

Background to Habitats Regulations Appraisal (HRA) and existing guidance

- 1. The Conservation (Natural Habitats, &c.) Regulations 1994, as amended (the Regulations) require all planning authorities in Scotland to undertake a Habitats Regulations Appraisal (HRA) of a Development Plan before that plan can be adopted or submitted to Scottish Ministers. Procedural guidance on the application of the Regulations to the Development Planning system in Scotland is provided in Appendix 1 to Planning Circular 1/2009¹.
- 2. Practical guidance on how to undertake an HRA is also available and is contained in 'Guidance for plan-making bodies in Scotland' published by Scottish Natural Heritage (SNH) in 2010. The SNH guidance aims to help plan-making bodies within Scotland and applies widely across a range of sectors and their associated plans.
- 3. This advice sheet is intended to complement the SNH guidance by offering more detailed practical advice on aligning Development Planning procedures with HRA requirements. The flowcharts in Annex A of this advice sheet meshes the stages of the HRA process in Figure 2 of the SNH guidance, with those of the Development Plan preparation processes. In so doing, the flowcharts build on, and add further detail to, Figures 1 and 2 in Appendix 1 to Planning Circular 1/2009.

Timing of the Habitats Regulations Appraisal

- 4. Development Plans require both a HRA and a Strategic Environment Assessment (SEA)². Whilst a planning authority has to prepare an Environmental Report for SEA purposes in time for the Main Issues Report (MIR) consultation, the draft HRA record³ is not usually completed until later in the plan's preparation.
- 5. The SEA process can offer an opportunity for the early identification of any likely significant effects on European sites. Whilst the conclusions of the two assessments need to be reported at distinctly different stages in a Development Plan's preparation, they can share early assessment work relating to evidence gathering and the initial appraisal of preferred options and reasonable alternatives. This type of approach can help planning authorities to consider HRA implications earlier, and assist in avoiding or mitigating likely significant effects, or where such effects are identified, anticipating the need for mitigation to ensure no adverse effects on European sites.
- 6. It is not usually practical to undertake the full HRA process for a MIR. This is because a MIR does not contain or define the finalised policies and proposals in the way that the proposed plan has to do. Trying to be too detailed too early in a HRA can be counter-productive, and could lead to unnecessary assessment work in what is an iterative plan preparation process. Sufficient early work to ensure that the preferred options and reasonable alternatives are not likely to falter at latter stages, because of unexpected adverse effects on a European site, could be particularly helpful. Planning authorities can also be considering the need for possible mitigation measures at this early stage, when they can be more easily accommodated. This could minimise the risk of delays arising in the latter stages in the plan's preparation.

¹ Planning Circular 1/2009: Development Planning: Appendix 1 – The Habitats Regulations www.scotland.gov.uk/Publications/2010/09/03095123/0

Environmental Assessment (Scotland) Act 2005

³ See Guidance for plan-making bodies in Scotland for more information on HRA records.

7. Early discussions with SNH as part of the plan's preparation and SEA procedures can allow HRA issues to also be discussed where necessary. For example, SNH are able to consider and advise where potential site allocations were likely to have a significant effect on European sites, particularly where linkages to or connectivity with a European site is not clear.

Summary of main points:

- Development Plans require a Habitats Regulations Appraisal.
- Although the MIR does not contain finalised proposals or policies, it is beneficial to start thinking about potential impacts on European sites at this early stage, to ensure alternatives are not included which are likely to falter at the latter stages, due to significant adverse effects on European sites.
- MIRs have to be accompanied by an SEA Environmental Report. This can offer an early opportunity to identify likely significant effects on European sites, and opportunities for mitigation. In turn, this can help to reduce the risk of delays arising at the latter stages of a plan's preparation.

HRA AND STRATEGIC DEVELOPMENT	T PLANS	
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HRA AND STRATEGIC DEVELOPMENT PLANS		
STRATEGIC DEVELOPMENT PLAN	HABITATS REGULATIONS APPRAISAL ⁴	
Publish Development Plan Scheme (including Participation Statement)	Stage 1: Development Plans are subject to HRA Stage 2: Identify European sites that have to be considered within the appraisal	
Engage with key agencies etc.	Stage 3: Gather information about the European sites Stage 4: Discretionary consultation with SNH on	
Prepare Monitoring Statement and Main Issues Report	method and scope of appraisal ADDITIONAL ADVICE: Undertake sufficient preliminary appraisal to ensure options and alternatives are reasonable and are not likely to falter at the latter stages of the plan's preparation because of adverse effects on European sites	
Publish the Main Issues Report and Monitoring Statement along with the Environmental Report	It could be helpful to include a brief summary of any HRA work within a separate section of the SEA Environmental Report. The MIR could also flag up where HRA work may be required for preferred options.	
Consult and roos	eive representations	
Consuit and rece	ive representations	
Consider representations and prepare Proposed Plan & Action Programme	Stage 5: Screen the plan for likely significant effects on European sites Stage 6: Apply any straightforward mitigation measures if possible to avoid likely significant effects	
	Stage 7: Re-screen the plan after mitigation measures are applied	
	Stage 8: Undertake an appropriate assessment, if necessary, in view of conservation objectives	
	Stage 9: Apply mitigation measures until there are no adverse effects on site integrity / discretionary consultation with SNH Stage 10: Prepare a draft HRA Record	
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Committee and printing

⁴ Stages are as set out in Figure 2 and subsequent text of SNH Guidance for Plan-making bodies in Scotland (2010) – www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/

Publish Proposed Plan and Action Programme along with Revised Environmental Report Period for R	Stage 11: Consult SNH on draft HRA record epresentations		
Consider representations Prepare Summary of Unresolved Issues and Report of Conformity with Participation Statement	Consider representations on draft HRA Record ADDITIONAL ADVICE: This could include any relevant HRA points within the Schedule 4 forms		
Committee and printing			
Submit Proposed Plan, Proposed Action Programme, Summary of Unresolved Issues and Report of Conformity with Participation Statement and Note of Representations and how taken account to Ministers. Publicise submission of Plan	Submit completed HRA Record to Ministers ADDITIONAL ADVICE: This could include any relevant HRA points within the Schedule 4 forms		
Examination of Proposed Plan			
Report published and submitted to Ministers and Strategic Development Planning Authority (SDPA)			
Ministers consider Report	Stage 12: Screening by Scottish Ministers of any modifications to the plan, they propose to make, for likely significant effects on a European site, and appropriate assessment if required. Revision of HRA Record if necessary.		
Ministers approve, modify or reject the Plan			
SDPA publish Plan	Stage 13: SDPA complete the final / revised HRA Record with clear conclusions ADDITIONAL ADVICE: It is suggested that the finalised HRA Record is placed on the planning authority's website as a reference for other plan-making bodies for in-combination effects with other plans and projects		
Publish Action Programme	ADDITIONAL ADVICE: The Action Programme can include the implementation of any mitigation measures included in the plan as part of the HRA		

HRA AND LOCAL DEVELOPMENT PLANS		
LOCAL DEVELOPMENT PLAN	HABITATS REGULATIONS APPRAISAL ⁵	
Publish Development Plan Scheme (including Participation Statement)	Stage 1: Development Plans are subject to HRA Stage 2: Identify European sites that should be considered within the appraisal	
Engage with key agencies etc	Stage 3: Gather information about the European sites	
Prepare Monitoring Statement and Main Issues Report	Stage 4: Discretionary consultation with SNH on method and scope of appraisal	
	ADDITIONAL ADVICE: Undertake sufficient preliminary appraisal to ensure options and alternatives are reasonable and are not likely to falter at the latter stages of the plan's preparation because of adverse effects on European sites	
Publish Main Issues Report and Monitoring Statement along with the Environmental Report	It could be helpful to include a brief summary of any HRA work within a separate section of the SEA Environmental Report. The MIR could also flag up where HRA work may be required for preferred options	
Consult and use		
Consult and rec	ceive representations	
Consider representations and prepare Proposed Plan & Action Programme	Stage 5: Screen the plan for likely significant effects on a European site	
	Stage 6: Apply straightforward mitigation measures if possible to avoid likely significant effects	
	Stage 7: Re-screen the plan after mitigation measures applied	
	Stage 8: Undertake an appropriate assessment, if necessary, in view of conservation objectives	
	Stage 9: Apply mitigation measures until there are no adverse effect on site integrity /	

discretionary consultation with SNH

Stage 10: Prepare a draft HRA Record

⁵ Stages are as set out in Figure 2 and subsequent text of SNH Guidance for Plan-making bodies in Scotland (2010) – www.snh.gov.uk/planning-and-development/environmental-assessment/habitat-regulations-appraisal/

Committee and printing		
Publish Proposed Plan and Action Programme along with Revised Environmental Report	Stage 11: Consult SNH on draft HRA record	
Period for Representations and notify neighbours		
Consider representations	Consider representations on draft HRA Record	
Prepare Summary of Unresolved Issues and Report of Conformity with Participation Statement	ADDITIONAL ADVICE: Could include any relevant HRA points within Schedule 4 forms	
Submit Proposed Plan, Action Programme, Summary of Unresolved Issues and Report of Conformity with Participation Statement to Ministers Publicise submission of Plan	Submit completed HRA Record ADDITIONAL ADVICE: This could include any relevant HRA points within the Schedule 4 forms	
Examination of Proposed Plan		
Report published and submitted to planning authority		
Planning authority considers recommendations and prepares Modifications. Proposed Plan as modified and Statement of Explanation for not accepting any recommendations	Stage 12: Screen any modifications for likelihood of significant effects and carry out appropriate assessment if required, reconsult SNH if necessary on the modifications	
Publish Modifications and Proposed Plan as Modified. Advertise intention to adopt Plan. Send Ministers	Stage 13: Modify HRA record in light of SNH representations and any modifications to the plan. Complete the final / revised HRA Record with clear conclusions	
the proposed Plan as modified etc	TIMA NECOTA WILLI CIERT CONCIUSIONS	
Planning authority adopts the Plan	ADDITIONAL ADVICE: It is suggested that the finalised HRA Record is placed on the planning authority's website as a reference for other planmaking bodies for in-combination effects with other plans and projects	
Publish Action Programme	ADDITIONAL ADVICE: The Action Programme can include the implementation of any mitigation measures included in the plan as part of the HRA	