Department for Levelling Up, Housing & Communities: Consultation on Environmental Outcomes Report

Written submission of the Institute of Air Quality Management, June 2023

The [Institute for Air Quality Management](#) (IAQM) is a professional body representing ambient and indoor air quality professionals. It has over 650 members and was founded 20 years ago when air quality management responsibilities started in the UK. Membership of the organisation signals that one is an expert in the field of air pollution.

IAQM acts as the voice of air quality in the UK by producing useful and timely guidance on matters affecting air quality professionals and by responding to Government consultations.

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?

While we agree with the principle of outcomes 'driving the achievement of statutory environmental targets and the Environment Improvement Plan' (4.7 1st bullet), we question if this will be delivered by plans/projects in practice given there appears to be no minimum specified threshold / material extent to which an outcome is required to be met by a plan/project, coupled with the potential removal of LURB Part 6 s139(4)(b)(i) step to 'increase the extent to which a specified environmental outcome is delivered'. If the mitigation hierarchy for a plan/project now leads with avoiding adverse effects and with consideration of environmental improvement not mandated, we think this raises significant risk of improvement goals set out in EIP23 not being supported by plan/project delivery.

This is highly relevant for air quality where the focus for every project should be to demonstrate how improvements are supported through design in order to meet current policy targets. Including those where the IAQM has noted further improvement is required such as the suggestion for meeting the new PM2.5 objectives by 2030.

Outcomes and indicators should also be: 1) practicable; 2) reasonable; and 3) enforceable We would welcome clarification on, exactly what are "priority outcomes" (con doc at 4.18)? Also, would there be a difference in contribution to decision making between 'core' and 'regime specific' outcomes?

We agree with the principle of setting indicators, particularly the principle that indicators should be measurable at the correct scale as these need to be able to reflect local context and conditions in order to provide appropriate level of protection. We question why indicators will not be included in secondary legislation (with outcomes). Paragraphs 4.18/4.15 confirm what indicators will be set out in guidance but how can use of these indicators be mandated when they are not binding?

We welcome the note regarding future consultation on indicators and are happy to support with future consultation. There is clearly significant work required to ensure the balance between local and regional air quality effects can be suitably managed with indicators, considering the challenges faced with monitoring outcomes for air quality at the project level and needing to ensure a 'tick box' exercise can be avoided leading to insufficient enforceable requirements to improve air quality. Similarly non-quantifiable indicators for climate change and health which are related to air pollution effects need to be considered and developed at a cross discipline level.

Indicator criteria will need to ensure that the same level of rigour in defining indicators is applied to both quantitative and qualitative indicators to ensure that they are given equal weighting in the decision-making process.

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

No

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

The proposed 'proportionate' reporting approach against all relevant outcomes is not likely to achieve the intended streamlined/reduced reporting. The intended reduction in documentation is welcome as it will assist communities to identify the issues that are important to them. Our preference would be to see scoping retained as this is a valuable EIA stage to achieving proportionality, as well as allowing assessment approaches to be formally agreed, reducing the risk of challenges on this at decision stage.

We are concerned that if there is no formal scoping process to determine level of assessment required, developers/projects are likely to err on side of caution and include full assessments for most outcomes. As an industry we have got much better at proportionate assessment over recent years and scoping has become a valuable step in the assessment process to achieve this proportionality supported by IAQM best practice industry guidance.

For air quality where significant effects would be considered a major risk to consenting or permission being granted, the early stages of project impacts are important as it allows developers to review and understand risks before dealing with effects where needed. This

removal could result in delays to projects and limit the ability to consider all effects early in the design process.

Care is required to make sure that reporting against defined objectives is not at the expense of the reporting the effects on receptors, many of which are the stakeholders who need to understand how a project could affect them to enable them to effectively participate in the consultation process.

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?

The current consultation indicates that policy will drive change for climate change and health (including due to air quality), however as it stands in the emerging drafts (for example NPSNN) we are not seeing specific policy requirements that will require improvements. Particularly for air quality a topic closely linked to climate we do not see strong enough consideration of local worsening and non-threshold effects. All of which demonstrates a current lack of joined up approach between air quality and climate.

The question of interlinking policy between carbon, health and air quality is relevant here. This process should be used as an opportunity to improve the links between the topics and avoid any unintended consequences. For example, qualitative carbon assessment should clarify if absolute reductions would be achieved by a project or plan rather than using offsetting, in order to be clear where there are co-benefits for air quality and health and over which timeframe.

The emphasis for adaptation to climate change is a strategic issue with effective responses implemented at a regional scale, including land use planning. There needs to be greater emphasis on minimising carbon emissions at source, and early in the design process for individual projects.

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

Yes, although there seems to be duplication in the proposed reporting requirements to set out the design evolution story in the Planning Statement as well as a summary record of decision-making on alternatives in the EOR. Our question is how the proposed approach to the assessment of reasonable alternatives (5.10-5.14) will materially change the current approach to consideration of alternatives. When done well, considering options / alternatives at an early stage to deliver greatest environmental gains is one of most valuable aspects of the existing assessment process. However, we question if the requirements of 5.13 are sufficient to ensure environment and outcome-led design is adequately considered at an early design stage as standard practice. We think it needs to be materially considered in decision-making process to give it 'teeth'.

The consideration of alternatives for air quality should be based on improvement opportunity rather than planning risk or non-adverse impacts. This approach would change the results of rating the impacts of schemes and align with the concept of improved environmental outcomes.

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?

It would be helpful to mandate some early reporting (to decision-maker) on a framework for outcome led design and consideration of reasonable alternatives for improved environmental outcomes alongside low carbon and climate resilience. One option would be through a requirement for submission of early strategic design report that shows the design alternatives against design principles. This would ensure it is built into the early design stages of the development and design process and prevent retrofit reporting.

By standardising the level of environmental input and detail required at each project lifecycle stage the environmental impacts will be considered earlier in design. In turn this will promote a proactive approach in protecting the environment. This will also encourage developers to deliver a pre-mitigated sustainable solution, rather than a reactive environmental compensatory scheme.

Reasonable alternatives should include:

- Other sites (or evidence that these have been considered by others – e.g. the local authority)

- Masterplan site layouts

It is also important to consider how variations (e.g. S73) fit into the process. Planning is often achieved based on one scheme then variations are used which changes the scheme. We would welcome the Government to provide further clarity on how these should be assessed. Our suggestion is that this should be based on the original baseline, as if the change was originally applied for as part of the original application and an evaluation on whether the outcomes of the assessment would change.

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

YES, but need to avoid the risk of detailed assessment being required at scoping to demonstrate that further assessment is not required for the EOR.

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

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

The source-pathway-receptor concept should be considered as a whole, not individually. The existing size thresholds are an effective starting point for screening (source magnitude). Proximity / impact pathways to receptors would be a useful additional consideration for identifying potential impacts. Guidance would be needed on how to apply this. Proximity to sensitive communities should be considered alongside proximity to sensitive environmental receptors.

Categories of sensitive receptors should be defined and thresholds provided for proximity (this may vary according to type of sensitive receptor). Sensitive health receptors may include communities with high levels of social and/or health deprivation, and facilities used by sensitive groups such as children, older people, people with existing disabilities or health conditions etc.

In practice this is clearly a challenging concept so whilst we have selected 'yes' it needs a clear caveat that it is 'yes in principle' as the reality of creating such definitions for air quality and non-threshold effects would be legally very challenging and in certain areas lack a strong evidence base.

We are also concerned with this approach due to the potential for loss of effective in built mitigation for projects under the required scales which could result in a 'salami slicing' approach and remove the focus on wider environmental outcomes.

We would go on to recommend that screening requirements are an effective element which professional bodies can provide guidance on and so a framework may be sensible, which leaves room for professional bodies to provide the detailed guidance.

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

The current process (EIA) requires monitoring, however, in relation to air quality this is rarely carried out and where it is, it is not efficient at determining whether specific measures are effective at delivering what has been assumed they would and relied upon during assessment.

A clear hierarchy needs to be applied to a project end-to-end along with an open and verified monitoring and reporting approach. A stronger environmental auditing approach using qualitative and quantitative reporting needs to be adopted with a focus on avoidance and improvement.

The long history of low investment in environmental planning needs to be re-addressed in order to provide suitable resources to review mitigation and report and where needed, address ineffective mitigation with an associated framework for adjustment if found to be required.

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

Yes

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

An adaptive approach to mitigation can be effective if properly understood and implemented. There are existing examples of projects that have used an adaptive approach to mitigation where there is uncertainty around the effectiveness of mitigation or where cumulative effects are significant and the required mitigation is beyond the ability for any single project to implement.

Development of a generic adaptation framework guidance would be helpful to both developers and enforcers to ensure broad consistency in approach. The key challenge to successful implementation will be the effective enforcement of this monitoring / adaptation requirement. Responsibilities for enforcing delivery of monitoring /remedial action needs clearly defining and avoid overstretching local planning authority resources further.

We are supportive of requirement to monitoring impact on outcomes and effectiveness of mitigation proposals with adaptive management to drive improvement. This recognises that projects evolve post-consent. We also consider that a centralised approach to measurement of mitigation proposed would be useful.

The main implementation challenges that we consider need to be resolved are as follows:

- Credibility (need for oversight)
- Guidance and case studies
- PINS, and wider stakeholder support
- Proportionate and rapid process for identification, engagement, reporting, decision-making and implementation
- Ongoing monitoring, reporting & assurance regimes
- Ownership and funding

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

Yes

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

If monitoring can be used to incentivise better assessment it is likely to come via the benefits seen by developers for gaining consent quicker and to with wider data availability speed up future assessments. Monitoring should also identify where there are shortcomings within the assessment and the impacts and / or mitigation has not been correctly identified or applied. This could provide useful information for future projects if findings are shared.

By having a well-regulated process of implementing and monitoring adaptive mitigation, it allows a more proportionate assessment approach. Rather than having to assess to great detail where this may not be appropriate (e.g. only at concept design), focus should be on defining how mitigation must deliver on the relevant outcomes for that project and what the adaptation pathway will be depending on final design.

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

Localised funding managed via systems such as section 106 (or section 61) agreements will help, however national funding is also likely to be required. It will be particularly important for national funding for local air quality monitoring to support long term measurement and identification for additional mitigation.

For plan level EORs, monitoring costs would need to become part of the plan making organisation's operating costs.

Regional strategic environmental outcome plans could support the development of national funds as monitoring is often best carried out at a strategic rather than just local level.

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

The polluter pays principle needs to be enforced. A developer has to be responsible for monitoring (and importantly demonstrating) that mitigation is effective and outcomes are met. Examples could be taken from protected species licensing which require post implementation submissions under the licence. Planning apps should require submissions post implementation demonstrating that outcomes are met (and if not, developer has to implement corrective action). This needs to be built into consenting process.

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

Yes, data availability will be valuable for supporting proportionate assessment.

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

Based on our current ways of working under the existing legislation and practices, we have identified a number of barriers to sharing data more easily. These are summarised as follows:

- Lack of data standards across the industry which means data needs to be tidied up and worked on ahead of use;
- Lack of common data environment to drive consistency in data standards, sharing and management measures;
- Central geospatial data sets;
- IP, licensing and copyright affect the ability to share data more widely both between organisations and projects/developers;
- Perceived confidentiality and privacy around 'sensitive' environmental data;
- Need to restrict availability of some environmental data (I.e. borehole locations, badgers sets etc);
- Resource limitations (both in making the data 'shareable' and making use of this data);
- A lack of common digital infrastructure to store, manage, structure and project data (and the expense of this);
- Planning authorities unlikely to hold the required skillsets or funding to maintain within their organisations to deliver standardisation of data across the industry and create the infrastructure required for better data sharing and management; and
- Currently no leadership in the industry around data management and sharing.

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

Air quality datasets are well established in the UK however recording of local data or project data is poor. Currently different reporting methods/post processing/validation techniques are applied and not always clearly explained.

Open-source information on receptor locations (e.g. address point data/building outlines e.g. from OS Mastermaps) and designated ecological features has improved but could still benefit from being full open and free to use.

Data recording and creation of standard auditable metrics for air quality would be beneficial for supporting transparent and open assessment processes.

When the data are spatial a standardised Geographical Information System (GIS) template should be applied to increase accessibility

We would also recommend the Government to endorse good practice guidance produced by various professional bodies to drive consistency in the assessments carried out.

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

Yes

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

There will be challenges faced by local and combined authority resourcing. This could be resolved with funding such as that included in the LURB for pre-app reviews and requiring an oversight role for monitoring by a scheme promotor.

Opportunities for improved reporting which has been verified and is transparent and based on credible data.

There are also opportunities for developers to promote achievements which could act as an incentive. However, the opposite may also exist where failure beyond a promotors control could be a major disincentive.

Lastly there is the challenge of bringing together project-level EORs to determine overall performance against specified env outcomes given likely variation in reporting despite guidance.

A key challenge will be to ensure that reporting is comparable between authorities/regions so that progress can be truly monitored.

Question 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).

2 years.

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

No new skills are required but job opportunities and growth within the environmental sector is required for auditing and management of strategic funds to meet beneficial environmental outcomes.

Greater training and funding combined with an increase in capacity and capability of employees within local planning authorities and statutory consultee bodies would be required to support the implementation of Environmental Outcome reporting. A dedicated unit within the planning advisory services could support those impacted by the new regime by answering queries and offering advice.

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.

Transparency and speed of assessment will be beneficial for all parties. Localised and regional benefits can be clearly defined and ideally the quantified benefits could be auditable, and promotors held to account. This approach should foster some trust in the process, however this is likely to take several years to develop fully.

There is currently insufficient detail about how the new EOR system will work to determine if this is a realistic risk or not for achieving improved air quality. Further thought is required to ensure that the new EOR regime addresses both overall outcomes and still ensures that significant adverse effects are properly mitigated at receptors.

We believe that a big barrier to development is the review and determination at committee level. It would be useful to include guidance on how the determination should be formed and make the decision evidence/technical based rather than political or emotional based. A clear framework on how committees should determine based on the EORs would help this.