



## **Strategic Compensation Policy for Offshore Wind**

### **September 2025**

## **Introduction to Scottish Environment LINK**

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 40 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Its member bodies represent a wide community of environmental interest, sharing the common goal of contributing to a more sustainable society. LINK provides a forum for these organisations, enabling informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for the environment. Acting at local, national and international levels, LINK aims to ensure that the environmental community participates in the development of policy and legislation affecting Scotland.

LINK works mainly through groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits. This consultation response was written by LINK's Marine Group.

## **Response**

### **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?**

LINK members do not support the proposed reform to the Habitats Regulations as drafted. While we recognise the intention to broaden the range of compensatory measures, we consider that the current approach under the Habitat Regulations already provides sufficient flexibility where a project is deemed to be in the public interest and no feasible alternative exists. Expanding "wider measures" without clear ecological safeguards risks undermining the integrity of the Nature network and would not be consistent with the spirit/letter of Article 6(4). Any policy change should retain a clear preference for on-site, like-for-like compensation and reinforce the legal requirement to demonstrate absence of reasonable alternatives.

### **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?**

LINK members support the inclusion of a formal compensation hierarchy, but consider that the proposed wording should be strengthened. In particular, the hierarchy should state that wider, offsite and non-like-for-like measures may only be considered once it has been evidenced and demonstrated that like-for-like compensation is not possible. This is consistent with guidance from the European Commission, which states that like-for-like compensation must be prioritised where it is feasible to recreate the specific site conditions and ecosystem functions.

### **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. We have concerns over the lack of clarity around when ‘ecological benefit’ is determined, and robust ecological evidence must be required. There should be a clear and specific explanation of what constitutes ‘ecological benefit’ in the context of individual species and sites, rather than relying on unclear and vague ‘benefits’ that would be difficult to assess against an unclear baseline. There is a lack of detail in the consultation documents to indicate what ecological benefit might be. 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.

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

Effectiveness should be monitored through long-term monitoring programmes that are secured through legally enforceable conditions. Significant improvements to MPA monitoring are needed before wider measures can be considered effective, as currently many sites lack sufficient data. Without a robust and transparent baseline framework, it’s impossible to assess the impact of wider compensatory measures. Monitoring should be designed around clear, measurable ecological objectives and include independent review at set intervals. We recommend that the results are published in a publicly accessible way and that adaptive management is applied where monitoring demonstrates that performance is below 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 proposal not to apply a safeguard equivalent to the UK Government’s. The Scottish Government should explicitly exclude wider measures for impacts to irreplaceable habitats, including maerl beds and blue mussel reefs. This is consistent with the UK Marine Policy Statement which recognises these are requiring “strict protection measures that do not accept deterioration”.

#### **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?**

LINK members agree with the interpretation of additionality, but the policy must make clear that measures already required to meet existing legal duties (e.g. MPA management, Scottish Biodiversity Strategy delivery) cannot be counted as compensation. This is consistent with EC guidance and ensures that compensation delivers genuine ecological gain.

#### **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?**

Wherever possible, compensation must be in place and functional before impacts from offshore wind developments occur. In exceptional circumstances where this is not possible, the developer should demonstrate why early implementation is not feasible and provide over-compensation to address the delays in ecological benefit. This principle is supported in recent European case law (e.g. Case C-142/16).



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**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?**

LINK members agree that small-scale impacts may still require compensation, particularly in cases where cumulative impacts contribute to significant degradation of protected features. Clear definitions and criteria are essential, especially given the cumulative nature of offshore wind impacts. Cumulative assessment should be in line 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 appropriate in some circumstances. For example, where the affected feature has slow recovery rates (e.g. horse mussel beds - *Modiolus modiolus*) or where there is significant uncertainty in the expected outcome of the compensation measures. However, the priority must be ensuring that sufficient, effective, and ecologically coherent Tier 1 compensation is available before exploring overcompensation. Guidance should set out clear criteria for determining when overcompensation is required and, where possible, the measures should be achievable, proportionate, and implemented before the impacts of the development occur (see response to Q7).

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

LINK members support the continued use of adaptive management but emphasise that this should not be used as a substitute for robust project design and implementation of measures before impacts occur. Any adaptive management approach should include detailed triggers for action and a requirement for additional measures if the objectives or milestones of the compensation measures are not being met.

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

LINK members agree that governance requirements should be included in guidance. Effective governance should be transparent, with clear responsibilities for delivery, mechanisms for independent oversight, inclusion of stakeholder and community views and the reporting of monitoring outcomes in a public/transparent way.

**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 support in principle the proposal of a UK-wide public register of compensatory measures, which would help avoid duplication and support transparency. However, we recommend that the Scottish Government retain the ability to impose Scotland-specific requirements where necessary to uphold the standards of the Scottish marine policy framework. The register should also require annual reporting on the combined UK-wide impacts of offshore wind development and consequent compensation on the overall condition of the MPA network to track the in-combination effects and understand whether compensation is sufficient to maintain ecosystem functioning and protected designated features.



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**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?**

We do not support extending the proposed reforms to the Marine (Scotland) Act. The current legal framework does not make provision for compensation for impacts on Marine Protected Areas, and it therefore sets no precedent for allowing strategic or wider-network measures. Introducing a “wider measures” approach to this Act would, in effect, create a new flexibility not previously allowed, one that could dilute site-specific protections by enabling impacts to be offset by benefits elsewhere.

**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?**

LINK members are uncertain whether the BRIA fully accounts for the level of monitoring and enforcement required to ensure the effectiveness of wide-scale compensation measures. We are concerned there will not be sufficient resourcing for the Marine Directorate and NatureScot to deliver these additional responsibilities.

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

The SEA needs a more detailed assessment of cumulative impacts, evaluating the potential effects of multiple measures in a particular area, and on already pressured ecosystems, rather than just the effects of individual compensation measures in isolation. It should also assess the risk of displacement of ecological pressure arising from other measures.

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

This response was compiled on behalf of LINK Marine Group and is supported by:  
Marine Conservation Society, National Trust for Scotland, RSPB Scotland, WWF Scotland, Scottish Wildlife Trust, Whale and Dolphin Conservation

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