

Submission from Wildlife and Countryside Link on the draft Conservation of Habitats and Species (Offshore Wind) (Amendment etc.) Regulations 2026

- Wildlife and Countryside Link has significant concerns with these proposed amendments to the compensation process for adverse effects of offshore wind development on marine nature.
- As currently worded, the proposed regulations remain vague, with much detail left to guidance. There is a risk that the amendments would reduce levels of environmental protections, allowing protected marine habitats and features to be damaged without proper compensation. As currently written, the explanatory material laid in support provides insufficient information to gain a clear understanding about the instrument's policy objective and intended implementation.
- The proposed regulations apply in cases where offshore wind developments would negatively impact species and habitats that are protected as part of marine protected areas (MPAs) designated under The Conservation of Habitats and Species Regulations 2017 or The Conservation of Offshore Marine Habitats and Species Regulations 2017 (collectively, the habitats regulations). The proposed regulations would remove the requirement, in such cases, for developers to deliver environmental compensation measures that maintains the overall coherence of the MPA network. This "overall coherence test" is a well-defined legal test for compensation measures embedded within the UK's international obligations, including under the Bern Convention, the OSPAR convention, and the Global Biodiversity Framework.
- The proposed regulations would replace this overall coherence test with the requirement under Clauses 7 (4) and 16 (4). These clauses specify that compensatory measures "must benefit the UK MPA network in a manner which is reasonably proportionate to the adverse effects". No meaning is given to the term "reasonably proportionate" in the proposed regulations, the explanatory memorandum, the policy note published with the proposed regulations, or the relevant consultation response.
- Wildlife and Countryside Link is concerned that by replacing the widely understood and legally tested concept of "overall coherence", with the currently vague concept of "reasonably proportionate" compensatory measures for offshore wind development could fail to maintain or improve the status of the MPA network. This would constitute a weakening of environmental protections. This would threaten the achievement of the legal target in the Environment Act 2021 to ensure that at least 70% of protected features in MPAs are in favourable condition by the end of 2042, with the remainder in recovering condition. It would also threaten to contravene requirements under Article 391 of the Trade and Cooperation Agreement that "A Party shall not weaken or reduce, in a manner affecting trade or investment between the Parties, its environmental levels of protection". We would therefore be grateful if the committee could ask the department:
 - **With respect to Clauses 7 (4) and 16 (4) what the specific meaning of "reasonably proportionate" is and how this definition will maintain existing levels of environmental protection.**

- Another area where the explanatory material is unclear is with respect to the proposed “compensation hierarchy”. This would create categories of compensatory measures and a priority order in which those categories would be used for providing environmental compensation. The hierarchy would prioritise measures which benefit the features (i.e. particular habitats or species) of the MPA network which are adversely affected by the relevant offshore wind development. For example, in cases where seabirds are impacted the hierarchy prioritises compensation measures that benefit seabirds. But the hierarchy would also allow compensation to benefit other features. For example, adverse effects on seabirds could be compensated for by compensation measures improving water quality.
- How this hierarchy would operate is left unclear in the proposed regulations, the explanatory memorandum, the policy note published with the proposed regulations, and the relevant consultation response. In particular, Clauses 7 (13) (c) and 16 (11) (c) allow deviation from the priority given to compensation that benefits the affected feature under unspecified “circumstances”. This is concerning for the protection of individual habitats and species protected under the MPA regulations as it would allow developers freedom to ignore effects on seabirds, for example, if compensation is applied to water quality. Efforts to improve water quality as a compensatory measure would have little or no impact on seabirds, meaning declines in seabird populations could result from offshore wind development, even after compensation is in place. It also undermines the mitigation hierarchy, a key principle of planning policy. We would therefore be grateful if the committee could ask the department:
 - **With respect to Clauses 7 (13) (c) and 16 (11) (c), under what precise circumstances would deviation from the compensation hierarchy be allowed?**
- In addition, the compensation hierarchy allows compensation to be delivered through “wider compensatory measures”. This encompasses measures that “benefit the UK MPA network otherwise than by benefitting the features of the European site, European offshore marine site or Ramsar site which are, or which may be, adversely affected by the relevant offshore wind plan or project” (Clauses 7 (13) and 16 (11)). The scope of these wider compensatory measures is left extremely broad in the explanatory material, with the only condition being they must benefit the wider MPA network. As noted above, this could lead to deterioration in specific species populations and habitat types, undermining environmental protections. The government has not yet provided a clear definition of how this process would work. They have only given an example, as noted above, that a wider compensatory measure could involve compensating for impacts on seabirds through efforts to improve water quality. More clarity is needed on the scope of wider compensatory measures to ensure environmental protections under the MPA regulations are not reduced. We would therefore be grateful if the committee could ask the department:
 - **With respect to Clauses 7 (13) and 16 (11), how will the scope of wider compensatory measures be defined?**

4 March 2026

Response from the Department for Environment, Food and Rural Affairs

The new regime will present opportunities to approach compensation for offshore wind in a strategic way without compromising environmental protection. The compensation hierarchy, together with the other safeguards included in the reforms, ensure they will be delivered and implemented in a way that maintains the UK's compliance with all existing domestic and international commitments on nature conservation and marine protection.

The Statutory Instrument (SI) and the guidance will work together to deliver the environmental compensatory measures reforms for offshore wind. Offshore wind represents a core part of the government's mission to make Britain a clean energy superpower, and delivering these reforms is essential to achieving clean power by 2030. Supporting the movement towards more renewable energy benefits the marine environment by mitigating against climate change and its associated impacts.

The SI contains the key underpinning provisions for the new regime. It sets out the new test for the compensatory duty, enabling wider compensatory measures, and includes the requirement to publish and use a compensation hierarchy. Whilst the SI changes the existing regulations, enabling wider compensatory measures creates new opportunities to deliver positive ecological outcomes for our MPA network.

We have carefully considered how much detail goes into the legislation and the guidance with devolved governments and stakeholders. Our approach is to set out the critical elements in legislation, while retaining the flexibility needed to respond as the policy evolves. Whilst we have not published the full guidance at the point of laying the SI, we have shared the draft guidance with key stakeholders for user testing and will use the time to ensure a consistent approach is delivered across the UK. This will ensure the guidance is clear and fit for purpose when published.

We have been transparent about our policy intentions. The [consultation](#) set out our initial policy proposals, including our intentions for how wider compensatory measures could work, and the [government response](#) (published 3 December 2025) and the [policy note](#) (published 26 February 2026) set out our policy intentions, including the content of the guidance. We are confident that the [explanatory memorandum](#) provides an explanation of the SI itself.

The SI amends the existing Habitats Regulations and will create a new compensation duty for offshore wind only. The new duty will require that compensatory measures must benefit the UK MPA network in a manner which is reasonably proportionate to the adverse effects, or predicted adverse effects, of the relevant offshore wind plan or project on the integrity of the European site, European offshore marine site or Ramsar site. We will build on the description of 'reasonably proportionate' provided in the [consultation](#) in line with the information we have committed to providing in our [government response](#). This includes considerations for determining the level of compensation required to deliver benefits that are reasonably proportionate to the adverse effects on the site.

The proposed compensation hierarchy is published in the [policy note](#), and this includes a requirement that the tiers must be considered in sequential order and details for when it is permissible for the consenting authority to move to measures

within a lower tier. The two circumstances for moving through the hierarchy are; when a measure at the tier above is not available, or when the appropriate authority is satisfied, based on an evidence-based justification, that moving down the hierarchy will have a greater ecological benefit to the UK MPA network than measures higher in the hierarchy.

The SI enables the use of wider compensatory measures for offshore wind. These measures will unlock significant opportunities to address pressures that are negatively impacting our protected sites and provide significant opportunities for nature recovery. Wider compensatory measures must benefit either a similar feature to the one which is impacted, or the UK MPA network more widely. This can be achieved through addressing pressures on the MPA network or improving the conservation status of protected features in the MPA network, rather than the impacted feature. Illustrative examples include delivering compensatory measures that benefit protected seabird populations, where the impact is to a seabird, or delivering a water quality improvement programme, where the impact is to a habitat, rather than benefiting the individual species or habitat impacted. The guidance will include examples of existing programmes, reports, plans and research that evidence can be drawn from. We intend on including wider compensatory measure examples in the published guidance and are developing these with Statutory Nature Conservation Bodies and devolved governments.

Strong environmental safeguards are at the heart of this policy. This includes the statutory requirement that the selection of compensatory measures that benefit the feature adversely effected must be prioritised (subject to certain circumstances, as set out above), and that wider compensatory measures must be approved by the relevant Minister. In England, wider compensatory measures will be developed, based on scientific evidence, through the existing library of strategic compensatory measures governance group, which includes environmental representatives and industry representatives, and must be approved for inclusion in the library by the relevant Minister. For example, the Defra Minister will approve compensatory measures for inclusion into the library for delivery in England.

11 February 2026