

# Len Wyatt MIEEM – EcIA Guidelines Comments

## General:

While I am not against the principles of the changes that are being proposed, I would like to strongly highlight the following issues which need to be dealt with:

- Is there a need for education of clients, as the detail/application behind the principles is going to be very dependent on the resources available for ecological issues, and relationship between clients and their ecologists?
- Do the guidelines contradict other environmental guidance in terms of approach and therefore potentially the results of assessments (IFA, LI, IEMA)? Ecologists often have to act as Environmental Co-ordinators for EIA/ES work, how do they deal with conflict situations, or differing priorities from other environmental topics?

I believe that these points need to be dealt with in the introduction of the guidelines.

I also would like to see that the terminology and methodologies of transport appraisal, environmental assessment and appropriate assessment do not overlap so as to cause potential confusion, while acknowledging that some of the processes from one may be of use to the other – see my detailed comments below. I have already seen examples of EIA thinking in Appropriate Assessments, when in fact the requirements are very distinctive.

## Detailed comments:

### Summary

Para 5 – does “ecological resources” and “features” need to be in bold as in the other lines?

Last para – could the text change to “...and its impacts as that proposal is developed. ....all ecologists and other specialists involved work in collaboration”?

### Introduction

1.3 line 3 – is the legislation actually found on the ODPM website – or references to it? Please be aware that in many areas of work ODPM have no authority over Welsh practice – is it worth ensuring where ODPM is referred to that text is added to point people to the relevant Government body in other countries.

1.3 Would it be useful to ask for any feedback on these guidelines to be sent to IEEM? This may then help with any review.

I would strongly suggest adding a paragraph that these Guidelines are based on the best knowledge of the legal requirements of the relevant legislation at the time of publication, and that users must always refer to the relevant legislation and case law; and seek legal advice if clarification or dispute arises. The reason for this is that if there are issues in the interpretation of EIA law would the IEEM take the risk of the guidelines of becoming seen as an interpretation of the law?

1.10 I feel that there is a misinterpretation of TAG, which continues in the appendix – namely that TAG is an environmental assessment tool. Is it a “transport analysis” tool – TAG in my copy stands for Transport Analysis Guidance? See notes on Appendix below.

Box 1 – I understand that DETR Circular 02/99 does not apply in Wales – there is a national equivalent - Welsh Office 11/99. Is it possible to add this reference if it is still relevant?

1.15 There is a need to consider whether the terminology here is consistently applied – new benefits, is rarely used later on in the document, but enhancement is. Similarly, is Avoidance/Reduction is the same as mitigation – perhaps clarification at this point to terms in Section 5 may help the reader? Also could you provide a definition of “impacts” and “effects” as currently both are used in the document?

1.2.3 Line 3 – is the text “.....are clearly identified after taking mitigation.....”? I certainly welcome this stance as increasingly I am given ESs where such information is not supplied.

Box 2 Impact Assessment – are confidence limits the same as uncertainties, or something more specific? Please clarify.

Identify significant residual impacts – bullet point 4 – EMP – should EMP be described in full as this is the first time that EMP has been used in the document. Or in light of the footnote – should it be EAP?

Reporting – bullet point 3 – would it be possible to state “...clear identification of likely ecological impacts, before and after mitigation, and an explanation of ...”

Box 3 – Number 6 – should the last sentence be a new stage, separate from the rest of the paragraph – but still linked to para 2.2.4?

Number 8 – what is the criteria for – please clarify whether it is related to selecting those resources or issues which are requiring further study?

2.15 – Could examples be given for a linear and block shaped development of what is within a impact/ no impact area?

Box 5 – To assess the impacts of alternatives

Should this also include “alternative processes” in line with IEMA advice.

Box 6 – could works undertaken before main contract starts – also be included under Construction Phase?

Stakeholders, consultees and key players

Could IEEM stress the need to maintain ongoing relationships, especially into construction and operation phases?

Box 8 – Designated sites

Bullet point 4 – should the line be “in favour of habitat protection, creation or restoration in the area? This would then reinforce non-statutory policies for protection.

Box 9 – Could LANDMAP be included in this box?

2.42 Could IEEM point to a source of advice on the contents of a Scoping report – eg: Directive/Regulations/IEMA guidance?

3.5 Could the following be added for Wales – “...in Scotland. In Wales there are no regions or districts; only Local Authorities/National Parks (County) or Community Councils (Parishes).”

3.12 If you wanted an example of SINC guidance – South Wales councils have published a document with definitions of what would qualify. Gwent Wildlife Trust have led on this.

3.27 Valuing Species.

Could text be added as for habitats at 3.22 to highlight the Habitats Directive link as well as the WCA as amended, as the later paragraphs focus more on “non-biodiversity” species. I would also welcome guidance on whether a European Protected Species, if present in an area – eg: 2 lesser horseshoe bats – would be of “international” value because of their protection, - or just “national” because of the small numbers involved.

3.51 Valuing social benefits in the future – I would hope that IEEM would look at the LANDMAP system in Wales which undertakes such an assessment.

#### 4 Impact Assessment

Could the understanding of this section be improved by using the same words in the headings of the rest of the Section in 4.1 – namely

Steps in Impact Assessment, after considering the value (see Chapter 4) of the features/resources are:

Predicting the Impacts

Characterising the impacts

Assessing the ecological significance of impacts.

Then saying that the assessment process above is required at the following stages....?

If this were adopted then the first two sentences of 4.2 would be unnecessary.

4.6 the order of headings for the following text listed in this paragraph - is not the same as the actual headings in 4.7 to 4.22. I note that the list does not include "Trend"

Box 12 – Are areas used by migrating birds, which are of international importance, sufficiently covered in the text as a key aspect?

Human Influences – could road use be added to the list?

4.17 What is a natural trend – please define? Also should non-natural trends be considered too – eg: climate change?

4.19 and 4.20 I would suggest providing more detail as to why the SEA/App Ass approaches are important here – and what exactly in the other advice is to be used – otherwise there will be a tendency to do what the other guidance says, which may not necessary be what is required. Is the EU advice on Culmulative and Indirect Impacts in EIA of more use as it is from the EU and relates directly to this subject?

4.33 Is this text of more use at the start of this section as Table 1 than at this point, as it does cover the earlier texts as well?

4.34 onwards – Integrity and Conservation Status – I note that the source of these concepts are Habitats Directive, I would strongly suggest that text on the context of App Ass being different from EIA is added, but noting that the concepts are useful to transfer across.

Table 1- would it be possible to link the table text into the relevant part of the guidance – and provide better clarity on the links/definition between the following to help understanding?

Ecological Resources and the first column

Whether the first column has a statement of integrity/conservation status; before describing factors on which its integrity or conservation status depends; and then a statement of trends.

Biophysical change in the main text

Relevance to the receptor in terms of ecosystem structure and function

An evaluation of the impacts significance before mitigation on integrity/conservation status – can it be based on TAG type guidance?

5.8 I would suggest clarifying that this statement relates to EclA.

5.11 What is an Environmental Report – is this the first time one of these has been mentioned?

What does the last two sentences mean – would they be better placed in the impact assessment section?

Section 6

Are IEEM advising that EclA should consist of this work, and that it should be published as part of the ES?

Please clarify.

6.5 – I would recommend deleting the last sentence, or at least state that it is a different process from EclA.

6.6 Line 5 – effects or impacts?

6.8 I would recommend deleting the second sentence, which would enable those in Wales to find their way to the Welsh Assembly Government's website for the following:

Planning Policy Wales (Section 5) – March 2002

Planning Guidance (Wales) Technical Advice Note (Wales) 5 Nature Conservation and Planning 1996 – under review at the moment.

Various guidance on legislation (eg: European protected species licencing).

6.10 If such information is available – what should be done with it? Should there be a check against the results of the earlier information – and if there is a contradiction/change an explanation provided? If so where in the ES?

6.11 What is meant by legal and policy implications being carried forward – do you mean commitments with legal and policy implications?

6.13 Line 3 – should this be ".....submission of designs and supporting information" I am not always clear as to whether designs always contain all relevant information."

Table 2 – Is adverse impacts before or after mitigation?  
Should National guidance – PPG9/TAN5 etc also be referred to?

Conclusions – In my previous comments on draft I suggest that it may be worth considering being more inspirational at the end of the document.

I would like to re- offer the following draft text, which I hope is not too “sugary” as potential conclusions; especially as I feel that with the current emphasis on processes/procedures/targets/steps/outcomes while necessary, risks losing sight of what is really important:

“Through the application of the guidelines it is hoped that improvements will continue in the way developments are assessed for their ecological effects/impacts, which in turn will lead to more of the UK’s biodiversity being protected, conserved and enhanced for future generations.”

#### Appendix 1

My understanding is that the TAG work relates to a system for Transport Appraisal/Analysis – and was not specifically developed for EIA. Please make this clear in the text, especially as Transport Analysis has a different purpose and direction from EIA; and could easily alter due to a change in Governmental appraisal requirements, something which is less likely to happen with EIA.

Could I suggest that instead of describing the differences/similarities between the IEEM Guidance and TAG that the text concentrates on describing how IEEM sees how this system could be used in EclA – eg: evaluation of receptors/resources/features and evaluation of impacts.

I would strongly recommend that back references to GOMMMS should be deleted as GOMMMS has no standing in Wales, and probably not in Scotland or Northern Ireland either.

#### Glossary

I would suggest adding – Proponent – Impact – Effect - Limits of Acceptable Change – Environmental Reports

Len Wyatt MIEEM  
C/o Transport Wales  
Welsh Assembly Government  
Cathays Park  
Cardiff  
CF10 3NQ  
Tel: 02920 826780