from Habitats Regulations Assessment professionals may be able to support effective delivery in the EOR context.

When considering such changes, engagement with EIA professionals will be paramount, as they are likely to have different consequences for different contexts and sectors. Our EIA Community is happy to support any evidence-gathering efforts on the implementation of impact pathway approaches in specific sectors across the EIA profession.

Q.12. How can we address issues of ineffective mitigation?

Currently, there are three primary barriers to the effectiveness of mitigation measures in the EIA process: the lack of early introduction of environmental expertise leading to ‘bolted-on’ mitigation at the expense of ‘built-in’ measures; the narrow framing of mitigation to avoid specific harms at the expense of pursuing multi-beneficial projects; and the poor leverage of data and monitoring to ensure real-world effectiveness of mitigation measures.

Whilst other challenges for the effectiveness of mitigation exist, addressing these three barriers would make a significant difference to the overall effectiveness of mitigation measures in the new EOR regime.

Firstly, ineffective mitigation would be less likely if environmental expertise were brought into the process earlier, which would also help to address ineffective mitigation when it does take place. Including technical expertise is essential to understanding the full impacts of a project on interlinking natural systems, which is crucial for designing robust and well-informed mitigation.

Ineffective mitigation can arise when mitigation is ‘bolted on’ to a project at a late stage in the process, rather than being ‘built in’ from the outset. The benefits of designing out impacts are well established, contributing to both financial savings on project budgets as well as environmental gain. Best practice has moved past the ‘bolt on’ approach but this challenge remains for many projects. In that context, designing mitigation into the project from the outset maximises the chances of avoiding ineffective mitigation.

Secondly, general approaches often lead to ineffective mitigation by focusing on narrow considerations of avoiding harm or legal challenges, rather than designing mitigation to secure multiple economic and social benefits or environmental outcomes. Best practice demonstrates that refocusing EIA towards multiple benefits can facilitate and simplify the

process of promoting environmental benefits, while also improving the effectiveness of mitigation.

When mitigation measures are designed without reference to the wider potential to secure social and economic benefits, and without considering the social and natural systems within which the project is situated, they are prone to ineffectiveness and unintended consequences. These factors are likely to become considerations later in the process regardless, at which stage the potential to influence design tends to be highly limited.

This may result in high project costs which fall on developers and may also compromise the effectiveness of mitigation plans which the project budget may struggle to sustain, and can result in projects being refused or delayed. Changes at a later stage in the process may also be resisted by project promoters where there is not unequivocal need, contributing to the ineffectiveness of the project's overall mitigation.

By shifting the approach and framing of EIA towards the achievement of multiple outcomes for communities and the environment, these design challenges can be minimised. In this context, there is also a strong synergistic benefit of the recommendation above on introducing expertise into the process earlier.

Similarly, the effectiveness of mitigation measures may be limited where innovative mitigation approaches are unduly restricted. Statutory bodies should be open to science-led innovation in mitigation, rather than defaulting to general approaches in the name of risk aversion. Trialling innovative approaches to mitigation in some cases may be appropriate as a means of improving and diversifying the overall approach to mitigation across the sector.

Thirdly, data and monitoring are not currently leveraged to their full potential, often undermining the effectiveness of mitigation, even where mitigation measures are well-designed. Monitoring is an essential component of ensuring the effectiveness of mitigation, without which the success of mitigation measures cannot be assured. Monitoring data can support validation of the accuracy of modelling, while also affirming the effectiveness of mitigation.

Current regulations do not sufficiently define where the responsibility for good monitoring falls. The result is that monitoring often falls through the cracks as Local Planning Authorities lack capacity to deliver it, and developers do not want to commit to the expenditure when they do not feel that they are required to do so. The current proposals also contain insufficient means to ensure that mitigation is successful over the long-term, as mitigation measures which are ultimately proven to have been ineffective are not subject to the kinds of sanctions that would encourage greater effectiveness.

If the burden of mandatory monitoring of the success of mitigation over the long-term fell to developers, it would help to secure the benefits for all parties, which could in turn reduce the financial burden of future developments. This could also encourage the development and uptake of smart monitoring technology which may also have financial benefits for developers in the long-term.

Additionally, access to the necessary data and monitoring capability is not universal, leading to ineffective mitigation in many instances. This could be resolved through the establishment of a national centralised database on the outcomes of assessments. The underlying raw data would make an invaluable contribution to supporting effective mitigation measures across the regime as a whole. There are challenges associated with such an approach, which are addressed in response to Question 17.

By restoring the feedback loop between post-project monitoring and embedded mitigation methods, the likelihood of ineffective mitigation is significantly reduced, increasing the ability to correct or adapt mitigation measures to be more effective over the long-term. If these feedback loops were more common, it would be easier for developers to understand what works and to see the financial savings that can be achieved through good design, supporting the business case for effective mitigation. Equally, Local Planning Authorities and other stakeholders would be better able to understand the value and likely effectiveness of mitigation measures, which could become more of a factor in decision making.

Without the prerequisite monitoring and data, it would not be possible to overcome these barriers, and in many instances it may not even be possible to identify where mitigation measures have been ineffective until a significant time after the project's completion.

Further options to address the effectiveness of data and monitoring are provided in response to Questions 16, 17, 19, 20, and 21.

Additionally, it should be noted that the current formulation of the mitigation hierarchy presented in the consultation document excludes the step of restoration of unmitigated environmental impacts. While in many instances, it may not be possible to consider post-project restoration on-site, the consideration of this stage of the mitigation hierarchy should not be foregone entirely.

Even if many projects may default to off-site compensation or offsetting, there are many instances where restoration is the more appropriate option. To avoid creating new challenges for the effectiveness of mitigation, restoration should be explicitly re-added to the formulation of the mitigation hierarchy presented in the final proposals.

Q.13. Is an adaptive approach a good way of dealing with uncertainty? [Yes/No].

No.

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

Adaptive approaches may face significant implementation challenges as some stakeholders involved in projects can have a high level of resistance, particularly when it appears that 'goalposts are moving' or that previous elements of the process are being ignored or side-stepped.

As a result, barriers to public transparency and accessibility can emerge for the process, reducing trust and breaking down the links between communities, developers, and environmental expertise which are necessary for robust and democratically-accountable

developments. The experience of our EIA Community is that the majority of proposals to undertake adaptive mitigation approaches have been met with an unfavourable response from communities.

Similarly, adaptive management and mitigation can also lead to a shift away from better design options as projects develop and costs increase, undermining the importance of early interventions and potentially jeopardising the multiple benefits that a project could provide. As costs or risk increase, the tendency for projects to shift back towards general mitigations or standard approaches may become more prevalent. As outlined in response to Question 8, this can lead to less effective mitigation.

The approach outlined in the current proposals may also raise budgetary challenges for developments which need to plan ahead for costs from the outset. As the expectation for adaptation increases, the likelihood of risk also increases, making budgeting more challenging for developers, which may discourage some projects and lead to a reduction in competition across the market.

Q.15. Would you support a more formal and robust approach to monitoring? [Yes/No].

Yes.

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

The Institution welcomes the Government's desire to take a more robust look at monitoring. As identified in response to Question 12 and in Section 8 of the consultation document, monitoring is an essential component of effective mitigation. To that end, the Institution supports the current proposals to clarify monitoring requirement, improve the robustness of monitoring, and to better connect monitoring with data collection.

Issues remain around the provision of long-term funding, uncertainty as to who is responsible for carrying out monitoring, and the sanctions and enforcement which would be applied in the event of adverse results. In the absence of clear regulation or guidance, this has led to poor assessment practices when it comes to monitoring.

Further measures could facilitate the appropriate use of monitoring by addressing these challenges. As identified in response to Question 12, a national centralised database would play a significant role in incentivising better practice, as the availability of data can become a barrier to better assessment practices. Centralising data would also resolve the challenge identified in Section 3.18 of the consultation document that "*for some regimes, a large amount of data was available but knowing where and how to access it was an issue*".

There is a strong basis for centralised data-sharing and growing support from the sector to identify a solution which works. In March 2023, our EIA Community's report on reframing EIA (linked above) set out one option for how a database could work. Another proposal was also recommended in the National Infrastructure Commission's report on delivering net zero, climate resilience, and growth in April 2023.

Additionally, the Government should seek to work with key stakeholders such as the Office for Environmental Protection and Environmental Standards Scotland to coordinate data networks for monitoring purposes. If data networks are properly resourced and reliable data is made accessible to projects, this will encourage better practice. As the reliability of effective mitigation increases, the process will be simplified, encouraging widespread adoption.

International examples may also provide case studies to support the Government's approach to monitoring. For example, the Netherlands Commission for Environmental Assessment has undertaken strategic partnerships through the Shared Resources, Joint Solutions programme with the aim of capacity building on monitoring, which may provide a case study to inform the Government's plans to encourage monitoring and better assessment practices.

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

There are multiple approaches the Government could take to ensuring the costs of monitoring can be met over the long-term. Ultimately, it will be necessary to take a proportional approach in line with the prevention and polluter pays principles, as different scales of projects will still require monitoring to ensure effective mitigation, though they will differ in resources and technical monitoring capacity.

An option would be to provide support for ongoing monitoring, either in the form of financial incentives or the availability of expertise. For example, for some regimes, provision of accessible expertise within Local Planning Authorities may provide a similar level of support, such as ecologists employed within local authorities. Alternatively, the costs of monitoring could be more directly enforced against developers and promoters.

These measures should be carefully applied to regimes with a sense of proportionality to the different developers and projects involved. Regardless of which option is selected, it is vital that clarity of communication and consistent enforcement are employed, to prevent workarounds or poor practice undermining the system.

Measures could also address the cost challenge from a more systemic view, which are outlined in response to Question 16. National databases, capacity building, and data network coordination would all require some additional funding to be effective, but would have a significant effect on the ongoing costs of monitoring for each developer.

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

While addressing this, the Government should use the same principles and approach outlined in response to Question 17.

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

Yes. Explanations for this support are provided in response to Questions 5, 12, and 16. There is already a wealth of publicly-available data in many instances, though the lack of

centralisation makes it inaccessible, and inconsistencies around validation of data make it reliable. For example, priority datasets for standardisation and centralisation could include air quality and biodiversity data. Any approach to the public availability of data should seek to overcome these challenges.

Our responses to Questions 12 and 16 outline the Institution's recommended solution to fulfil the principle in practice: a national centralised database on the outcomes of assessments and underlying raw data. Alternatively, or in support of a national database, the approach to coordinating data networks with key stakeholders such as the Office for Environmental Protection and Environmental Standards Scotland could help to mitigate the challenges of accessibility and data validity.

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

The challenge for any approach to data-sharing, including the solutions suggested in response to Question 19, is that the historic commercialisation of data has given rise to issues linked to intellectual property rights and commercial sensitivity. There are some ways that this challenge can be mitigated.

Firstly, as there is already a considerable degree of publicly-available data, the first step in approaching public availability of data as a resource for future decisions is to ensure that already public data is consolidated, centralised, and made accessible. Public or public-owned organisations such as DEFRA and the Greater London Authority could play leading roles in sharing their own data, encouraging a norm of data sharing across the sector.

In that context, there are also opportunities to develop approaches to the use of Application Programming Interface (API) to automatically construct datasets or obtain information. There may be useful information to gain in this area from DEFRA's use of the Air Quality Monitoring Networks.

Similarly, the past work of the Crown Estate in this space demonstrates the potential of these approaches, as long as they are more widely adopted. The use of public bodies as a means of data sharing has historically faced challenges linked to their limited ability to monetize data to cover the costs of collection and consolidation, so these barriers may need to be addressed to make use of this potential resource.

Secondly, there are many case studies provided by other countries' approach to implementing the EIA Directive, which could inform the Government's future approach to overcoming data rights barriers. For example, the Netherlands Commission for Environmental Assessment may be a suitable case study from which to draw inspiration.

Thirdly, the long-term solution to the intellectual property challenge associated with data sharing is to develop a norm of public availability of data post-project, either through best practice or direct regulation. If an organisation losing sole access to data was factored in as a cost from the start of a project, it would be easier to encourage data sharing than under the current system, where that data is viewed as an intellectual property resource. This could be facilitated by the powers in the Levelling Up and Regeneration Bill.

There are also challenges for data sharing associated with the validation of data, as publicly-available data will only be used if it is seen as reliable enough to support assessments. Similarly, strong processes should be in place to ensure that any publicly-shared data is robust, including expert verification of data and ongoing reviews to ensure that data does not become outdated.

Standards should be developed and promoted to ensure the adoption of reliable approaches to the reliability and verification of data, which would make the uptake of data more likely. The challenges for the verification of data are addressed in response to Question 19, along with further potential solutions.

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

Standards and guidance have an important role in driving best practice. A considerable amount of guidance is already available, so guidance should be consolidated around the principles of environmental design and the National Design Guide, as well as for legislative standards such as Biodiversity Net Gain, net zero, and air quality. Guidance should be rationalised, centralised, and made easily available, accounting for the differences in regimes.

This would also identify gaps in the existing guidance framework to support the creation of new standards, and would support a more uniform approach where different authorities apply standards in different ways.

For example, one gap in the current system is guidance for local authorities on carrying out Environmental Statement reviews, where resources and competence are often limited. The technical requirements of critically evaluating the technical quality of statements and related technical chapters could be supported through creating further standards, or by addressing the skills and funding gap faced by local authorities.

Other issues where uniformity and establishment of standards is currently insufficient are addressed in response to the associated questions, such as standards and guidance for post-project monitoring, which are addressed in response to Question 12.

Q.22. Would you support reporting on the performance of a plan or project against the achievement of outcomes? [Yes/ No].

No.

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

While accessible and coherent reporting should be an important objective of the EOR process, the current proposals for reporting against the achievement of outcomes may be too simplistic, ultimately reducing transparency and the overall robustness of accountability under the regime.

The current proposals for focused reports may pose challenges for accessibility, especially if information or nuance is lost in the process of simplifying reports, or if that information is not effectively communicated. Where technical details are simplified for the sake of accessibility, key information such as the cumulative impacts of projects are likely to be ‘lost in translation’. Effectively, pursuing greater accessibility by simplifying reports may itself jeopardise the goal of accessibility where information is under-communicated.

Naturally, there is a balance to be struck here, and best practice by professionals with expertise producing Environmental Statements already strikes this balance in many instances. Pushing information into appendices is likely to compromise the extent to which that information is accessible. If stakeholders and the public cannot easily find the information they are looking for, the likely outcome is disengagement and a reduction in trust in the process.

Two opportunities could help to mitigate these challenges, though the need to balance between nuance and simplicity is an inherent challenge for reporting on assessments. Similarly, the balance between the length of documents and the ability for stakeholders to find information easily must be carefully struck.

Firstly, proportionality must underpin the creation of reports. Standards for reporting often fall down in implementation, so a common sense approach should be applied. Best practice has already produced positive outcomes in many instances.

Guidance and standards associated with different project sizes and regimes can play a significant role in increasing uptake of best practice, particularly for issues such as digital EIA and the role that it can play in reporting, both for the public and for specialist regulators.

Secondly, stakeholder and public engagement must be a part of the process, which can overcome accessibility issues by encouraging proactive understanding of projects, rather than relying on reporting as a sole communicative tool. In this way, involving stakeholders and the public in project design and mitigation can reduce the dichotomy between presenting nuanced information and simplicity.

Options for engagement include increasing direct lines of consultation and community engagement, as well as the type of dialogue encouraged between projects and communities seen under best practice for Development Consent processes associated with Nationally-Significant Infrastructure Projects.

Question 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).

Ultimately, different transition periods will be necessary for different regimes. The duration of the transition period should be informed by the length of EIA documents and the number of considerations necessary for a regime to consider. For example, oil and gas projects may be able to handle a shorter transition period as EIA processes under that regime tend to be shorter by comparison, requiring shorter document templates and fewer variables to consider for relevant developers and statutory bodies.

A significant period will be required across regimes, and the EIA process as a whole may require at least 1 year for an effective transition which leads to coherent application without compromising best practice. In the contexts where SEA is particularly important, slightly longer transition periods may be necessary to adapt to the overall shift in the strategic context of regulatory change.

Where possible, existing projects may also require a period to continue under the existing regime, even after regulations or guidance changes. Where assessments are associated with the Development Consent Order regime, it may not be unusual for the full process of environmental considerations to take several years, and any mid-project shift in regulations could cause significant disruption. To that end, projects which have already progressed significantly under the current regime should not be required to repeat the same actions under the new regime.

Question 25: What new skills or additional support would be required to support the implementation of Environmental Outcomes Reports?

Currently, there are two significant skills challenges affecting the implementation of EIA, which will need to be resolved to support the implementation of EORs. One relates to the importance of competency across the profession, while the other relates to the availability of skills and capacity within local authorities and stakeholder bodies.

Firstly, current proposals do not sufficiently forefront the role of competency. Competency plays a key role in the preparation and review of impact assessments, so it is important that approaches to the definition of competency are consolidated and standardised. The Institution has previously provided standards for the experience and qualifications to demonstrate competence across a variety of EIA roles.

A consistent approach to competency must be put at the forefront of the EOR process. The current proposals rely on the availability of expertise, as do many of the solutions to current implementation challenges identified in this response to the consultation. As such, significant support must be in place to secure a skills pipeline which produces competent experts.

Crucially, what constitutes competency should be clear, standardised, and deliverable through the skills pipeline. This can be achieved through standardisation, rationalisation of guidance, and direct interventions to support the proliferation of skills. Examples of the specific skills needed to underpin competency are provided in the Institution's briefing paper on 'Experience and qualifications to demonstrate competence in different EIA roles':

<https://www.the-ies.org/resources/experience-and-qualifications>

Secondly, environmental assessments work best as part of a two-way process of design, scrutiny, and delivery, which can be compromised when local authorities and stakeholder bodies lack sufficient resources, capacity, and technical skills for to engage in the process as required. Currently, many local authorities are significantly under-resourced and may not have the ability to monitor and enforce the new system.

The Government should engage in a review of the resources available across local authorities and relevant stakeholder bodies, seeking information on the extent to which they can

currently deliver on their role in the planning process, as well as their capacity for monitoring and enforcement of environmental outcomes. Such a review should also be part of the process of selecting responsible owner organisations for specific outcomes, as outlined in response to Question 3.

Question 26: The government would be grateful for your comments on any impacts of the proposals in this document and how they might impact on eliminating discrimination, advancing equality and fostering good relations.

As noted in response to Question 23, good community relations and equitable access to information are reliant on stakeholder and public accessibility to data, reports, and project information. Solutions to addressing the accessibility barriers which may arise under the current proposals are noted in response to that question.