

The England ERDF 2014-20 Operational Programme Modification Strategic Environmental Assessment Screening Statement

Determination under Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004

**Final Determination
October 2019**

Introduction

This statement sets out the 2014-2020 England ERDF Programme Managing Authority's determination under European Union Directive 2001/42/EC and Regulation 9(1) of The Environmental Assessment of Plans and Programmes Regulations 2004 on whether or not a Strategic Environmental Assessment (SEA) is required for the Operational Programme modification to be submitted to the European Union in accordance with Article 30 of Regulation 1303/2013.

Background

The current 2014-2020 England ERDF Operational Programme (OP) was formally agreed ("adopted") by the Commission in 2015. As part of the development process the 2014-2020 England ERDF Programme Managing Authority (MHCLG) carried out an SEA of the OP in consultation with the bodies responsible for environmental assessment of plans and programmes in England: "the consultation bodies". At that time these were: the Environment Agency, Natural England and English Heritage.

In accordance with articles 20-22 of the Common Provisions Regulation (EU) No 1303/2013, the Managing Authority is now modifying the OP to:

- reflect the outcomes of the performance review on the OP and transfer the performance reserve of the Categories of Region and Priority Axis that missed either one or all of their 2018 PF milestones into successful Priority Axis.

According to The Environmental Assessment of Plans and Programmes Regulations 2004, Regulation 5(6), an environmental assessment need not be carried out "for a minor modification to a plan or programme...unless it has been determined under Regulation 9(1) that the plan, programme or modification, as the case may be, is likely to have significant environmental effects".

Regulation 9(1) states: "The responsible authority shall determine whether or not a plan, programme or modification...is likely to have significant environmental effects."

As Managing Authority of the 2014-2020 England ERDF Programme, MHCLG is required to make this determination. Reg 9(2) stipulates that "Before making a determination under paragraph (1) the responsible authority shall—
(a) take into account the criteria specified in Schedule 1 to these Regulations; and
(b) consult the consultation bodies."

The Managing Authority consulted the consultation bodies on the proposed OP modification in October 2019, stipulating that the assessments should take into account the criteria in Schedule 1 of the Regulations. The consultation bodies at this time were: the Environment Agency, Natural England and Historic England.

The Managing Authority took into account the criteria specified in Schedule 1 of the Regulations and comments received from the consultation bodies before making its determination. Its findings are described below.

Findings

Table 1 – Comments Received from the Consultation Bodies

| Consultation Body | Comments |
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| Environment Agency | <p>ERDF provides a positive contribution to environmental outcomes and the Environment Agency welcomes the efforts of MHCLG to maintain the momentum on spend. We remain supportive as policy partners and beneficiaries to the outcomes from the programme.</p> <p>We note the proposed movement of funds and the updated allocations and performance framework in the submitted documents.</p> <p>On the basis of these, and in relation to those issues within our remit, we advise that the proposed modifications are not likely to have significant environmental effects.</p> <p>To conclude we advise that it is for MHCLG (as the Managing Authority for ERDF in England) as decision maker to satisfy itself that the programme modifications are not likely to have significant environmental effects under the definitions of the SEA Directive.</p> |
| Natural England | <p>We have reviewed the submitted documents and note the reallocation of budgets from environmental to socio-economic objectives. We would welcome an assumption within the programme that where there is an underspend in one environmental theme, then the other environmental themes would be prioritised for any reallocation of budgets</p> |

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| | <p>(e.g. themes 4, 5 and 6). We can see no evidence of this assumption being included in the assessment and we also note that not all parts of the environmental allocations failed to meet their performance targets. Looking at the financial table there was an opportunity to move money into Theme 6 – ‘less developed’ and ‘Transition’ from Theme 5 and from Theme 4.</p> <p>Given the limited time remaining for the programme to be delivered and the overall change in budget allocation we agree with your summary that the proposed modifications are unlikely to have significant effects on our environmental interests and that the existing assessment will have considered likely significant effects of the programme as modified and will not need updating in order to address our statutory interests.</p> |
| Historic England | <p>Having considered the proposed changes to the ERDF programme, Historic England does not regard the changes as so significant as to warrant a new Strategic Environmental Assessment.</p> |

Table 2 – SEA Screening of the OP Modification

| Criteria (from Annex II) of SEA Directive and Schedule I of the Regulations) | MHCLG Comments |
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| Characteristics of the plan or programme | |
| a) The degree to which the plan or programme sets a framework for projects and other activities, either with regards to the location, nature, size and operating conditions or by allocating resources. | <p>The framework is set by the current Operational Programme, which was the subject of an SEA in 2015.</p> <p>The modification will neither change the scope of activities supported in the programme nor set the framework for other activities either with regard to the location, nature, size and operating conditions or by allocating resources.</p> |
| b) The degree to which the plan or programme influences other plans and programmes including those in a hierarchy. | The modification will not influence the scope of activities supported in other programmes. |
| c) The relevance of the plan or | Four priority axes under the programme |

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| <p>programme for the integration of environmental considerations, in particular with a view to promoting sustainable development.</p> | <p>directly support delivery of sustainable development. The modification will not affect this and the support will continue.</p> <p>Environmental sustainability will also continue to be embedded into delivery of activities across the whole programme.</p> <p>The reallocation of financial resources is not covered by the SEA Directive.</p> |
| <p>d) Environmental problems relevant to the plan or programme.</p> | <p>The current Operational Programme helps address specific environmental problems under: Priority Axis 4 - Supporting the Shift Towards A Low Carbon Economy In All Sectors; Priority Axis 5 – Promoting Climate Change Adaptation, Risk Prevention and Management.; and Priority Axis 6: Preserving and Protecting the Environment and Promoting Resource Efficiency.</p> <p>The modification will not affect this as the performance review does not affect the scope of the activities described above.</p> <p>The allocation of financial resources is not covered by the SEA Directive</p> |
| <p>e) The relevance of the plan or programme for the implementation of Community (EU) legislation on the environment (for example plans and programmes linked to waste management or water protection).</p> | <p>The current Operational Programme supports environmental considerations including the waste and water sectors under “Priority Axis 6 – Preserving and Protecting the Environment and Promoting Resource Efficiency.”</p> <p>Activities supported under Priority Axis 6 will continue to be supported following the modification.</p> |
| <p>Characteristics of the effects and of the area likely to be affected</p> | |
| <p>a) The probability, duration, frequency and reversibility of the effects.</p> | <p>The activities supported in the programme will continue to be supported following the modification. The SEA of the current Operational Programme predicted significant positive effects with regards to environmental sustainability. The modification will not affect this.</p> |

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| | <p>Environmental sustainability continues to be embedded into the assessment and delivery of activities across the whole programme. The assessment will be improved with the update of results indicators.</p> |
| <p>b) The cumulative nature of the effects.</p> | <p>The SEA of the current Operational Programme predicted significant positive environmental effects as a result of strong support for environmental sustainability and sustainable development. As such, any cumulative effects resulting from the programme are likely to be positive.</p> <p>The modification will not impact on this cumulative effect.</p> |
| <p>c) The transboundary nature of the effects.</p> | <p>The significant transboundary impact of the programme will be on climate change through the reduction of Green House Gas emissions. This positive transboundary effect will continue and not be affected by the modification.</p> |
| <p>d) The risks to human health or the environment (for example, due to accidents).</p> | <p>The modification does not introduce elements to the programme that will put human health or the environment at risk.</p> <p>Where appropriate projects supported under the programme will be subject to their own environmental impact assessments.</p> |
| <p>e) The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).</p> | <p>The modification does not seek to make any changes from the current programming area.</p> |
| <p>f) The value and vulnerability of the area likely to be affected due to:</p> <ul style="list-style-type: none"> i) Special natural characteristics or cultural heritage; ii) Exceeding environmental quality standards or limit values; ii) Intensive land-use | <p>The modification does not in itself give consent for projects and as such presents no risks with regard to special natural characteristics or cultural heritage; exceeding environmental quality standards or limit values or intensive land-use.</p> <p>Projects agreed under the programme will need to illustrate their compliance</p> |

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| | with the appropriate regulatory frameworks as required by the activity they are undertaking, for example, planning permission. |
| g) The effects on areas or landscapes which have recognised national, community or international protection status. | <p>The modification does not in itself give consent for projects and as such presents no risks on areas or landscapes which have recognised national, community or international protection status.</p> <p>Projects agreed under the programme will need to illustrate their compliance with the appropriate regulatory frameworks as required by the activity they are undertaking, for example, planning permission.</p> |

Conclusions

Further to the criteria above, in making its determination the Managing Authority has considered the following:

- The updates outlined in the Operational Programme modification mainly involve moving funds between the types of activities that can be supported. The Managing Authority notes that according to Directive 2001/42/EC Article 3(8) the allocation of financial resources is not covered by the Directive.
- The modification seeks to reflect the outcomes of the performance review on the Operational Programme.
- The modification does not change the scope of supported activities and the potential environmental effects of these activities are explored by the existing SEA of the current Operational Programme and are predicted to be positive.
- The modification does not in itself give consent for projects, limiting the potential risks posed to the environment. Projects agreed under the programme will need to illustrate their compliance with the appropriate regulatory frameworks as required by the activity they are undertaking, for example, planning permission.

The modification follows the one in 2018 for which the MA considered that an SEA was not required. This opinion had been confirmed by the same consultation bodies.

Determination

Having regard to the considerations above, the Managing Authority considers that the Operational Programme modification is unlikely to have any significant environmental effects and therefore does not require a Strategic Environmental Assessment. This opinion is confirmed by the consultation bodies: the Environment Agency, Natural England and Historic England.

This determination will be published on the programme website at <https://www.gov.uk/guidance/england-2014-to-2020-european-structural-and-investment-funds>

This determination was made on **30 October 2019**.

The ERDF Managing Authority