



Environmental Outcomes Reports: a new approach to environmental assessment

CIEH submission DLUHC's consultation on their approach to
developing Environmental Outcomes Reports

25th May 2023

About the Chartered Institute of Environmental Health (CIEH)

CIEH is the professional voice for environmental health representing over 7,000 members working in the public, private and third sectors, in 52 countries around the world. It ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to health and health protection.

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Key points:

- CIEH are of the view that there is a lot of important detail and evidence missing from this consultation, without which some of the questions are difficult to answer as we simply don't know enough about how the proposed new approach will work or be delivered.
- CIEH are concerned about the lack of consultation with environmental professionals in shaping these proposals. This is in contrast to the consultation that appears to have taken place with developers and planners. We are disappointed that there seems to have been no effort to engage the EIA or SEA community, engage with the academic research, or collect evidence of what has worked and what hasn't worked over 30 years of EIA and 20 years of SEA being in practice.
- To support effective delivery, it is essential that thorough guidance and monitoring be provided, in contrast to the inadequate guidance provided for EIA and SEA. For example, the SEA guidance was rushed out in 2005 and hasn't been updated since. Monitoring is also essential, to ensure awareness of issues and so lessons can be learnt to improve delivery over time.
- Centralised resource must be provided to develop and update guidance, commission research, consult with experts and disseminate best practice. We also have longstanding concerns over the workload and resource levels of local authorities, which again threaten the delivery of this new approach.
- Effective delivery of this approach is threatened by the widespread skills gaps and shortages that exist across the environmental profession, demanding greater investment. For this new approach to work in practice, with the associated social, economic, and environmental benefits, this skills challenge must be addressed.

1. Do you support the principles that will guide the development of outcomes?

No. This question presumes that an Environmental Outcomes approach is better for all types of emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances and risks to human health. In addition, insufficient detail is provided on the proposed outcomes and so it is not possible to make meaningful judgements about them. For something as important as this, we would have expected a full set out outcomes to be developed and evidence provided to support the claim that an outcomes-based approach will be non-regressive.

The core outcomes should include all the possible effects of a scheme on people and health.

2. Do you support the principles that indicators will have to meet?

Once again, this question presumes that an Environmental Outcomes approach using indicators is better for all types of emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances and risks to human health. In addition, insufficient detail is provided on the proposed indicators and so it is not possible to make meaningful judgements about them. For consultees to meaningfully support or contest claims that an outcomes-based approach will be non-regressive, there needs to be a full set of indicators developed to consult on. As this is not the case, we are unable to answer the question to any degree of certainty.

The indicators should include all the possible effects of a scheme on people and health. The indicators should be clearly and directly relevant to the potential impacts and effects of a scheme having regard to the characteristics of the scheme and the receiving environment.

3. Are there any other criteria we should consider?

The sensitivity of the receiving environment and of different receptors/ resources to different types of impacts relevant to the proposed scheme.

4. Would you welcome proportionate reporting against all outcomes as the default position?

Yes, but the CIEH would like to ask how such an approach differs from the current EIA regime. It is uncertain how an outcomes-based approach will be different and suggest there is a lack of evidence to support claims that a wholesale change in approach will be better and, as a minimum, not be worse than the current regimes.

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

Of course, proportionate reporting is necessary to reduce the bureaucratic process, but CIEH wish to stress the fact that this should be happening now in any event. We believe this question fails to understand the root causes of any overly bureaucratic process and how any proposed changes to the environmental assessment will overcome these root causes.

Environmental Statements tend to be defensive documents mainly because of the wording of the EIA regulations that state that decision makers must not grant planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of that development. The risk of legal challenge for projects can be more easily overcome by changing the wording of the regulations, not completely replacing them.

In any case, as aforementioned, there is a distinct lack of detail with respect to what will be required to be reported on within an outcomes-based approach. Without this detail, it is impossible to state with certainty whether this will lead to reducing bureaucratic process.

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?

Once again, CIEH wish to make the case that insufficient detail is provided for consultees to meaningfully engage with this question. What we need to see are clear proposals on how any environmental assessment regime will work alongside other regimes. Neither do we understand why the question only relates to adaptation rather than climate change in a wider sense.

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

Of course, there is value in clarifying the requirements on alternatives. However, the EIA Regulations already contain provisions to consider and report alternatives, stating the reasons for not considering them further.

It is far from clear what is being proposed as a change to the current provisions. It is not possible therefore to provide any meaningful comments as to whether any changes to the existing regime will be better or worse.

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

Through the introduction of specific and clear requirements for the consideration of alternatives in terms of what, when and how alternatives should be considered throughout the life cycle of a proposed scheme.

However, to answer the question in a direct sense, the only way the government can ensure this is done is through statutory guidance documents. Although, CIEH wish to point out that from a resourcing perspective, many local authorities may struggle to cope with enforcing further statutory guidance.

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

Yes, of course. However, once again CIEH wish to point out that it is rather easy to support a vague principle without any details. Should an outcomes-based approach strengthen the screening process, this would be welcomed, but we want to know how this is to be done. CIEH are of the view

that with amendments to the current EIA regime, the screening process could be improved without a need to entirely replace it.

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. CIEH are of the view that simple size thresholds are too simplistic and by combining proximity and impact pathway to a sensitive area or a protected species to be a better approach.

However, once more, CIEH wish to state that we find this question to be vague and without specific detail as to how any new approach, one which considers proximity or impact pathways as a starting point for an environmental assessment, would work in practice, then we lack the ability to meaningfully engage with this question.

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

A useful starting point will be the information already required in the EIA Regulations. CIEH would query why this is now deemed not fit for purpose now and to enquire as to what exactly is proposed that will result in an improvement to screening provisions?

12. How can we address issues of ineffective mitigation?

Existing EIA Regulations already contain provisions for dealing with mitigation. What we need to see are clear proposals on how these provisions will be modified and improved. Without more detail, CIEH are of the view that it is not possible to provide a meaningful response to such an open, and vague question.

13. Is an adaptive approach a good way of dealing with uncertainty?

In principle, yes. However, there is the potential that an adaptive approach could result in greater uncertainty in practice, creating the perception of 'moving the goalposts' which may erode public trust.

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

The concern would be that an adaptive approach may provide excuses for developers to defer decisions until later in the scheme development or post-construction. Sufficient safeguards should be built in therefore to ensure that mitigation is incorporated or committed to as soon as it is reasonable to do so.

An adaptive approach will need to be fully integrated with strong and robust monitoring provisions.

The biggest challenge to this approach is ensuring that the mitigation is secured i.e., there is sufficient resources and funds available to secure any mitigation that may be identified and required later.

15. Would you support a more formal and robust approach to monitoring?

Yes. This is essential for any environmental assessment regime to be effective.

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

By factoring in feedback mechanisms to use the results of monitoring to a) reduce the effects of the scheme and b) use the results of monitoring to provide legacy value.

Government should undertake a review of current best practice in the UK and Europe to establish how monitoring has been used effectively e.g., the noise monitoring provisions for HS2.

CIEH member, and acoustics expert, Colin Cobbing has contributed to a book entitled [‘Uncertainty in Acoustics’](#), which government may be interested in. In which the book covers, amongst other things, monitoring, and adaptive mitigation as part of the EIA process.

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

Through the introduction of statutory mechanisms that will ensure the cost of, and resources required for monitoring are secured in accordance with the polluter pays principle.

One such example is the application of the Landfill Directive, which ensures that a certain percentage of the gate fee is ringfenced to ensure that funds are invested for the restoration of a landfill site after use. Similar statutory mechanisms could be introduced that ringfence certain fees and charges to ensure ongoing costs of monitoring are met.

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

Through the introduction of clear and specific requirements and provisions for dealing with post-decision costs and liabilities. Wherever possible, requirements should be baked into the project for dealing with post-decision costs and liabilities before construction is completed.

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

Yes.

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

A lack of clear and unambiguous requirements and guidance on the effective sharing of data. The lack of standardised, centralised, opensource data that is publicly available. There exist cultural problems with respect to intelligence sharing within and across some local authorities, while within the private sector, there is the issue of intellectual property rights acting as a barrier to data-sharing. All these issues are barriers to being more readily being able to easily share data.

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

Air quality data and public health data.

22. Would you support reporting on the performance of a plan or project against the achievement of outcomes?

It is unclear what this question is asking therefore CIEH are not prepared to provide an answer.

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

It will be necessary to understand what the reporting requirements will be before any judgment can be made about opportunities and threats.

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.

Again, this question is premature, presumptuous, and difficult to provide a meaningful answer to. Government should not be asking questions about transition unless and until it has demonstrated that any proposed changes to the EIA Regulations will not be regressive.

However, given that any outcomes-based approach would require further public consultation or perhaps even piloting to understand how it works in practice, as well considerable training provision to get officers up to speed with the new regime, CIEH caution against a short transition period.