

Environmental Outcomes Report Consultation

Southwark Council Draft Response

‘Chapter 4: An outcomes-based approach’

Q.1. Do you support the principles that will guide the development of outcomes? [Yes / No].

Yes.

Q.2. Do you support the principles that indicators will have to meet? [Yes / No].

Yes.

Q.3. Are there any other criteria we should consider?

In general the principles set out that will guide the development of outcomes and that indicators will have to meet look appropriate.

It is clear from the evidence base that the environment and population health are inextricably linked. Therefore, human health and wellbeing should not be treated as a separate issue to environmental quality. Health and health inequalities should be central to the new EOR system. Their consideration should be incorporated as key principles to guide the development of outcomes. The expertise of Public Health teams should be utilised in the development of outcomes.

Currently, SEA and EIA include a legal requirement to consider the health impacts of new plans and development proposals. The proposed new EOR that will replace them omits consideration of population health, removing a legal requirement to consider health impacts. It will thus be less likely for plans and development proposals to be assessed on whether they will be detrimental to population health and increase health inequalities, or whether there could be measures to improve the plans to reduce their negative health impacts.

The new EOR system should include legal requirements to consider the health impacts of new plans and development proposals. It should provide an evidenced based, transparent and consistent approach to address health impacts.

The new EOR system should enable public health professionals to have a say in the planning process, so that local public health and other health strategies can influence the planning processes and address identified health and wellbeing needs and priorities.

Q.4. Would you welcome proportionate reporting against all outcomes as the default position? [Yes/ No]

Yes.

The prioritisation of specific environmental issues will vary by local area, depending on local context, e.g seascape, geodiversity, soil and sediment. It is therefore

appropriate that a proportionate approach is taken, with greater emphasis on reporting on issues of most relevance to local circumstances.

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

It may be beneficial if it is clear what a minimal assessment of the outcome is, but there is a risk that allowing for variation in assessments just creates more complexity in judging what is proportionate for different circumstances.

Q.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?

We would agree that the best place to tackle climate change matters is through policy and legislation such as building regulations. Any consideration of climate as part of the EOR process will need to be carefully integrated to work alongside the policies set in the NPPF, building regulations and where ambitious councils are going further on responding to the climate emergency.

As set out in this consultation, current use of EIAs for carbon assessments of projects tends to be ineffective in securing the change needed to reduce carbon in developments.

The government should set out clearly how climate change will work alongside the proposed list of national outcomes. Given the overarching and broad nature of matters that relate to climate change, this is not something that could be dealt with through one single outcome, instead consideration should be given to how different factors that impact on climate change join together. This includes what is set in national policy including what is proposed in the NPPF on carbon assessments, what is dealt with through building regulations and then how the environment outcomes will contribute towards climate change. If the NPPF does introduce policy on introducing a form of carbon assessment for Plans, then consideration would need to be given as to how this can be embedded into the broader environmental assessment of plans through this wider environmental outcomes reporting.

Climate risk considerations integrated in EORs could be an effective way of delivering the National Adaptation Programme and more on the ground adaptation measures.

'Chapter 5. What an Environmental Outcomes Report will cover'

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

Yes, this will reduce the ambiguity of what reasonable requirements are and save time up front on unnecessary assessments of alternatives where it is not reasonable to do so. Parameters against which to assess reasonable alternatives would be helpful.

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

The government should set clear guidance on how this can be done for projects at the design stage. It will also be beneficial if there is more alignment between what has been assessed as part of the local plan which can consider reasonable alternatives at a plan level.

'Chapter 6. When an Environmental Outcomes Report is required'

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

Yes, we support the strengthening of the screening process to minimise ambiguity and increase transparency in the process by setting out in regulations what plans and types of development fall into one of the two categories requiring assessment.

Where category 1 consents will require an assessment in all circumstances, it would be helpful to have clarity on what will fall under these categories as part of developing regulations.

For category 2 consents which will require an assessment if the criteria set out in the regulations are met, clarity will be needed on what these criteria are and how these might apply – the examples of criteria given being around effects on a particular community or species, will need to be set out clearly in the regulations to avoid ambiguity.

Q.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/No].

Yes.

We support the proposed criteria set out for category 2. This would help ensure that the protection of sensitive sites and species are considered first with the scale of development as the secondary consideration and should mean that assessments are being undertaken where they are needed rather than just based on size of development. However, we would need more guidance and support from

Government on how this can be applied feasibly as this will potentially bring more small sites into consideration.

If the screening process is focused more on impacts on a particular community or species more guidance would be needed on how this would be defined, and training may be required for officers to ensure they are equipped with the tools they need to make this assessment.

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

For impact on species, it would still be necessary to provide the information set out in the EIA screening checklist: eg. *10.1 are there any protected areas which are designated or classified for their terrestrial, avian and marine ecological value, or any non-designated / non-classified areas which are important or sensitive for reasons of their terrestrial, avian and marine ecological value, located on or around the location and which could be affected by the project? (e.g. wetlands, watercourses or other water-bodies, the coastal zone, mountains, forests or woodlands, undesignated nature reserves or parks. (Where designated indicate level of designation (international, national, regional or local))). 10.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, e.g. for breeding, nesting, foraging, resting, over-wintering.*

An Ecological Impact Assessment is likely to still be needed to undertake this analysis.

‘Chapter 7. Strengthening mitigation’

Q.12. How can we address issues of ineffective mitigation?

A phased approach can be best where mitigation is considered early in the development of the plan or project and reviewed at certain stages of the plan or project. It would be good if these stages are set out clearly in the regulations. At each of these phases mitigation should be assessed/reviewed to ensure it is still appropriate and adapted where needed. Where mitigation proves to be ineffective adaptive mitigation actions should be taken.

Q.13. Is an adaptive approach a good way of dealing with uncertainty? [Yes/No].

Yes.

In general this should work as a way of adjusting mitigation in response to uncertainty following implementation, however it will need a clear process of how this

can be applied post implementation and will require local authorities to do so through monitoring which is likely to be resource intensive.

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

It may create more complexity in the process and will require additional resource to assess whether the mitigation measures are effective and appropriate at different phases.

'Chapter 8. Mainstreaming monitoring'

Q.15. Would you support a more formal and robust approach to monitoring? [Yes/No].

Yes.

We support a more formal approach to monitoring where it is clear how monitoring should be undertaken, subject to the capacity issue noted below. Formal monitoring should ensure outcomes are being met and plans and projects are as proposed.

However more formal and robust monitoring will require additional capacity in local authorities. This additional monitoring requirement would be alongside mandatory requirements for BNG monitoring as of November 2021, required as a result of the Environment Act, as well as other monitoring responsibilities (such as those related to the Local Plan and London Plan). We would not support this approach if there is inadequate guidance and funding to support local authorities in adopting this approach.

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

More formal and stringent monitoring should incentivise better assessments as it will mean that more consideration should be given to feasibility of delivering mitigation measures and if mitigation changes, monitoring will help to ensure mitigation measures are appropriately reassessed.

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

The government can ensure the ongoing costs of monitoring are met by funding authorities based on a yearly cost for monitoring the plan and an additional cost for monitoring applications. An upfront cost could be calculated based on the average number of applications an LPA gets each year and an assumption on the percentage

of which will require an EOR. Alternatively, if paying in arrears they could calculate based on the number of EORs the authority has received for applications and therefore will need to monitor.

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

This may be something that could be linked to the new monitoring requirements.

‘Chapter 9. Unlocking data’

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

Yes

Making data publicly available should help reduce the burden of collecting relevant data for assessments as it will ensure it is all in one place and can be easily accessed.

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

There are issues with inconsistency and format in which data is collected and therefore can be difficult to transfer and share. The government will need to set clear expectations of how data should be collected and submitted so that it can easily be shared. It may also be beneficial to consider setting a form of data standards so that there is more consistency in how data is produced with a breakdown for different themes/issues within the assessment.

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

The following data should be prioritised:

- Ecological surveys
- Soil data
- Air data
- Water data
- Flora/Fauna
- Population/communities effected, and impact on health/health inequalities
- Land – including landscape views
- Settlement eg. Size and distance of built environment

‘Chapter 10. Reporting against performance’

Q.22. Would you support reporting on the performance of a plan or project against the achievement of outcomes? [Yes/ No].

Yes.

We are generally supportive of monitoring performance where reasonable to help ensure issues are addressed as they emerge. It would appear sensible to link this to the reporting of other elements, such as the 5-yearly Biodiversity Report. However, consideration needs to be given to what level of annual reporting on performance and delivery of environmental outcomes is reasonable to report so that it doesn't create an additional burden for authorities. There could be opportunities to link this to the monitoring requirements that are set out further up in this consultation document eg. Could an authority use their monitoring as a basis for the information they need to report.

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

This would provide an opportunity to ensure that issues are being picked up quickly and the Government can provide up to date guidance reflecting issues as they emerge.

The challenges this poses are mainly around additional burden on LPAs if the information they need to provide on how their plans are delivering on environmental outcomes is not reasonable. Especially given the additional monitoring requirements that authorities will also be needing to undertake under this new process, consideration should be given to the processes LPAs will need to take to do all of these additional requirements and the resource they will need to do this.

'Transition'

Q24: 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

The timeframe would need to take into account the transition to BNG, where processes and systems are currently being embedded by local authorities, as well as the proposed changes to the NPPF and Infrastructure Levy. It would be unreasonable to expect local authorities to respond to and resource all of the proposed changes concurrently, with the associated changes to monitoring and reporting, in anything but the medium to long term.

Consideration should be given to where it is unreasonable to expect Plans and Projects already in progress to reflect these changes eg. If a Plan is nearing Regulation 19 or beyond then they should be exempt from doing a new EOR.

‘Supporting the capacity and capability across regimes’ e.g. Planning

Question 25: What new skills or additional support would be required to support the implementation of Environmental Outcomes Reports?

Clear training and guidance on:

- Implementing the new EOR process for both Plans and decisions
- Ongoing monitoring requirements
- Ongoing reporting requirements

As well as capability, capacity of authorities should be considered with additional funding for ensuring there is enough resource to undertake this new process especially while it is new to implementation.

Public Sector Equality Duty

Question 26: The government would be grateful for your comments on any impacts of the proposals in this document and how they might impact on eliminating discrimination, advancing equality and fostering good relations.

Improving the process of environmental assessments should in general have a positive impact on those with protected characteristics.

The government will need to ensure that EOR pays adequate attention to impacts on communities in terms of health/health inequalities, with a particular focus on disadvantaged communities.