

Marine Recovery Fund

Lead department	Department for Environment, Food and Rural Affairs
Summary of proposal	The proposal is to establish one or more Marine Recovery Funds (MRFs), contributions to which would be optional, to deliver strategic compensatory measures (SCMs) on behalf of Offshore Wind (OFW) developers.
Submission type	Options Assessment – 28 th January 2025
Legislation type	Secondary legislation
Implementation date	2025
RPC reference	RPC-DEFRA-25030-OA (1)
Date of issue	05 March 2025

RPC opinion

Rating¹	RPC opinion
Fit for purpose	The OA has sufficiently evidenced the problem under consideration to support the rationale for intervention and conducted options generation to produce a long-list and short-list. The OA has provided an NPSV assessment to justify the preferred way forward, although could further explain the data sources that drive this calculation and expand the monetisation to include details of the impact of the charge to developers. The OA provides a sufficient SaMBA, as the regulation is permissive.

¹ The RPC opinion rating is based only on the robustness of the rationale, options identification (including SaMBA) and justification for preferred way forward, as set out in the [Better Regulation Framework guidance](#). RPC ratings are fit for purpose or not fit for purpose.

RPC summary

Category	Quality	RPC comments
Rationale	Green	The OA outlines the problem under consideration, with sufficient supportive evidence, although the Department could better explain what has changed recently to drive the current significance of the problem under consideration. The OA uses the existence of market failures to form its argument for intervention and presents a strategic argument for intervention.
Identification of options (including SaMBA)	Green	The OA outlines the long-list of options but could benefit from further explaining how some options would work in practice. The Department has used the critical success factors to justify discarding the other longlisted options but could provide more evidence to support the justification for this short-list. The OA provides a sufficient SaMBA, as the regulation is permissive.
Justification for preferred way forward	Green	The Department has identified and monetised the impacts of the proposal and has considered non-monetised impacts. The OA could provide further qualitative explanation of the benefit from protecting the marine environment. The OA could also monetise the charge to developers for using the MRF and could further explain the data sources and assumptions that drive the NPSV calculations. The OA provides sufficient justification for the preferred option.
Regulatory Scorecard	Good	The OA presents a good summary of the expected impacts on all key areas. The OA could consider further total welfare impacts that will be received from improving the protection of the marine environment and could further consider how the prices of the strategic compensation measures will be set. The OA could also consider any risks to the environment as a result of the proposal.
Monitoring and evaluation	Satisfactory	The Department explains that existing data sources will be used to underpin the review but could explain the nature of data to be collected. The Department should outline any research questions that it aims to address and answer through the future data collection.

Summary of proposal

The proposal is to establish one or more Marine Recovery Funds (MRFs), contributions to which would be optional, to deliver strategic compensatory measures (SCMs) on behalf of Offshore Wind (OFW) developers to compensate for unavoidable damage to protected habitats and species from OFW activity.

The MRF will deliver SCMs listed in the Library of Strategic Compensatory Measures (LoSCM), that have been pre-approved. This will help to speed up the planning and consenting process as OFW developers, as individual projects could be compensated for using pre-approved compensation measures.

The OA has considered a long-list of six policy options to change the process of securing compensation for OFW projects, including creating (LoSCM) and guidance and a voluntary Industry led MRF. The OA then presents three short-listed options for implementation:

- Option 1: Do nothing - OFW Developers would need to secure compensation as they do now, usually on an individual plan/project level, conducting their own research into what is most appropriate
- Option 5: UK-Wide Marine Recovery Fund (MRF) – An MRF would be created which would allow developers to discharge their compensation obligations by paying into the MRF, which will deliver compensation using SCMs in the LoSCM. In this option, there would be one MRF for all of the UK (England, Scotland, Wales, and NI).
- Option 6: Preferred option - Two MRFs: one for England, Wales, and Northern Ireland (NI) and one for Scotland - In this option, there would be two MRFs, the MRF would cover projects in England, Wales, and NI, whilst delegating functions to the Scottish Government to operate and manage their own MRF.

The OA presents an NPSV of £2.4bn for the preferred option (Option 6), with an EANDCB of -£76m (with a 2024 base year). This includes familiarisation costs and benefits from carbon emissions savings.

Rationale

Problem under consideration

The OA outlines the problem under consideration, explaining that compensatory measures for OFW projects are currently considered on a project-by-project basis, causing a delay in the current planning process for OFW projects. The OA also explains that the dynamic nature of marine ecosystems poses a challenge to identifying viable compensatory measures but could benefit from providing more detail on the current compensation process, for a lay reader. For instance, the OA could provide some examples to illustrate the scale of compensatory measures that are currently agreed for OFW projects to help further demonstrate the problem under consideration. The OA would also benefit from explaining what has changed recently

to drive the current significance of the problem under consideration. The OA could also expand the problem statement, detailing the consequential effects from the problem and how the current delays will negatively affect the overall impact of OFW projects and decarbonisation.

The OA provides evidence to illustrate the problem under consideration, presenting examples of projects that are facing delays due to complexities in their compensatory measures. The Department also utilises the independent report of the Offshore Wind Champion, which references frequent occasions where the Planning Inspectorate and Statutory Nature Conservation Bodies have not been able to agree on compensatory measures. The report also states that as the number of OFW farm applications has increased, the resourcing and funding of these bodies has not kept pace. However, the OA could benefit from extracting the relevant evidence from the report to support these claims. As there appears to be a lack of international comparator schemes, the OA could also expand its evidence base to support the rationale for intervention by utilising evidence of success from other similar UK based schemes, such as the Nutrient Mitigation Scheme.

Argument for intervention

The OA uses the existence of market failures to form its argument for intervention, referencing information failure, negative externalities and coordination failure. The OA would be improved by providing relevant evidence to support these arguments. The OA could also benefit from relating the market failure arguments specifically to the need for an MRF, rather than focusing these failures on the need for compensation measures generally.

The OA also presents a strategic argument for intervention, as the proposal is part of a wider suite of measures to reform OFW. The existing Offshore Wind Environmental Improvement Package means the OA has a strong strategic case for intervention.

Objectives and theory of change

The OA sets out suitable SMART objectives, although could benefit from providing more detail on the measurability aspect of the framework when forming the objectives. For instance, the OA lists indicators for success of the policy intervention but could further explain the environmental indicators that will be used to measure the objective for improving environmental outcomes, providing any relevant examples. The OA provides a sufficient theory of change diagram, although some parts of the causal chain could be clearer. In particular, the arrows in the diagram could be clearer to show the steps involved for the inputs and activities to achieve the final outcomes of the intervention. The diagram does not include outputs but details the 'main tangible objectives' instead. The OA could benefit from including outputs in the diagram to detail the initial short-term impacts from the proposal.

Identification of options (inc. SaMBA)

Identification of the 'long-list' of options

The OA has considered a long-list of six policy options to change the process of securing compensation for OFW projects, including a do-nothing option and two options which establish an MRF. The Department details these options in the OA, describing qualitatively what they would involve and their associated risks. However, the OA could benefit from further explaining how some options would work in practice, such as providing examples of strategic measures that are included in the Library of Strategic Compensatory Measures (LoSCM). The assessment could also be improved by including detail on the process behind developing the long-list of options, such as how research and other evidence have been used to form these policies. The long-list of options could benefit from using the Green Book's Strategic Options Framework Filter (SOFF), which could help present the long-list in greater detail whilst retaining a clear and concise structure.

The OA could also benefit from expanding its long-list to discuss other approaches or options that could achieve the policy objectives. For instance, the long-list could focus on changes that would improve the overall efficiency of the OFW planning and consenting process, rather than focusing only on changing the compensation process. This could be applied in combination with the long-list options that have been set out. The Department could then explain why these have not been carried through to the short-list.

Consideration of alternatives to regulation

The Department has considered alternative non-regulatory options to expedite the development of compensation packages, such as a voluntary industry-led scheme and issuing guidance to developers. The OA justifies why non-regulatory options are not preferred to regulatory change, assessing these options against the critical success factors to explain why they would not deliver the strategic objectives.

Justification for the short-listed options

The Department has used the critical success factors to generate the short-list and justify discarding the other longlisted options. The OA provides a good description of how the Green Book's critical success factors are related to the policy and sets out the measurement criteria that have been applied to form the assessment, although this could be more detailed to show the incremental variance between the different RAG ratings. The OA then rates the long-list options against these critical success factors, providing a qualitative explanation of the discussion to produce the short-list of Options 1, 5 and 6. Although the Department has done well to use critical success factors, the OA could provide more evidence to support the justification for this short-list. The OA focuses its justification on the benefits of a devolved approach (supporting Option 6) but could benefit from providing evidence on the benefits of the strategic approach more generally, which would support the justification for both shortlisted options.

Furthermore, whilst the OA outlines that Option 3 does not meet the critical success factors for strategic fit or service delivery, the OA could benefit from further explaining the reasoning behind this assessment, as it is not clear why using the LoSCM alone will not increase OFW capacity. The OA could have considered

carrying forward this option to the short-list, to act as a comparison against the other two short-list options which differ only based on the devolved Scottish projects.

SaMBA and medium-sized business (MSB) assessment

The OA provides a sufficient SaMBA. As the MRF will be an optional mechanism for OFW developers, the regulation is permissive, meaning the proposal is likely to be beneficial to SMBs who choose to use the MRF as their preferred route for compensation. The OA discusses the voluntary nature of the MRF, and the net positive impacts faced by businesses, concluding that it would not therefore be appropriate to exempt SMBs from the policy, as this would place them at a disadvantage. The OA also indicates that there are currently no SMB OFW developers, suggesting that there will be a minimal impact on SMBs.

The OA could, however, benefit from considering further the impacts on SMBs, and could use the consultation to test these. In particular, there is a potential indirect impact from large scale OFW projects disrupting the transport routes surrounding local smaller businesses. The OA could detail any mitigations for these impacts. The OA would also benefit from expanding this assessment to consider the impacts on medium-sized businesses.

Justification for preferred way forward

Identifying impacts and scale

The Department has identified and monetised the impacts of the proposal, estimating an NPSV of £2.4bn for both Option 5 and Option 6 of the short-list, across a 25-year appraisal period. The costs for both options include familiarisation costs (which are £0.05m higher in Option 6) and benefits from carbon emissions savings. The reduced planning and consenting period will also result in a reduction in option fees paid by developers, and this has been documented as a transfer impact from government to industry. The OA also considers non-monetised impacts from the proposal, such as reputational benefits and the benefits to the marine environment. As meeting the marine protected areas target is one of the core SMART objectives of the proposal, the OA could provide further qualitative explanation of this key benefit, alongside any rough estimates to indicate its potential scale.

The OA states that the MRF is intended to be self-financing, with the charge to developers for using the MRF designed to cover its operating costs. The OA could therefore benefit from fully identifying the scale of this charge and monetising the impact to developers from using the MRF as part of the appraisal and cost-benefit analysis.

Appraisal of the shortlisted options

The Department explains the methodology underpinning the monetised NPSV estimates for the shortlisted options, setting out the key assumptions and data sources that have been utilised to calculate the costs and benefits. However, the OA could benefit from further explaining some of the data sources that drive these

calculations and assumptions in the analysis. For instance, the Department explains that the MRF time saving assumptions were agreed in a workshop, based on timeframes published by other sources, case studies and stakeholder feedback, but could include examples of these sources, and further information on the representativeness of the stakeholders consulted. Furthermore, the OA would benefit from including the questions that were asked to stakeholders to further explain how these assumptions have been derived. The Department could also provide further clarity on how the assumptions on MRF take-up are applied to this estimate.

The OA considers the risks associated with the short-list options and applies an optimism bias, as well as conducting sensitivity analysis on key input variables (such as the time saving from the MRF and carbon values) and the time saving from the MRF and carbon values) to adjust for uncertainty. The OA could expand this analysis to consider the impact of adjusting other key assumptions, such as the assumption on MRF take-up.

Selection of the preferred option

The Department explains that the preferred option is Option 6, to establish two MRFs with Scottish OFW projects devolved to the Scottish Government. The NPSV estimate for this option is the same as Option 5, with an additional £0.05m increase in familiarisation costs reflecting the need to familiarise with two MRFs. Although Option 6 does not result in better value for money, the OA provides sufficient justification for the selection of the preferred option, explaining qualitatively why establishing a separate MRF for the Scottish Government is favourable due to political motivations and the trade-off that has been made to select this preferred option.

Regulatory Scorecard

Part A

Total welfare impacts

The proposal is expected to have a positive impact on total welfare, with the OA presenting a NPSV estimate of £2.4bn. This is largely driven by benefits from carbon savings. The OA could consider further total welfare impacts that will be received from improving the protection of the marine environment.

Impacts on business

The OA indicates that the proposal will have a positive impact on business, presenting an EANDCB of -£76m (with a 2024 base year). This largely consists of option fee savings received by businesses. The OA explains that there are no additional costs for developers using the MRF compared to the business as usual as it does not expect the MRF to increase the cost of compensation. However, the OA also indicates that stakeholders have considered the cost of compensation

increasing (p. 39) and therefore could benefit from further considering how the prices of the strategic compensation measures will be set, and if there will be any negative impacts faced by business if the costs for compensatory measures increase as a result of the proposal.

Impacts on households, individuals or consumers

The OA does not monetise any impacts on households but discusses the potential impact of reduced household energy bills due to an increased and accelerated deployment of OFW. The OA also considers the opposing impact where OFW developers pass down the increased costs of compensation to households in the form of increased energy bills, concluding that this impact is unlikely as the MRF is not expected to change the cost of compensation. As the overall magnitude of these impacts, and the mechanism through which they may be passed-through to households remains uncertain, the Department has not considered this a direct impact on households.

Distributional impacts

The OA indicates that the distributional impacts of the preferred option are neutral, stating that an MRF would benefit all businesses that choose to use it. The OA also briefly discusses the economic benefit that will be faced by coastal communities, and the impact of the preferred option on disrupting transport routes. The OA could benefit from further discussing these regional impacts in the distributional section of the total welfare scorecard, as well as providing any indicative evidence.

Part B

The Department considers the impact of the proposal on wider government priorities, stating that the policy will support the business environment by reducing the option fees paid by developers, removing a barrier to entry in the market. The OA also utilises stakeholder feedback gathered through a Request for Information to indicate that an MRF would improve investor confidence but could benefit from providing any indicative evidence from these responses to further support and illustrate this impact. As the proposal reduces planning and consenting timelines, the OA could also consider the potential increase in demand for OFW developments, and the subsequent increase in competition for land that is suitable for OFW.

The OA also details the impact of the proposal on international considerations, stating that the preferred option will accelerate the expansion of OFW in the UK, increasing its exports and attractiveness to foreign investors. The Department also indicates a positive impact on natural capital and decarbonisation, referencing the expected reduction in greenhouse gas emissions from the policy. The OA could expand its assessment of this impact, considering the overall positive impact of the preferred option on the marine environment. This could impact the overall stock of natural capital, by reducing biodiversity loss. The OA could also consider any risks to

the environment as a result of the proposal, particularly if the strategic compensation measures are not tailored to particular projects, resulting in negative environmental outcomes from the OFW project.

Monitoring and evaluation

The OA confirms that a non-statutory post-implementation review will be conducted in six years' time and provides justification for this selected time-frame, explaining that this will allow the review to be aligned with the 2030 OFW targets. The Department could benefit from confirming why the typical 5-year time-frame (which would result in the review taking place in 2031) would not be sufficient for this, as this would also align with the 2030 OFW targets.

The OA explains that existing data sources will be used to underpin the review, such as the offshore wind enabling actions programme which conducts evaluations on the impacts of the offshore wind environmental improvement package. The OA could benefit from further explaining these evaluations, how data will be gathered and the nature of data to be collected. The OA has listed several metrics that will be considered in the review, such as the length of the planning period and the number of projects choosing to utilise the MRF. The OA could benefit from relating these metrics directly to the theory of change diagram and SMART objectives, including indicators for how it will monitor the final strategic priorities on environment, clean energy and marine environment, as identified in the theory of change diagram. The OA could also consider conducting a comparative monitoring assessment of the implementation of the proposal in Scotland compared to the rest of the UK. This would indicate whether there are differences in the implementation between the two jurisdictions. The OA should also explain how these metrics will be gathered through the data sources identified.

The OA states that it will use the consultation to identify any further sources and methods for extracting data but could benefit from presenting any examples of potential future data sources. Furthermore, the Department could outline any research questions that it aims to address and answer through the future data collection. This would be for the benefit of the consultation. The OA could also consider any external factors that will have an impact on the success of the intervention.

Regulatory Policy Committee

For further information, please contact enquiries@rpc.gov.uk. Follow us on X [@RPC_Gov_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](https://www.linkedin.com/company/rpc-gov-uk/) or consult our website www.gov.uk/rpc. To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).