



Department for Levelling Up,
Housing & Communities



Department
for Environment
Food & Rural Affairs

Government response to the Office for Environmental Protection's report on 'A review of the implementation of environmental assessment regimes in England'

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If you have any enquiries regarding this document/publication, email correspondence@levellingup.gov.uk or write to us at:

Department for Levelling Up, Housing and Communities
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

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Introduction

Government is working on creating an improved framework of environmental assessment which properly reflects our country's needs and the unique characteristics of our environment. Through the Levelling Up and Regeneration Act 2023, the Government has secured powers to bring forward a new domestic framework to replace the environmental assessment regimes which originate from the Environmental Impact Assessment Directive (EIA) and Environmental Assessment of Plans and Programmes (Strategic Environmental Assessment or SEA) Directive. Following the development and preparation of Regulations under this Act, Strategic Environmental Assessment and Environmental Impact Assessment will be replaced with an outcomes-based approach to assessment - Environmental Outcomes Reports.

Government is already making improvements to the Habitats Regulations Assessment (HRA) process: updating Government guidance and exploring potential for better access to data and evidence.

In responding to the Office for Environmental Protection's report, we have considered the existing regimes (Strategic Environmental Assessment, Environmental Impact Assessment and Habitats Regulation Assessment) and the new framework we are developing. Our new approach through Environmental Outcomes Reports, and separate work to improve the HRA process, are aimed at addressing implementation issues while moving to an outcomes-based approach.

Response to the recommendations

DATA ACCESSIBILITY

Recommendation 1

The Government should publish and implement a plan for resolving the shortfalls identified in this report, so that data used for environmental assessments (EIA, SEA and HRA; or any replacements such as EORs) is easy to find and available for reuse.

Government acknowledges the significance of easily accessible, reusable data within the planning system. We recognise the current challenges faced with data and that these will be ideally resolved over time as everyone has an interest in greater data sharing. We agree that government should play a role in this. The government already owns a series of active data sharing platforms that hold data that developers can and do currently use for informed decision-making. DLUHC's Planning Data Platform provides an easy and reusable source of planning data as well as Defra's Data Sharing Platform which signposts users to a vast amount of existing environmental data. Additionally, several programmes are underway collecting environmental data to support the planning process, including the Natural Capital Ecosystem Assessment (NCEA) and the Local Nature Recovery Strategy (LNRS) viewer.

However, we are aware that issues involving environmental data require the management of conflicting private interests. We are addressing this through our reforms to environmental assessment via the new system of Environmental Outcomes Reports, which will replace the current Strategic Environmental Assessments and Environmental Impact Assessments. This will provide greater clarity on how data is to be captured and reused and emphasise the importance of environmental monitoring as a source of data.

Recommendation 2

The Government should publish environmental data standards that cover at least plan-, programme- and project-level data and set out principles such as those embodied in Q-FAIR (findable, accessible, interoperable, reusable and of the right quality that is fit for purpose).

The Levelling Up and Regeneration Act 2023 provides powers to implement planning data standards, which can apply to environmental data that is used as part of the planning system, including environmental assessment. Setting mandatory data standards will improve consistency and quality of data and will ensure better data is available to support future sustainable development.

Government is committed to improving the availability and use of environmental data to reduce planning processing times, noting that good environmental data is important in supporting development to efficiently navigate the planning system and its assessment requirements. We are aware that there is already a complex mosaic of data platforms and policies that are relevant to the development sector, and we recognise the desire to bring this data together via a single portal. The government has many data-related projects to

provide a more comprehensive view of the state of nature and we will make sure that these reforms and platforms are aligned.

As part of the development of Environmental Outcomes Reports, the government will identify environmental datasets which would benefit from planning data standards and intends to bring forward secondary legislation to mandate these.

Recommendation 3

The Government should create a map-based portal (similar to MAGIC) that signposts users to data held across existing national and regional databases.

Our response to recommendation 1 sets out the range of platforms already available and we note the value that users get from mapping-based platforms such as Natural England's MAGIC Platform. We are currently working on approaches to better integrate data needs across environmental consenting regimes.

Government is already considering how users can access the most relevant data, particularly geospatial data, to build on existing work to improve planning data. We will consider how we can use map-based portals to present data in a way that best supports users, building on existing work to improve planning data. For example, DLUHC's Planning Data Platform has a mapping component which provides users with a national view of key planning data.

POST-DECISION MONITORING, EVALUATION AND REPORTING

Recommendation 4

The Government should take action to make post-decision monitoring evaluations nationally accessible and ensure local planning authorities provide evaluation reports annually.

We have taken powers in the Levelling Up and Regeneration Act 2023 to allow government to set regulations to strengthen monitoring and evaluation by requiring public authorities to report on the overall performance of the Environmental Outcomes Reports (EOR) regime in their area and provide annual consolidated information on how their plans are delivering on environmental outcomes. Therefore, annual reporting on such matters is part of our planned programme of reform. However, as the OEP has also identified, the Government notes that there have been some issues in local planning authority capacity. The government will as a consequence, focus on the existing programme of reform and does not believe it is proportionate to make monitoring evaluations nationally accessible at this time.

Recommendation 5

The Government should publish guidance to help resolve the shortfalls identified in this report in the monitoring, evaluation and reporting of post-decision activity.

The Levelling Up and Regeneration Act 2023 provides the powers for Government to develop robust, standardised monitoring measures. We will prepare guidance supporting the new system of Environmental Outcomes Reports that will cover these new monitoring provisions.

This guidance is intended to ensure that the scale of the assessment process is appropriately limited, to avoid the current situation where the assessment process has become overblown, and as a result is slowing the delivery of essential development.

As part of preparing this guidance, we plan to develop and test prototypes, templates and case studies as we progress to implementation. This will support local planning authorities, communities and developers alike. It will also help to clarify where post-decision activity such as enforcement action can and should be taken.

Government is separately reviewing and updating Habitats Regulations Assessment guidance. We are exploring how this guidance might best support monitoring, evaluation and reporting of post-decision activity.

Recommendation 6

Post-decision monitoring and reporting to the decision-maker should be overseen by a person with the necessary expertise and independence and paid for by the proponent.

Government acknowledges that some of the more technical monitoring and reporting may need to be carried out by specialists. However, the Government believes that other monitoring is less specialist and more general in nature and therefore does not need oversight from an individual with specialist expertise, at additional cost.

The overall ambition of the new system of EORs is to simplify and streamline processes. Government will work with users and experts to explore a range of approaches to resourcing, including the use of independent experts, required to carry out monitoring and take remedial action without creating undue costs or burdens.

Local planning authorities can secure contributions and obligations from developers, for example through Section 106 agreements to mitigate the impacts of new development. These can include provisions for ongoing monitoring of obligations to ensure the requirements are in accordance with the agreement.

Recommendation 7

When publishing reports under regulation 9A of the Habitats Regulations, the Government should include information on the success of compensatory measures.

Government already gathers evidence around derogations. Defra maintains an internal audit trail of all terrestrial IROPI derogations in liaison with other government departments. Most

compensatory schemes are coastal and involve managed realignment. The Environment Agency provides progress updates to Defra for their managed realignment schemes.

Joint Nature Conservation Committee coordinates UK reporting using standardised reporting forms and guidance to ensure consistency between countries, which also allows UK data to be fed into the Bern Convention on Wildlife to meet reporting obligations. The next reporting period covers 2019-2024 with the UK wide report due in January 2026. Planning and data gathering are already underway, however we will consider the OEP's recommendation on including reporting on compensatory measures in future domestic reporting.

ACCESS TO THE NECESSARY EXPERTISE

Recommendation 8

As a priority, Government departments should work together, and with local planning authorities and other relevant public bodies, to develop and implement a strategy for resourcing and securing the expertise required by those public bodies to protect and improve the environment by effective implementation of the environmental assessment regimes (EIA, SEA and HRA; or any replacements such as EORs).

Government recognises that local authorities, as well as the statutory consultees, face capacity and capability challenges. Responsibility ultimately lies with local government to ensure that there is sufficient resource and capacity to discharge their mandate, we recognise there is a temporary particular challenge at this time. As a result, the Government is already taking short-term measures to fill the capacity and skills gaps in the planning service, including developing a Planning Capability and Capacity programme to help local authorities deliver an efficient planning service, which delivers funding to local government to support local planning and provides upskilling opportunities for existing planners.

In addition, from April 2024, the introduction of cost-recovery for statutory consultees as part of the Nationally Significant Infrastructure Project planning process will provide financial support to important players in the planning system. Government is developing a performance monitoring framework for these statutory consultees, to ensure there is transparency and accountability.

Recommendation 9

The Government should work with local planning authorities and other relevant public bodies to revise the existing suite of guidance on environmental assessments to effectively guide practitioners in the performance of their functions.

It is not our intention to revise the existing suite of guidance on environmental assessments. The focus of government is on properly reflecting our country's needs, with a new environmental assessment framework – Environmental Outcomes Reports - and new guidance to accompany it. Environmental Outcomes Reports have foundations in law in the

Levelling Up and Regeneration Act 2023. However, it is noted that the Act had not yet passed into law at the time of the publication of the OEP's report.

In developing that new guidance, the government will engage with local planning authorities, and set up working groups to harness the experience of users, consultees, the development sectors, and subject specialists.

Defra is reviewing and updating Habitats Regulations Assessment (HRA) guidance and is taking an approach centred on user needs to the development of this guidance.

Conclusion

Our vision is for environmental assessment to be more effective as a tool for managing the effects of development on the natural environment and supporting environmental outcomes. The government is committed to introducing a new and improved framework for environmental assessment through development of Environmental Outcomes Reports. We are also improving the effectiveness of the HRA process, by providing greater clarity on best practice in the HRA process, to reduce burdens on practitioners and protect valuable sites and species.