



Consultation on Offshore Wind Environmental Compensatory Measures Reforms – Wildlife and Countryside Link Response

2nd September 2025

This response is on behalf of nature and animal welfare coalition Wildlife and Countryside Link ([Link](#))

About you

Question 1a. Would you like your response to be confidential?

No

Question 1b. If you answered yes to this question, please give your reason.

N/A

Question 2. What is your name?

Tom Ash

Question 3. What is your email address?

Tom@wcl.org.uk

Question 4. Are you responding to this consultation on behalf of an individual? [If no, please answer questions 5 and 8 only]

No



Question 5a. Which organisation or organisations are you responding on behalf of?

Wildlife and Countryside Link, with the support of:

Angling Trust

Institute of Fisheries Management

National Trust

ORCA

RSPB

Seal Research Trust

The Wildlife Trusts

Whale and Dolphin Conservation (WDC)

Question 5b. What is the position you hold at the organisation or organisations?

Senior Policy Officer

Question 6. If employed, briefly describe the type of organisation or industry you work for (e.g. eNGO, developer, OFW industry, marine industry). If you are selfemployed, or looking for work, please indicate what type of work you do. If retired, please indicate the type of work you undertook in your career.

N/A

Question 7. If responding as an individual, where do you live?

Question 8a. If responding on behalf of an organisation headquartered in the UK, where is your organisation based or where are you operating?

London

Question 8b. If responding on behalf of a multinational organisation headquartered outside the UK, where are you operating?

N/A

Question 9. Which of the following best describes where you live?

N/A



Wider compensatory measures

Question 10. Do you agree with our proposal to enable wider compensatory measures which aim to benefit the UK MPA Network?

No

There are circumstances in which it may be acceptable for wider compensatory measures not targeted directly at impacted features to be used. However, we have significant concerns with the proposed approach, especially tier 3 as proposed, as the approach would not deliver ecologically effective compensation for environmental impacts from offshore wind and would not maintain current levels of environmental protection. Current environmental protections are already not adequate to deliver favourable condition for most sites, or network coherence. Our responses to the consultation questions set out changes to the proposals required to ensure wider compensation measures adequately compensate for impacts from development.

The following is a summary of our comments:

- We are deeply concerned about the proposal to remove the requirement to maintain coherence, as set out in paragraph 133. Coherence is not simply a matter of policy preference, it is a legal and ecological necessity for maintaining connectivity, resilience, and functional integrity across protected sites. It is also embedded within the UK's international obligations, including under the Bern Convention, OSPAR, and the Global Biodiversity Framework. Removing the requirement for compensation to ensure ecological coherence would risk fragmenting ecological networks and allowing the loss of species or habitats at individual sites to be offset by unrelated measures elsewhere, undermining the purpose of site-based protections.
- There is not enough information on the meaning of "ecological benefit to the MPA network" set out in the proposals. We are concerned that this is not a term with a firm existing legal definition and understanding. This makes it difficult to determine whether wider compensation measures will adequately compensate for impacts from development and whether benefits provided will be proportionate. If the overall coherence test is not retained, the SI must set out a clear definition of "ecological benefit to the MPA network". The definition must focus on ensuring measures improve the condition of specific features of the MPA network, as well as the overall condition of the MPA network, beyond all reasonable scientific doubt.



- Understanding whether proposed compensation measures will deliver ecological benefits to the MPA network will require significant scrutiny which should be led by SNCBs. These new scrutiny duties will require significant additional funding for SNCBs. Funding will be needed to understand the current condition of features, to understand the ecosystem functions provided by features of the MPA network and the MPA network as a whole, and to understand how compensation will affect the MPA network.
- We agree there should be a legislative requirement in the SI that compensatory measures that ecologically benefit the impacted feature must be considered first. It must be made clear in the SI that measures not being available in the LoSCM (or other list of compensation measures approved by the relevant minister) does not alone constitute a sufficient justification for moving to wider compensation measures and all measures targeted at the specific feature within and beyond the LoSCM must be considered first. Different designations also imply different levels of legal protection, with those designated as SPAs and SACs having different protections to those designated as MCZs. Priority should be given to compensatory measures which benefit the features of MPAs with the same designation.
- The range of acceptable compensation measures under tier 3 is currently not clear. Tier 3 leaves open the possibility of compensation measures targeting pressures on the MPA network, rather than features within the MPA network. Whilst tackling large scale pressures on the MPA network could be an acceptable way to discharge compensation obligations, it should always be demonstrated that alleviating these pressures will lead to a measurable improvement in the condition of one or more features.
- Irreplaceable habitats should never be subject to development impacts due to their irreplaceable nature. Where compensation is nonetheless pursued it must be tier 1 compensation. The definition of irreplaceable habitats must also be clearly set out and consulted on before being applied. In addition, progression to tier 2 should not be allowed where the impacted feature is a species on the IUCN red list.
- We welcome the proposal to clarify how the mitigation hierarchy should be applied in guidance. Compensation should remain a last resort.
- The proposals do not provide a clear baseline for what will be delivered by the Government under normal practice and therefore what is additional and acceptable to be delivered through compensation. The Government should set out a clear baseline for what management measures will be government funded under normal practice as part of guidance.
- The delivery of compensation after impacts have occurred should only be permitted where a delay would allow compensation to be delivered that directly targets the



impacted feature (i.e. tier 1 compensation) where this would otherwise not be possible.

Question 11. We propose that wider compensatory measures should deliver positive benefits reasonably proportionate to the level of damage to the UK MPA network. Do you have any views on how “reasonably proportionate” should be defined and how it could be demonstrated?

Yes

There is not enough information on the meaning of “ecological benefit to the MPA network” set out in the proposals, which makes it difficult to define when measures are proportionate. In particular, in the proposals “benefit to the MPA network” is sometimes used instead of “ecological benefit to the MPA network”. The SI must set out clearly that measures must provide an *ecological* benefit to the MPA network and must clearly define “ecological benefit to the MPA network”. This must not simply be contained in guidance, to ensure that future changes to the definition are subject to parliamentary scrutiny. The definition must specify that to demonstrate ecological benefit to the MPA network:

- Measures must measurably improve the condition of one or more features of the MPA network compared to a situation without relevant development, beyond all reasonable scientific doubt. This should contribute to progress towards favourable condition for the feature. Measures must also be additional to what is required in law for managing of sites such that they meet their conservation objectives.
- The expected improvement in the condition of one or more features of the MPA network must significantly improve the overall condition of the MPA network compared to a situation without relevant development beyond all reasonable scientific doubt. This improvement must be additional to what is required in law for management of the network so that sites meet their conservation objectives.
- Measures must be able to be monitored for effectiveness in terms of their impact on the condition of specific feature(s) of the MPA network and the overall condition of the MPA network.
- Measures must include provision for adaptive management to be put in place if they do not deliver the expected measurable improvements in the condition of feature(s) of the MPA network or the overall condition of the MPA network.

The second point of the definition is essential in determining when measures are proportionate. It ensures the SI specifies that compensation must not only improve the



condition of one or more features of the MPA network but must ensure the overall condition of the network is improved by compensation. Applying this criterion will help ensure compensation measures are proportionate to the impacts. It will prevent compensation, when not targeted directly at the impacted feature, from delivering a smaller improvement in the condition of another feature that leaves the MPA network worse off overall. This must be included within the SI.

Guidance should further set out the meaning of the term “significantly improve the overall condition of the MPA network”, if this is included in the definition of benefit to the MPA network as we recommend above. This definition should be determined in terms of the overall set of ecosystem functions provided by the MPA network. Measures must seek to improve overall ecosystem functioning of the MPA network as a whole. The set of ecosystem functions provided by the MPA network should be determined by the ecosystem functions of the designated features singly and in combination. Reference should also be made to the contribution of the MPA network to achievement of overall healthy seas as defined in terms of Good Environmental Status in the Marine Strategy Regulations 2010 and the descriptors in the Marine Strategy Part One.

Furthermore, a margin of error should be built into any compensation requirements to allow for the fact that compensation measures usually do not deliver as large benefits to the environment as expected. As noted in the government’s impact assessment for biodiversity net gain, a 10% gain in reality “is the most achievable level of net gain that the department could confidently expect to deliver genuine net gain, or at least no net loss, for biodiversity”.¹ Therefore, compensation must set out to over deliver by at least 10%.

Additional conditions must also apply to any development and associated compensation measures as an environmental safeguard:

- Developments and associated compensation measures should not be allowed to proceed where this would entirely prevent any site from achieving favourable conservation status or the stated conservation objectives of the site.
- Developments and associated compensation measures must not compromise the ability of the network to meet all other statutory obligations under the Habitats Regulations, Marine and Coastal Access Act 2009 and related national and international statutory commitments and targets such as the The Marine Strategy Regulations 2010, The Environment Act 2021, the Kunming-Montreal Global Biodiversity Framework Targets and the OSPAR Strategy.

¹ [Defra: Net gain impact assessment](#)



Where the above conditions are not met, the development associated with the compensation package must be reconsidered.

Determining whether compensation measures will improve the overall condition of the MPA network, and are therefore proportionate, will require SNCBs to draw on relevant science and data on the MPA network and its ecosystem functions. This will require SNCBs to be given adequate funding to:

- Understand the current condition of the MPA network. There is currently a significant lack of MPA monitoring, with Natural England carrying out one to two MPA surveys in English inshore waters per year and JNCC carrying out two MPAs surveys for all of UK offshore waters per year.² This means there are large uncertainties regarding the condition of protected features. There are many features with no monitoring data available, and where condition or vulnerability assessments have been completed, a large proportion are over 6 years old. Understanding the current condition of the network is a prerequisite to understanding whether compensatory measures will benefit the MPA network.
- Understand the ecosystem functions provided by the MPA network as a whole and their contribution to healthy seas.
- Understand, for proposed wider compensation measures, how they will affect feature condition and the overall ecosystem functioning of the MPA network.
- Understand, for each individual project, how proposed application of wider compensation measures will affect feature condition and the overall ecosystem functioning of the MPA network, to allow assessment of whether proposed compensation will deliver a significant overall improvement in the condition of the MPA network.

This funding is also required for the government to understand feature condition and so its progress towards the Environment Act target to restore 70% of designated features in our Marine Protected Areas to a favourable condition by 2042, with the rest in a recovering condition.

Question 12. Do you agree with our proposed approach of how to demonstrate a wider compensatory measure has an ecological benefit to the UK MPA network? If not, how could it be amended?

² [House of Lords Environment and Climate Change Committee: An extraordinary challenge: Restoring 30 per cent of our land and sea by 2030](#)



No

We seek significantly greater clarity on how Defra intends to test whether a wider compensatory measure has delivered a genuine ecological benefit. As currently proposed, too much of this determination is deferred to guidance, removing the legal safeguard that presently exists under the overall coherence test, which provides a clear and enforceable benchmark for assessing whether compensation sufficiently offsets impacts to the affected feature. By removing this test, Defra risks undermining its ability to understand and demonstrate the implications for the UK MPA network.//

We are particularly concerned that this approach appears inconsistent with the ambition set out in paragraph 133 to “ensure that the UK government is continuing to implement obligations relating to the maintenance and support of the domestic and wider networks under international treaties that the UK’s sites contribute to.” Removing the coherence requirement without providing an equally rigorous, legally binding replacement metric raises serious questions about how Defra intends to uphold these international legal obligations in practice.//

Current proposals for how to define “ecological benefit to the MPA network”, as replacement for the overall coherence tests, would not allow a clear decision on whether compensation is sufficient to compensate for environmental impacts. The current overall coherence test should be retained as it still allows for strategic compensation measures to proceed under a well-established legal framework.//

If the overall coherence test is replaced, much more clarity must be given on how the SI will ensure genuine ecological benefit to the MPA network. In particular, in the proposals “benefit to the MPA network” is sometimes used instead of “ecological benefit to the MPA network”. The SI must set out clearly that measures must provide an *ecological* benefit to the MPA network and must clearly define “ecological benefit to the MPA network”. This must not simply be contained in guidance, to ensure that future changes to the definition are subject to parliamentary scrutiny. The definition must specify that to demonstrate ecological benefit to the MPA network:

- Measures must measurably improve the condition of one or more features of the MPA network compared to a situation without relevant development, beyond all reasonable scientific doubt. This should contribute to progress towards favourable condition for the feature. Measures must also be additional to what is required in law for managing of sites such that they meet their conservation objectives.



- The expected improvement in the condition of one or more features of the MPA network must significantly improve the overall condition of the MPA network compared to a situation without relevant development, beyond all reasonable scientific doubt. This improvement must be additional to what is required in law for management of the network so that sites meet their conservation objectives.
- Measures must be able to be monitored for effectiveness in terms of their impact on the condition of specific feature(s) of the MPA network and the overall condition of the MPA network.
- Measures must include provision for adaptive management to be put in place if they do not deliver the expected measurable improvements in the condition of feature(s) of the MPA network or the overall condition of the MPA network.//

We therefore agree that measures should “enable the UK MPA network, or a feature or features within it to recover more quickly from damage or improve its current condition” and the measures should be able to “be monitored for effectiveness”. //

However, we do not agree that the fact a measure “alleviates key pressures impacting the UK MPA network” in itself is adequate evidence of benefit to the MPA network. The alleviation of pressures must demonstrably deliver improvements to the condition of one or more features to demonstrate it will deliver benefit to the MPA network. Similarly, the fact a measure “improves the network’s resilience to climate change and other stressors” is not in itself adequate evidence of ecological benefit to the MPA network. The improved resilience provided by the measure must demonstrably be able to deliver improvements to the condition of one or more features compared to the scenario where the measures were not put in place. In summary, improvements to the condition of one or more features is a necessary condition of benefit to the MPA network.//

In addition, measures must not just improve the condition of one or more features, they must do so to a great enough extent to compensate for the negative impacts of development. This is easier to measure for compensation measures on the directly impacted feature, and established methods exist for calculating the amount of compensation required. However, where wider compensation measures are used, the extent of compensation required to deliver a net benefit to the MPA network will be more difficult to calculate. The SI should specify that the expected improvement in the condition of one or more features of the MPA network must significantly improve the overall condition of the MPA network. Guidance should further set out the meaning of “significantly improve the overall condition of the MPA network”. We set out in our response to question 11 how a significant overall improvement in the condition of the MPA network should be defined.//



A precautionary approach should be applied in establishing any new compensation process. We suggest that pilot projects with any new approach are run with a small number of developments before roll out to all developments. This will enable testing of the application of “ecological benefit to the UK MPA network” on real world projects, as well as other aspects of the approach, such as the compensation hierarchy. The planned approach is completely untested compared to decades of application of the existing requirements and any new approach will take time to run effectively. Rolling out any new approach to a large number of projects in a short period of time is likely to lead to ineffective and slow processes and damage to the environment.

Question 13. Do you agree with the proposal to have a legislative requirement that compensatory measures that ecologically benefit the impacted feature must be considered first, as part of a hierarchy of compensatory measures which must be followed sequentially?

Yes

We agree there should be a legislative requirement in the SI that compensatory measures that ecologically benefit the impacted feature must be considered first. The SI should set out that clear evidence is required that it is not possible to deliver compensation on the impacted feature, or that using wider compensation measures would deliver significantly greater benefits to the overall condition of MPA network, before projects are allowed to progress to wider compensation measures.//

We therefore agree that there should be a hierarchy of compensation measures. However, it must be made clear in the SI that measures not being available in the LoSCM (or other list of compensation measures approved by the relevant minister) does not constitute a sufficient justification for moving through the compensation hierarchy. In particular, it must be made clear that a lack of measures being available in the LoSCM targeted at the specific impacted feature does not constitute a sufficient reason to move to wider compensatory measures. Developers should demonstrate that they have explored all options for compensatory measures targeted directly at the impacted feature, both within and outside the LoSCM, before they are permitted to deliver wider compensatory measures. This will ensure that simply a lack of capacity within the LoSCM and the MRF alone does not prevent use of measures targeted at the impacted feature.//



As set out in our response to question 14 we do not agree with all tiers of the hierarchy of compensation measures as proposed. We agree that after exploring all options for compensation that directly target the impacted feature, developers should explore compensation measures which benefit a similar feature of the UK MPA network to that which is impacted (tier 2). However, we do not agree with tier 3 as proposed. As set out in our response to question 14, tier 3 leaves open the possibility of compensation measures targeting pressures on the MPA network without a clear link to the condition of features within the MPA network. Whilst tackling pressures on the MPA network could be an acceptable way to discharge compensation obligations, provided all other legal requirements (particularly network coherence) are not compromised, it should always be demonstrated that alleviating these pressures will lead to a measurable improvement in the condition of one or more features of the MPA network.//

Use of wider compensation measures will inevitably lead to decline in the impacted feature due to lack of compensation on that feature, and therefore should only ever be a last resort. Furthermore, wider compensation measures should not permitted to be used where that would result in the impacted feature declining to unfavourable condition across a large portion of an individual site; or where that would result in a significant portion of the feature type, when viewed from the perspective of the entire MPA network, declining to unfavourable condition. This is necessary to ensure features are not lost from particular sites or from the MPA network as a whole.//

Finally, compensation measures should not undermine the polluter pays principle. The example compensation measure of wider improvements in water quality, for instance, would not be acceptable where it involves resolving pollution issues caused by specific polluters, such as farms. It is the responsibility of the polluter, in all cases, to resolve issues caused by their pollution and this should never be funded by public expenditure or by cross-subsidisation from other industries, including offshore wind. This is set out in the environmental principles policy statement. Measure violating the polluter pays principle would violate the environmental principles policy statement and would not be an acceptable means of compensation.

Question 14. Is the hierarchy of compensatory measures, including the type of environmental compensation to be considered at each stage, clear?

No



There is not enough information in the proposals on what type of measures would be acceptable as compensation under tier 3. Currently, tier 3 leaves open the possibility of compensation measures targeting pressures on the MPA network without a clear link to the condition of features within the MPA network. This would allow development with impacts on features of the MPA network to go ahead without compensation in the form of clear benefits to the impacted features or any other specific feature.//

For example, as set out in the proposals, compensation would be allowed to target a water quality improvement programme, with no need to demonstrate that this programme would improve the condition of one or more designated features. Whilst tackling large scale pressures on the MPA network could be an acceptable way to discharge compensation obligations, it should always be demonstrated that alleviating these pressures will lead to a measurable improvement in one or more features of the MPA network. In addition, as set out under question 13, there is a risk compensation measures tackling wider pressures, such as water quality, violate the polluter pays principle. Measures violating the polluter pays principle would violate the environmental principles policy statement and would not be an acceptable means of compensation.//

Currently, features are the key monitored and protected element of the MPA network and so improvements to feature condition are currently the clearest way to measure impacts on and benefits to the MPA network over time. In addition, in England, the Environment Act MPA target focuses on feature condition. Therefore, to be clear that compensation measures will deliver a measurable improvement in the MPA network, they must target improvements in one or more features. This does not prevent targeting of measures at large scale pressures impacting multiple features, but it does require compensation measures to set out how they will improve the condition of a broad set of clearly identified features which the pressure affects.//

Care also needs to be taken in defining measures under tier 2. The definition of “similar features” is not currently clear. Although we welcome the statement that: “Consideration should be given to the functions and location of the feature that is being impacted and how well this is matched by a proposed measure”. This should be further defined to make clear that measures under tier 2 must seek to improve the condition of other features so that the ecosystem functions provided by the impacted feature are maintained and overall ecological network coherence is at least maintained, if not improved.//

Finally, different designations imply different levels of legal protection, with those designated as SPAs and SACs, having different protections to those designated as MCZs. Priority should



be given to compensatory measures which benefit the features of MPAs with the same designation to maintain levels and types of protection across the MPA network. Measures should only target MPAs with a different designation when all other options have been thoroughly explored.

Question 15. Do you support the proposal that, where a reasoned case can be made that there will be a greater ecological benefit to the UK MPA network, it is possible to move wider compensatory measures (tier 2 or 3), where there may be measures available that directly benefit the impacted feature (tier 1)?

No

Whilst there may be some cases where it is better to move to tier 2, these circumstances are limited.//

The priority must be to compensate on the impacted feature to maintain overall ecosystem functioning and ecological coherence of the MPA network. There must be clear evidence that moving to tier 2 would deliver a significant overall improvement in the condition and coherence of the MPA network. As set out in our response to question 11, improvement in the overall condition of the MPA network should be determined in terms of impacts on the overall ecosystem functions provided by the MPA network. Comparison simply in terms of area covered by the compensation measure or proportion of species population impacted by the compensation measure is unlikely to give an accurate representation of whether wider measures will deliver greater benefit to the MPA network. Different species and habitats are not directly comparable in terms of the ecosystem functions they provide.//

Furthermore, as proposed for England in the consultation, moving to tier 2 should only be allowed for strategic compensatory measures added to the LoSCM, and therefore approved through the COWSC governance process and by the Defra Secretary of State.//

Progression to tier 2 should also not be allowed where the impacted feature is a species on the IUCN red list, or other list of vulnerable species, as not targeting compensation directly at the impacted feature in this case could risk extinction of the relevant species. These exclusions should be set out in the SI.//

As set out in our response to question 14, we do not believe tier 3 as currently proposed is acceptable and it should be scrapped or significantly amended. In particular, tier 3 leaves open the possibility of compensation measures targeting pressures on the MPA network



without a clear link to the condition of features within the MPA network. Whilst tackling large scale pressures on the MPA network could be an acceptable way to discharge compensation obligations, it should always be demonstrated that alleviating these pressures will lead to a measurable improvement in one or more features of the MPA network without compromising ecological coherence.//

Tier 3 should also never be used in isolation. We do not agree it is suitable for a development to receive consent if only Tier 3 compensation measures are available. They must always be used in conjunction with Tier 1 or 2 measures to ensure the directly impacted feature or similar features are adequately protected to prevent significant losses to network coherence.

Question 16. Do you agree that wider compensatory measures must be approved by the relevant lead Departmental Ministers, noting that Ministers will need to show they have considered the advice of SNCBs prior to their approval?

Yes

We strongly agree that, to ensure that there is adequate scrutiny of proposed wider compensation measures' effectiveness, they should be approved by the relevant minister and that, in England, measures should be approved for inclusion in the LoSCM. This means they should be approved through the COWSC governance process and by Defra Secretary of State, before they are permitted to be used. This should be made clear in the SI, as proposed. The current role for environmental NGOs in COWSC and the role of COWSC in the adding of measures to the LoSCM should be also be maintained. This will help to deliver the necessary scrutiny to ensure that wider compensatory measures deliver clear, measurable benefits to the MPA network.//

To ensure SNCBs and environmental stakeholders can properly advise on the suitability of measures to benefit the MPA network, they must be given adequate funding to:

- Understand the current condition of the MPA network. There is currently a significant lack of MPA monitoring, with Natural England carrying out one to two MPA surveys in English inshore waters per year and JNCC carrying out two MPAs surveys for all of UK offshore waters per year.³ This means there are large uncertainties regarding the condition of protected features. There are many features with no monitoring data available, and where condition or vulnerability assessments have been completed, a

³ [House of Lords Environment and Climate Change Committee: An extraordinary challenge: Restoring 30 per cent of our land and sea by 2030](#)



large proportion are over 6 years old. Understanding the current condition of the network is a prerequisite to understanding whether compensatory measures will benefit the MPA network.

- Understand the ecosystem functions provided by the MPA network as a whole and their contribution to healthy seas and Good Environmental Status.
- Understand, for proposed wider compensation measures, how they will affect feature condition and the overall ecosystem functioning of the MPA network.

Question 17. Do you agree with our proposed approach for selecting and assessing wider compensatory measures based on the best available scientific evidence?

Yes

We agree the selection of wider compensatory measures must be based on the best available scientific evidence. This will require adequate scrutiny from SNCBs in order to advise on whether wider compensation measures in general and for specific projects are likely to provide benefits to the MPA network proportionate to the impacts.//

In order for SNCBs to assess whether compensatory measures meet these conditions, they will require adequate funding so that they can:

- Understand the current condition of the MPA network. There is currently a significant lack of MPA monitoring, with Natural England carrying out one to two MPA surveys in English inshore waters per year and JNCC carrying out two MPAs surveys for all of UK offshore waters per year.⁴ This means there are large uncertainties regarding the condition of protected features. There are many features with no monitoring data available, and where condition or vulnerability assessments have been completed, a large proportion are over 6 years old. Understanding the current condition of the network is a prerequisite to understanding whether compensatory measures will benefit the MPA network.
- Understand the ecosystem functions provided by the MPA network as a whole and their contribution to healthy seas and Good Environmental Status.
- Understand, for proposed wider compensation measures, how they will affect feature condition and the overall ecosystem functioning of the MPA network.
- Understand, for each individual project, how proposed application of wider compensation measures will affect feature condition and the overall ecosystem

⁴ [House of Lords Environment and Climate Change Committee: An extraordinary challenge: Restoring 30 per cent of our land and sea by 2030](#)



functioning of the MPA network, to allow assessment of whether proposed compensation will deliver a significant overall improvement in the condition of the MPA network.//

SNCBs are already significantly under-resourced and cannot take additional responsibilities without increased funding. For example, Natural England failed to meet deadlines for 17.1% of nationally significant infrastructure project applications, with over a fifth of those delays attributed to under-resourcing and excessive workloads (data from a freedom of information request). Funding must fully cover new costs to give the required advice.

Environmental safeguards

Question 18. Do you agree that our proposed environmental safeguards for wider compensatory measures are suitable?

No

We welcome the proposal to clarify how the mitigation hierarchy should be applied in guidance. Compensation should remain a last resort. The best way to avoid the need for complex compensation packages is to avoid impacts on features, and reduce and mitigate those that do occur. It should be made clear in guidance that following the mitigation hierarchy requires consideration of alternative locations and infrastructure placements at both the plan and project level to avoid the areas with highest impacts on nature.//

We also welcome the proposal that SNCBs will continue to advise on whether the compensation hierarchy has been adequately followed. Given the Planning and Infrastructure Bill plans to remove the requirement for pre-application statutory consultation with SNCBs, guidance needs to strongly stress the need for pre-application consultation with SNCBs to avoid delays. This will also require adequate funding for SNCBs. SNCBs are already significantly under-resourced and cannot take additional responsibilities without increased funding. For example, Natural England failed to meet deadlines for 17.1% of nationally significant infrastructure project applications, with over a fifth of those delays attributed to under-resourcing and excessive workloads (data from a freedom of information request). Funding must fully cover new costs to give the required advice.//

As set out in our response to question 11. If the overall ecological coherence test is removed, to avoid regression in environmental protections, as required under the Trade and



Cooperation Agreement, a clear definition of *ecological* benefit to the MPA network must be set out in the SI. The definition must specify that to demonstrate ecological benefit to the MPA network:

- Measures must measurably improve the condition of one or more features of the MPA network compared to a situation without relevant development, beyond all reasonable scientific doubt. This should contribute to progress towards favourable condition for the feature. Measures must also be additional to what is required in law for managing of sites such that they meet their conservation objectives.
- The expected improvement in the condition of one or more features of the MPA network must significantly improve the overall condition of the MPA network compared to a situation without relevant development, beyond all reasonable scientific doubt. This improvement must be additional to what is required in law for management of the network so that sites meet their conservation objectives.
- Measures must be able to be monitored for effectiveness in terms of their impact on the condition of specific feature(s) of the MPA network and the overall condition of the MPA network.
- Measures must include provision for adaptive management to be put in place if they do not deliver the expected measurable improvements in the condition of feature(s) of the MPA network or the overall condition of the MPA network.//

Additional conditions must also apply to any development and associated compensation measures as an environmental safeguard:

- Developments and associated compensation measures should not be allowed to proceed where this would prevent entirely prevent any site from achieving favourable conservation status or the stated conservation objectives of the site.
- Developments and associated compensation measures must not compromise the ability of the network to meet all other statutory obligations under the Habitats Regulations, Marine and Coastal Access Act 2009 and related national and international statutory commitments and targets such as the The Marine Strategy Regulations 2010, The Environment Act 2021, the Kunming-Montreal Global Biodiversity Framework Targets and the OSPAR Strategy.//

Where the above conditions are not met, the development associated with the compensation package must be reconsidered.



Question 19. Do you agree with the proposal that, in England, wider compensatory measures would not be suitable for impacts to locations with Marine Irreplaceable Habitats or features?

I don't know

By definition, irreplaceable habitats are very difficult to restore, create or replace once they have been destroyed. Therefore, the priority must be to avoid, reduce and mitigate impacts on them. Impacts and subsequent compensation should not be permitted as even compensation directly targeted at irreplaceable habitats is not an adequate substitute for protecting existing irreplaceable habitats, due to the difficulty in restoring or replacing them.//

Questions also remain about the list of habitats that are considered irreplaceable. Before this new approach comes into force, the proposed list of irreplaceable habitats must be clearly set out and consulted on with scientists and environmental organisations to ensure it covers all irreplaceable habitats.//

We strongly disagree with impacts being allowed to go ahead on irreplaceable marine habitats and compensation being put in place. Where compensation is nonetheless pursued, it must be directly targeted at the impacted habitat type. Again, by definition, irreplaceable habitats are difficult or impossible to replace. Therefore, compensation must deliver increased protections for remaining habitats inside or beyond the MPA network, allowing them to recover.

Question 20. Do you agree that our proposal for guidance adequately clarifies adaptive management requirements, including for measures delivered through the MRF?

Yes

We welcome the proposal for clear guidance on the need for ongoing adaptive management and the need for adaptive management actions to be approved the Secretary of State. The guidance should further clarify that adaptive management should first be targeted at the same tier in the compensation hierarchy before moving on to other tiers. For example, if the original compensation is targeted directly at the impacted feature, adaptive management should seek to improve the efficacy of the existing compensation or employ additional compensation targeted directly at the impacted feature.



Question 21. Do you agree with our proposal that there should be a public register that documents OFW environmental compensation?

Yes

The register should be accompanied by annual reports on the combined UK-wide impacts of offshore wind development and consequent compensation on the overall condition of the MPA network. This will help to keep track of the in combination effects of offshore wind development on the whole MPA network and whether compensation is sufficient to maintain ecosystem functioning. This report should also track the combined impacts of offshore wind development and compensation on individual designated features that have been impacted by offshore wind development.

Question 22. Where could this register be hosted and who could be responsible for the register, including on-going updating and management?

No response

Other aspects of proposals

Question 23. Do you agree that our proposals for guidance provide clarity in how to assess whether environmental compensation can be considered additional?

No

The proposals do not provide a clear baseline for what will be delivered by the Government under normal practice and therefore what is additional and acceptable to be delivered through compensation. The proposals focus on checking what existing management measures are being delivered or what management measures are likely to be delivered in the near future based on existing delivery mechanisms and funding. This sets an unacceptably low bar for normal practice as in a case where the government is currently providing no management of designated features and does not have any plans or funding in place for such management, any compensation measures for those features would be considered additional.//

The Government should set out a clear baseline for what management measures will be government funded under normal practice as part of guidance. These measures would then



not be considered additional, even if they have not yet been funded by the Government at the time of the project going ahead, as they would be expected to be funded in future. It should then be made clear how any compensation is in addition to this clearly defined baseline and how it delivers above and beyond baseline measure. This will provide clarity and transparency to both environmental stakeholders and to industry.//

This baseline of government funded management measures under normal practice should include:

- Implementation, monitoring and enforcement all fisheries management measures necessary to allow the conservation objectives of MPAs to be achieved. This should include implementation of the outstanding Stage 3 and Stage 4 fisheries management measures, as well as any further fisheries management beyond Stage 4 measures necessary to allow MPAs to reach their conservation objectives. It should also include monitoring of compliance with Stages 1, 2, 3 and 4 management measures, enforcement of compliance, monitoring of the measures' effectiveness and updating of measures if necessary to achieve the conservation objectives of MPAs.
- Management of all licensable activities to allow the conservation objectives of MPAs to be achieved, as currently operates. Adequate funding must continue to be given by Government to the MMO and SNCBs to carry out their functions with respect to management of these activities to control their impacts on MPAs' conservation objectives.
- Enforcement of regulations both on land and at sea that control impacts on the marine environment, such as those affecting water pollution (including other sectors), underwater noise and fisheries activities. This must apply even where current government funding for enforcement is inadequate. Enforcement of the law is a core government purpose and therefore must be fully funded by the government and not through any compensation measures.
- Finally, compensation measures should not undermine the polluter pays principle. The example compensation measure of wider improvements in water quality, for instance, would not be acceptable where it involves resolving pollution issues caused by specific polluters, such as farms. It is the responsibility of the polluter, in all cases, to resolve issues caused by their pollution and this should never be funded by cross-subsidisation from other industries, including offshore wind. This is set out in the environmental principles policy statement. Measure violating the polluter pays principle would violate the environmental principles policy statement and would therefore not be additional to existing requirements.



Question 24. Do you agree with our proposals for guidance to provide clarity that, in certain circumstances, environmental compensation can be in place and operational after the impact to the site has occurred?

No

We welcome the proposal that it is usually expected that compensatory measures are in place and operational at the time at which damage to a protected site or feature begins. The SI must make clear under what circumstances measures being in place after impacts have occurred is acceptable. This should only be in cases where a delay will allow compensation to be delivered that directly targets the impacted feature where this would otherwise not be possible. This will limit delays only to cases where this a clear ecological case for delay to allow the condition of the specific impacted feature to be maintained or improved through development of new compensation measures.//

There can be no reason for delivering compensation after impacts have occurred in cases where a development is proposing wider compensation measures not directly targeted at the impacted feature. As set out in the proposals, the reason for delivering wider compensation measures instead of measures targeted directly at the impacted feature is that they are more readily available than compensation measures directly targeted at the impacted features. If a delay is required for these wider measures to be delivered, then it is clearly not the case that they are more readily available and so the justification for using wider compensation measures would cease to exist. In this case, different wider compensation measures that can be implemented before development begins should be sought out. If these are not available this would simply demonstrate that any delay is simply due to lack of suitable compensation measures altogether and not based on improved ecological outcomes. The development should then be delayed until such time that suitable compensation measures can be found.//

We welcome the proposal that the SI will make clear that, where delays occur, a clear time limit on any time lag between impact and environmental compensation will be set. If this time limit is exceeded, severe penalties should apply in terms of additional compensation needing to be provided.//

We also welcome the proposal that overcompensation will usually be required to account for interim environmental losses between the impact occurring and the environmental compensation being in place and operational.



Question 25. Do you agree that our proposals for guidance provide clarity on when mitigation or compensation might be required for small levels of impact to a protected site?

No response

Final comments

Question 26. Do you agree that the approach described in this consultation will help to provide greater environmental compensation opportunities for OFW whilst protecting the marine environment?

No

We cannot afford further damage to the marine environment. The 2025 marine strategy part one update shows that good environmental status (GES) has been met for only two out of 15 indicators, compared to four out of 15 in 2019. This is despite a legal requirement for the UK to achieve GES by 2020. Our seas are not just in a poor state, they are in decline. In addition, The Office for Environmental Protection find in their most recent progress report that the UK Government is largely off-track in delivering the target for 70% of designated features in English MPAs to be in favourable condition by 2042, with the remainder in recovering condition. The UK and devolved governments must ensure that development does not contribute to a further decline in the marine environment but rather contributes to its restoration.//

The current proposals for environmental compensatory measures reform for offshore wind are both unclear and inadequate to maintain the current level of environmental protection. Changes must be made, as set out in our responses to the consultation questions, to provide clarity on how the approach will maintain or increase levels of environmental protection and help restore the marine environment. In their current form, the proposals are not acceptable and would contribute to a further decline in the state of our seas. The proposals should be amended in line with our responses to the consultation questions.

Question 27. Do you have any other comments on our proposals described above?

No response



Wildlife and Countryside Link (Link) is the largest nature coalition in England, bringing together 76 organisations to use their joint voice for the protection of the natural world and animals.

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The following organisations support this consultation response:

Angling Trust

Institute of Fisheries Management

National Trust

ORCA

RSPB

Seal Research Trust

The Wildlife Trusts

Whale and Dolphin Conservation (WDC)