

CONSULTATION

Response Document



Strategic Compensation Policy for
Offshore Wind

1st September 2025

Introduction to CIEEM

The Chartered Institute of Ecology and Environmental Management (CIEEM), as the leading membership organisation supporting professional ecologists and environmental managers in the United Kingdom and Ireland, welcomes the opportunity to comment on this consultation.

CIEEM was established in 1991 and has over 9,000 members drawn from local authorities, government agencies, industry, environmental consultancy, teaching/research, and voluntary environmental organisations. The Chartered Institute has led the way in defining and raising the standards of ecological and environmental management practice with regard to biodiversity protection and enhancement. It promotes knowledge sharing through events and publications, skills development through its comprehensive training and development programme and best practice through the dissemination of technical guidance for the profession and related disciplines.

CIEEM is a member of:

- Scottish Environment Link
- Wildlife and Countryside Link
- Northern Ireland Environment Link
- Wales Environment Link
- Environmental Policy Forum
- IUCN – The World Conservation Union
- Society for the Environment
- United Nations Decade of Restoration 2021-2030 Network
- Irish Forum on Natural Capital (working group member)
- National Biodiversity Forum (Ireland)
- The Environmental Science Association of Ireland

CIEEM has over 860 members in Scotland who are drawn from across the private consultancy sector, NGOs, government and SNCOs, local authorities, academia and industry. They are practising ecologists and environmental managers, many of whom regularly provide input to and advice on land management for the benefit of protected species and biodiversity in general.

This response was coordinated by Members of our [Scotland Policy Group](#)..

1. Do you agree with the proposed approach to reforming the Habitats Regulations as they apply to offshore wind activities as defined in the Energy Act 2023, in order to make wider compensatory measures available for offshore wind development?

We do not support proposals to make compensation under the Habitats Regulations more flexible as they currently stand, including proposals for “wider measures” i.e. Tier 3 of the proposed compensation hierarchy.

We support — where backed by evidence — the implementation of the sorts of strategic measures proposed under ‘wider measures’ (i.e. measures that provide an ecological benefit to the protected site network as a whole). However, like-for-like compensation for the impacts of development on protected habitats and features must remain the priority and there must be a legal requirement to demonstrate the absence of reasonable alternatives. We consider that the existing approach under the Habitat Regulations already offers sufficient flexibility where a project is judged to be in the public interest and no feasible alternative is available.

Before supporting “wider measures” we would want to see more detail and evidence about what these would actually involve, including the details and evidence behind the proposed “Scottish Portfolio of Strategic Compensatory Measures.”. We’d also want to hear:

- How the effectiveness of “wider measures” would be assessed, and what standards of evidence would be required, especially for developer-proposed compensation that is not covered in the official portfolio of measures?
- How individual developers could deliver large-scale, strategic measures that would require coordination across sectors and actors?

Whilst we recognise that expansion of offshore wind is an important component of Scotland and the wider UK’s efforts to decarbonise, the marine environment is already subject to many pressures, including from climate change and various existing uses. Recognising that it is difficult to predict the wider ecosystem effects of changes in spatial use — including expansion of offshore wind and any “wider measure” to compensate — is central to sustainable and evidence-based marine policy that is needed to ensure the long-term resilience of marine ecosystems¹.

¹ Trifona et al. (2025). Fishing, offshore wind energy, climate change and marine spatial planning: Is it possible to plan for a best use of space? *BES AER Ecological Solutions and Evidence*. <https://doi.org/10.1002/2688-8319.70039>

2. Do you agree with the proposed Compensation Hierarchy approach, for inclusion in subsequent guidance, including the type of compensation within each tier and when to move down the hierarchy?

No. While we think it useful to have a formal compensation hierarchy, we disagree with the proposal that the hierarchy be flexible. We understand the proposal is that flexibility be permitted within the hierarchy, allowing the use of Tier 2 or Tier 3 measures even if higher-tier measures (i.e. direct compensation to the affected feature) are available. As previously stated, on-site, like-for-like, compensation should remain the clear preference, with off-site, non-like-for-like considered only in circumstances where like-for-like is not possible.

We are concerned that moving away from direct, like-for-like compensation (which has a stronger evidence base) to broader, untested strategic measures introduces further uncertainty, especially given current knowledge gaps about marine environments.

3. Do you agree with the proposed approach to how to demonstrate evidence that a wider measure has an ecological benefit to the protected site network?

No, we do not agree with the proposed approach. We agree that proposals to use wider measures must be underpinned by the best-available scientific evidence, but what exactly this means is not specifically laid out in the proposals, i.e. and how is “ecological benefit” determined? Guidance should emphasise the need for independent review and use of data derived from the specific feature or biogeographical population in question. Evidence should demonstrate the contribution of the measure to the overall coherence of the marine protected area (MPA) network. Where uncertainty remains, compensation should be precautionary, in line with EC guidance and the Scottish Government’s Blue Economy Vision.

We also agree that the assessment of whether a wider measure has a greater ecological benefit than measures available for the impacted feature must be done on a case-by-case basis. This assessment should take into account, among other things, the affected protected feature’s condition, strategic importance, whether it is irreplaceable...

With regards proposals that extra contingency be built in for more uncertain measures where scientific evidence is limited, we would again need to see detailed examples of the circumstances in which this might occur. We can envisage some very limited situations where a relatively untested, but promising, measure might be appropriate, particularly if alternatives are limited, but this should not be the norm for compensation proposals. Direct, well-evidenced, compensation should always be prioritised, and proposals for less well-evidenced measures must be very clearly justified.

In relation to extra contingency for uncertain measures, the proposal to allow additional time for measures to show effectiveness comes with considerable risk as, presumably, this can eat into time allowed for Adaptive Management (also a proposed feature of contingency). For any measure permitted, indicators of potential failure of the measure would need to be clearly defined and monitored for.

4. How do you think the effectiveness of wider measures could be monitored?

Effectiveness should be tracked through long-term monitoring programmes backed by legally enforceable conditions. Monitoring must be aligned with clear, measurable ecological objectives and subject to independent review at defined intervals. Results should be made publicly accessible — this can also support evidence-gathering, especially for relatively untested measures — and adaptive management applied wherever monitoring indicates that outcomes are falling short of expectations.

5. We are aware that UK Government are consulting in its concurrent consultation on reforms to environmental compensation for offshore wind on a proposal to clarify in guidance circumstances where wider measures would not be suitable for impacts to locations with Marine Irreplaceable Habitats or features. Do you agree with our proposal not to include a similar approach within our guidance?

We disagree with the Scottish Government's inclination not to define Marine Irreplaceable Habitats (MIHs) and therefore not restrict wider compensation for them, as this would act as an important safeguard for Scotland's irreplaceable marine habitats. Irreplaceable habitats by their very nature are crucial for biodiversity, carbon and the overall resilience for marine ecosystems. Defining MIH is important to ensure that these important habitats, and their response to development, are monitored, and to supporting strategic planning. We do not accept them not already being a concept in the Scottish marine regulatory context as sufficient reason for not defining them. Defining MIH would maintain consistency with the UK Marine Policy Statement which recognises these are requiring "strict protection measures that do not accept deterioration". Furthermore, a different policy in Scotland would risk confusion where developers operate across boundaries.

6. Do you agree with our interpretation of the application of the additionality principle to offshore wind, and our proposal to provide further clarity as part of guidance?

We understand that there is a degree of flexibility in how "additionality" is interpreted by the Scottish Government, allowing for compensation measures that support conservation

objectives, even if they touch upon areas that could theoretically fall under government responsibility, but are currently unaddressed due to capacity or funding limitations.

We cautiously agree with this interpretation, but further clarification on the circumstances in which this is permitted and safeguards against unintended harm from a statutory activity being undertaken by a non-state actor should be clearly outlined. Ideally, there should be no capacity or funding limitations to undertaking statutory actions for protection and management of protected sites.

7. Do you agree with our proposed approach, for inclusion in subsequent guidance, that in certain circumstances, compensation can be functioning after the impact of the offshore wind development occurs?

We somewhat agree; where possible, compensation should be in place and functional before impacts from development occur, but we recognise that successful ecological restoration will be long-term and requiring immediate benefits could encourage short-term measures that may not be long-lasting.

We agree that the timings and rationale for proposals for compensation that functions after impact must be established early in the Habitats Regulations Appraisal (HRA) process. In terms of robust safeguards, not only should Scottish Ministers be reasonably confident that the measures are suitable and that there is minimal risk that the measure will not be delivered at all, but that finding should be backed by the advice given by SNCBs. It is not enough that Scottish Ministers have received advice from SNCBs — where the final decision does not align with advice from SNCBs, reasoning should be given. In circumstances where Ministers are not confident, overcompensation should be required, and additional demands of the developer be made, that are clear and consistent, over the lifetime of the project.

For measures with a significant lead-in time, a suite of milestones and early indicators of potential failure should be clearly defined and monitored from the outset.

8. Do you agree with our proposed approach, for inclusion in subsequent guidance, to clarify circumstances where compensation is required for projects or plans with small levels of impact to a protected site?

We agree that small-scale impacts may warrant compensation, especially where cumulative effects contribute to the significant degradation of protected features. It's important that cumulative assessment be undertaken in accordance with Policy GEN 9 of Scotland's National Marine Plan.

9. Do you agree with our proposal to clarify through guidance when overcompensation may be appropriate, and do you have a view on the instances in which it should be required?

We agree that overcompensation may be necessary in certain circumstances and guidance should set out clear criteria for determining when overcompensation is needed, and — where possible — measures should be implemented before impact occurs.

10. Do you agree with our proposed approach to maintain the current approach to adaptive management but to include in subsequent guidance?

Use of adaptive management should continue, but it must not be used as a substitute for robust project design and implementation of pre-impact measures. Guidance should state what indicators be used to identify when adaptive management is required, and how these should be monitored. There should also be a requirement for adaptive management if objectives or milestones of compensation are not met.

We would like reassurance that the requirement for adaptive management would not be retracted in the event that the developer had “overcompensated” in an effort to reduce the likelihood of engaging in AM.

11. Do you agree with our proposed approach, for inclusion in subsequent guidance, for monitoring and governance of the proposed policy?

Yes. For governance to be effective, it should be transparent, with clear responsibilities for delivery, mechanisms for independent oversight, inclusion of stakeholder and community views, and public reporting of monitoring outcomes.

12. We are aware that the UK Government are consulting on a proposal to introduce a public register of compensatory measures across the UK. The Scottish Government supports collaboration on a UK-wide register rather than the establishment of a Scottish-specific register. Do you agree?

We are supportive of this proposal, but with caveats; there must be annual reporting of the UK-wide impacts of offshore wind development and consequent compensation that ensures that impacts in one part of the UK are being consistently and fully compensated by measures elsewhere. Also, the Scottish Government must have the ability to impose Scotland-specific requirements, where necessary, to uphold the standards of the Scottish marine policy framework. This is an important safeguard against the gradual erosion of the condition of Scotland’s MPA network.

13. Scottish Government are assessing the option of applying a common framework for compensation of offshore wind by extending the proposed amendments set out in this policy to the Marine (Scotland) Act 2010. Do you think the reformed approach should be extended to the Marine (Scotland) Act 2010?

Unsure. We are concerned that doing so risks undermining like-for-like compensation for impact to MPAs.

14. Do you think that this policy will have an effect on an island community which is different from its effect on other communities (including other island communities)?

15. Do you have any comments on the partial Business and Regulatory Impact Assessment?

16. Do you have any comments on the Strategic Environmental Assessment?

The SEA should include a more detailed assessment of cumulative impacts, considering the combined effects of multiple measures within a given area and on ecosystems already under pressure, rather than assessing individual compensation measures in isolation. It should also evaluate the risk of ecological pressures being displaced by other measures.

17. Do you have any other comments on our proposals described in the consultation paper?