

Major Infrastructure and Environment Unit

The Habitats and Wild Birds Directives are a key part of the framework we have in place to protect the environment and the vital ecosystem services that we depend on economically, environmentally and socially.

Given the scale of the planned infrastructure investment, set out in the National Infrastructure Plan 2011, some projects may require significant Habitats and Wild Birds Directives issues to be resolved.

To help ensure that commitments under the Directives are met without placing unnecessary burdens (e.g. helping avoid unnecessary costs and delays) on 'top 40' infrastructure projects identified in the National Infrastructure Plan, and other nationally significant infrastructure projects, ***a new, cross-Government Major Infrastructure and Environment Unit is being established, operational from April 2012.***

1. Terms of Reference

1.1 The purpose of the *Major Infrastructure and Environment Unit* (MIEU) is to help avoid unnecessary costs and delays to developers of 'top 40', and other nationally significant, infrastructure projects.

1.2 The MIEU will support progress on individual infrastructure projects and improve processes for infrastructure projects by:

- a) playing a key early risk management role to identify issues associated with the Directives for projects;
- b) ensuring collaboration between all parties to support resolution of issues as necessary;
- c) introducing and overseeing a new process for agreeing evidence requirements; and
- d) providing greater clarity to developers on key requirements.

1.3 For individual 'top 40', and other nationally significant, infrastructure projects, the MIEU will:

- a) Identify forthcoming 'top 40', and other nationally significant, infrastructure projects, at the pre-application stage, and assess any potentially significant issues arising from the Directives that they might have;
- b) Support the statutory agencies and regulators to plan actions with the developer for those projects with significant Habitats and Wild Birds Directives

issues to avoid and/or mitigate the risks identified. It will provide factual updates to Ministers on progress;

c) Ensure that, where required, an evidence plan and timescales are agreed in the pre-application stage between a developer, statutory agency/ies and Competent Authority/ies;

d) Support collaboration by ensuring there are good communications and a shared understanding of the requirements between all parties through the MIEU maintaining contact with the developer and statutory agency/ies and Competent Authority/ies involved in the project; and

e) Support the decision making process for complex and sensitive cases¹ referred to it by Government or statutory agencies, to ensure a robust process is in place between all parties to find solutions as quickly as possible. It will provide factual updates to Ministers on progress.

1.4 The MIEU will also improve the process for the pipeline of infrastructure development. In its initial improvement programme, the MIEU will:

a) Produce guidance on Imperative Reasons of Overriding Public Interest (IROPI) and “alternatives” to a plan or project;

b) Produce advice on the circumstances in which a Competent Authority may, or should, adopt the reasoning or conclusions of another Competent Authority; and

c) Introduce, and have oversight of, a new process for agreeing evidence requirements and timescales for those ‘top 40’, and other nationally significant, infrastructure projects with significant Habitats and Wild Birds Directives issues. The MIEU will review this process by September 2013 to ensure it is contributing to improved implementation and consider extending it to other projects.

1.5 It should be noted that:

a) Statutory agencies will continue to lead discussions on environmental issues at the pre-application stage for infrastructure development;

b) The MIEU will not intervene in the advisory or decision making role of a Statutory Adviser or a Competent Authority;

¹ Smaller, economically important, infrastructure projects referred to the MIEU that have significant Habitats and Wild Birds Directives issues that are not easy to resolve, e.g. disagreement on data and evidence or proposed mitigation measures.

- c) For those projects where Government will be the final decision making body, this formal process will be kept separate from the work of the MIEU; and
- d) Periodic updates on the work of the MIEU will be made publicly available via Defra's website.

1.6 Benchmarks for the MIEU's performance will be developed as the MIEU becomes operational. A review of its effectiveness will take place by March 2013 which will include the benefits of broadening its scope to look at other environmental issues.

2. Ways of working

2.1 The MIEU's key relationships will be with:

- a) Natural England, Joint Nature Conservation Committee, Marine Management Organisation and Environment Agency, in particular the statutory advisory functions of these organisations. This will be to identify risks, understand their interactions with the 'top 40', and other nationally significant, infrastructure projects and support progress on projects with significant Habitats and Wild Birds Directives issues;
- b) Developers of 'top 40', and other nationally significant, infrastructure projects (and those complex and sensitive cases referred to it), working alongside Single Environmental Account Managers (where they exist) to support collaboration and ensuring their experiences can be reflected in the MIEU's work;
- c) The Major Infrastructure Planning Unit in the Planning Inspectorate and Competent Authorities such as Local Planning Authorities and Harbour Authorities;
- d) The Countryside Council for Wales and Scottish Natural Heritage as some of the 'top 40; and other nationally significant, infrastructure projects may be, or have environmental effects, in the Devolved Administrations; and
- e) The *Multi Stakeholder Infrastructure and Habitats Group*, chaired by the Defra Secretary of State, supported by the MIEU to bring together industry and environmental NGOs to improve collaboration and discuss potential issues relating to the Directives and infrastructure development.

2.2 The MIEU will report on progress to Ministers through the Cabinet Committee process. It will be governed by a cross-departmental board, chaired by Defra, with membership from relevant Government Departments including HM Treasury, Infrastructure UK, Cabinet Office, DECC, DfT, BIS and CLG.

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