

# Consultation on revised draft National Policy Statements for energy infrastructure: Comment form



## Section 1 – About You

We require this information to monitor the geographical and organisational spread of responses

Please write your name in the spaces provided below

**Name: Kevin Macan-Lind, Chief Executive, Institute of Acoustics**

**Your location** Please tick just one box to indicate which county you live in if in England or Wales, or which country / territory you live in if you are based outside England or Wales

**The Institute of Acoustics has members all over the UK.**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Bedfordshire    | <input type="checkbox"/> Hertfordshire      | <input type="checkbox"/> Surrey            |
| <input type="checkbox"/> Berkshire       | <input type="checkbox"/> Huntingdonshire    | <input type="checkbox"/> Sussex            |
| <input type="checkbox"/> Blaenau Gwent   | <input type="checkbox"/> Isle of Anglesey   | <input type="checkbox"/> Torfaen           |
| <input type="checkbox"/> Bridgend        | <input type="checkbox"/> Kent               | <input type="checkbox"/> Vale of Glamorgan |
| <input type="checkbox"/> Buckinghamshire | <input type="checkbox"/> Lancashire         | <input type="checkbox"/> Warwickshire      |
| <input type="checkbox"/> Caerphilly      | <input type="checkbox"/> Leicestershire     | <input type="checkbox"/> Westmorland       |
| <input type="checkbox"/> Cambridgeshire  | <input type="checkbox"/> Lincolnshire       | <input type="checkbox"/> Wiltshire         |
| <input type="checkbox"/> Carmarthenshire | <input type="checkbox"/> Merthyr Tydfil     | <input type="checkbox"/> Worcestershire    |
| <input type="checkbox"/> Ceredigion      | <input type="checkbox"/> Middlesex          | <input type="checkbox"/> Wrexham           |
| <input type="checkbox"/> Cheshire        | <input type="checkbox"/> Monmouthshire      | <input type="checkbox"/> Yorkshire         |
| <input type="checkbox"/> Conwy           | <input type="checkbox"/> Neath Port Talbot  |  |
| <input type="checkbox"/> Cornwall        | <input type="checkbox"/> Norfolk            | <input type="checkbox"/> Cardiff           |
| <input type="checkbox"/> Cumberland      | <input type="checkbox"/> Northamptonshire   | <input type="checkbox"/> Newport           |
| <input type="checkbox"/> Denbighshire    | <input type="checkbox"/> Northumberland     | <input type="checkbox"/> Swansea           |
| <input type="checkbox"/> Derbyshire      | <input type="checkbox"/> Nottinghamshire    | <input type="checkbox"/> London            |
| <input type="checkbox"/> Devon           | <input type="checkbox"/> Oxfordshire        |  |
| <input type="checkbox"/> Dorset          | <input type="checkbox"/> Pembrokeshire      | <input type="checkbox"/> Channel Islands   |
| <input type="checkbox"/> Durham          | <input type="checkbox"/> Powys              | <input type="checkbox"/> Isle of Man       |
| <input type="checkbox"/> Essex           | <input type="checkbox"/> Rhondda Cynon Taff |  |
| <input type="checkbox"/> Flintshire      | <input type="checkbox"/> Rutland            | <input type="checkbox"/> Scotland          |
| <input type="checkbox"/> Gloucestershire | <input type="checkbox"/> Shropshire         | <input type="checkbox"/> Northern Ireland  |
| <input type="checkbox"/> Gwynedd         | <input type="checkbox"/> Somerset           | <input type="checkbox"/> Rest of World     |
| <input type="checkbox"/> Hampshire       | <input type="checkbox"/> Staffordshire      |  |
| <input type="checkbox"/> Herefordshire   | <input type="checkbox"/> Suffolk            |  |

**Are you responding on behalf of your Organisation?**

Yes

No

If you are responding on behalf of your organisation then please provide the name of your organisation in the space provided below

**Organisation name:**

**Institute of Acoustics, 77A St Peter's Street, St Albans, Herts, AL1 3BN**

**Job title: Chief Executive**

**I would like my comments to remain confidential.**

Yes

No

If you choose this option, please let us know why you have chosen to do so below.

The IOA is the leading professional body in the United Kingdom concerned with acoustics, noise and vibration and is active in research, educational, environmental and industrial organisations. The Institute is a nominated body of the Engineering Council, a member of the International Institute of Noise Control Engineering and the International Commission on Acoustics and a founding member of the European Acoustics Association. Members of the IOA are active in the development of UK, European and International Standards.

The IOA also gives support to the development of legislation and policy in the various disciplines in the field of acoustics and its response to consultation documents are based on this role. The IOA, however, represents a wide range of members and disciplines in acoustics and the comments presented here are the consensus view of the Environmental Noise Group, which is formed by members who specialise in environmental noise issues as acoustic consultants, local authority officers and academics. This response has been developed by the Institute's Environmental Noise Committee and subsequently passed to members of the IOA Executive for approval prior to submission.

**Question 1:** Do you have any comments on the appraisal of policy alternatives within the Appraisals of Sustainability for EN-1 to 5?

The Institute's response is focussed on matters relating to the specific expertise of our members within the field of acoustics, as outlined above, and as such we have no comment on various aspects, including policy alternatives.

**Question 2:** Do you have any comments on the revised "need case" (the need for new energy infrastructure) in the Overarching National Policy Statement (EN-1)?

No comment

**Question 3:** Do you have any other comments on the revised National Policy Statements and accompanying documents? These are:

a) Revised draft Overarching National Policy Statement for Energy (EN-1)

### **Background**

The Institute commented on the November 2009 draft of EN-1 in our letter to DECC on 22 February 2010. Since that time DEFRA has published the Noise Policy Statement for England (NPSE, March 2010). The Institute welcomes the revisions to the draft EN-1. Our response to the revised draft has been prepared referring the main issues raised previously, in the context of the NPSE, and is structured under a series of headings referenced to the sections of EN-1 where possible.

### **General**

The Institute of Acoustics welcomes the revised draft EN-1 because it gives guidance on how environmental noise should be managed during the planning of major infrastructure projects that have potential to generate noise disturbance, and it offers the opportunity to improve consistency in this area. In addition to the comments below, our main concern is how the required noise management activities will be implemented in practice; who will enforce their implementation (in the absence of the IPC which is not addressed in the document) and will there be adequate acoustic skills and resources to ensure noise is properly managed ?

### **4.14 Common Law Nuisance and Statutory Noise Nuisance**

The provisions in common and criminal law currently protecting an individual from noise nuisance are frequently used to address noise disturbance from the types of facilities covered by EN-1 and have served well at providing those individuals with a route for investigation and remedy of their noise problems. The IOA's response to the previous draft EN-1 noted our concerns at the then proposals to change this, as follows:

*Due to the subjective nature of the law of nuisance, the IoA is concerned that as the draft NPS stands the IPC will find it difficult to confidently and consistently appraise the likelihood of nuisance; or be able to reliably determine if adequate mitigation measures are incorporated into scheme proposals to avoid nuisance. The IoA considers that, in order to reduce this risk, the NPS should adopt a risk based and precautionary approach to avoiding nuisance from IPC schemes, and should not routinely exempt schemes from the statutory nuisance regime. Instead the IoA would prefer that the NPS should presume against exemption and require that those who will be affected or local authorities etc. should not have to demonstrate that nuisance is likely. Instead the applicant should have to apply for any exemption from the statutory nuisance regime and the IPC should only consider such a request where the applicant can demonstrate using the concepts of Best Practicable Means or similar i.e. BATNEC, that all reasonably practicable and foreseeable measures to avoid nuisance have been incorporated into the proposals.*

We welcome the revisions to this section of EN-1, which now provides a change in emphasis in relation to the defence of statutory authority against nuisance and, in

particular the clarification that this defence is only available where the nuisance is the inevitable consequence of the development and that mitigation and limitation of noise impacts in accordance with section 5.11 must be considered.

**5.11 Noise and Vibration, Introduction (5.11.1-5.11.3)**

We welcome the reference to noise impacts to be assessed in terms of promoting good health and quality of life, and addressing effects on areas valued for their acoustic environment, and on wildlife.

**5.11 Noise and Vibration, Applicants Assessment (5.11.4-5.11.7)**

We welcome the deletion of specific guidance on topics such as noise measurement from the previous draft, and the focus on policy and objectives. We would suggest a stronger reference to other technical noise and vibration guidance, such as the Environment Agency Horizontal Guidance on noise (H3 under revision) and other such guidance from authoritative sources.

**5.11 Noise and Vibration, IPC Decision Making (5.11.8-5.11.10)**

We welcome paragraph 5.11.9 which gives a clear and strong statement that the IPC should not permit developments that would create significant adverse impacts on health and quality of life due to noise. We would not want this section weakened in subsequent drafting.

As stated above, the IoA is concerned about who will enforce this policy in the absence of the IPC and will there be adequate skills and resources?

We welcome reference to the need for developments to contribute to improving health and quality of life through effective noise management where possible.

**5.11 Noise and Vibration, Mitigation (5.11.11-5.11.13)**

Paragraph 5.11.13 indicates that noise insulation (at the receiver) should be considered, as a last resort, if all other forms of noise mitigation have been exhausted. We would support this but ask if it should go further, as follows. In our response to the November 2009 draft of EN-1 the IOA sought clarification as to whether or the proposals would allow for compensation (eg financial compensation due to loss of property value) in cases where all other mitigation measures fail. This is the case for new Public Works (roads, railways etc) under the Land Compensation Act. The revised draft appears to limit such compensation to noise insulation alone which would appear to be inequitable if such energy schemes are to be preferentially promoted in the national interest by government policy to provide the country's energy needs, in the same way as Public Works are promoted to provide transport and other national needs.

EN-2 lists the main sources of noise and refers to EN-1 Section 5.11. Our comments on EN-1 Section 5.11 are given above.

c) Revised draft National Policy Statement for Renewable Energy Infrastructure (EN-3)

EN-3 generally refers back to EN-1. Our comments on EN-1 Section 5.11 are given above.

2.5.53. States “*The IPC will need to take into consideration the extent to which operational noise will be separately controlled by the EA*”. The submission of a formal planning applications and even initial discussions with the EA are often at a significantly later date than the start of the planning process. At this point it can be very expensive to modify the operations to achieve the optimum design from a noise perspective. The correct design at an early stage can give a less noise intrusive process at the same or lower cost. Therefore the early and appropriate level of involvement of the EA is critical.

d) Revised draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)

EN-4 refers to the policies specified in EN-1, while drawing attention to the specific noise issues relevant to gas and oil infrastructure. Our comments on EN-1 Section 5.11 are given above. The IOA welcomes the overarching statement that all reasonable steps must be taken to minimise noise and vibration impacts. The policy, however, draws attention to above ground facilities, without referring to the need to control of low frequency noise. The IOA would welcome recognition of the risk of low frequency noise emissions and the need for mitigation of their effects.

e) Revised draft National Policy Statement for Electricity Networks Infrastructure (EN-5)

EN-5 generally refers back to EN-1. Our comments on EN-1 Section 5.11 are given above.

f) Revised draft National Policy Statement for Nuclear Generation (EN-6) including the list of potentially suitable sites for the deployment of new nuclear power stations by 2025

**3.10 Nuclear Impact: biodiversity and geological conservation (3.10.2)**

The IOA welcomes the recognition that noise may have effects on ecology and that these effects should be addressed.

**3.13 Nuclear Impact: human health and well-being (3.13.3)**

The IOA would question the assumption that the operation of new nuclear power stations would necessarily be unlikely to create significant noise or vibration impacts. This will depend on, not only the proximity of existing residential properties to the proposed development sites, but also on the location of access routes and public amenity spaces.

The rural nature of the sites (eg on the coast) prompts the consideration of tranquillity and whether there could be a significant noise impact on tranquil areas surrounding the sites where these areas are used for recreation because of their tranquil nature. The IOA would like to see the potential effects on tranquil areas acknowledged within this section.

**D10: Access to suitable sources of cooling (C.6.99 & C.6.102)**

The IOA welcome that, as referenced in EN-1, the IPC will not grant development consent unless it is satisfied that all reasonable steps have been taken, and will be taken, to minimise noise impacts.

g) Revised Appraisal of Sustainability for EN-1

Section 4.9 of the AoS quotes the summary AoS objective as '*To protect both human and ecological receptors from disturbance of noise*'. It is unclear where this objective is derived from given that this summary wording does not appear in EN-1 which refers to the need to avoid health and quality of life impacts. The summary concludes that the short, medium and long term impacts of the EN will be neutral (0) despite recognising the potential for negative impacts and that 'the long term significance of these effects remains uncertain'.

It is clear to the IOA that the construction phase of the promoted large scale energy infrastructure will have negative short term noise impacts, in the same way that major construction projects have in the past.

The summary paragraph 4.9.1 notes that potential impacts of noise from the energy projects can 'generally' be mitigated, drawing on paragraph 4 that notes the same conclusion from EN2-6. The implication is that there are some projects where mitigation may not be possible. The AoS for EN3 concludes that the policy for wind energy schemes will have short and medium term impacts which may be uncertain, but could be strategically significant so as to rank as negative in the AoS.

The IOA would therefore query whether the overall impact of EN1 can be stated as completely neutral.

h) Revised Appraisal of Sustainability for EN-2

No comment.

i) Revised Appraisal of Sustainability for EN-3

**AOS Objective 8.**

The inclusion of the '?' in the assessment should be removed, as it detracts from the clarity. The effect should be negative. The scale of the noise effect will be technology and site specific.

j) Revised Appraisal of Sustainability for EN-4

The AoS notes that there are '*no strategically significant effects identified*', although locally significant noise and vibration effects are identified. Residual noise and vibration can lead to negative impacts on the environment and health and well-being and the IOA believes that it would be appropriate to monitor these issues.

k) Revised Appraisal of Sustainability for EN-5

No comment.

l) Revised Appraisals of Sustainability for EN-6

The AoS for EN-6 makes note of the potential localised noise impacts and the adverse affect they can have on the tranquillity of an area (3.10.2 & 7.2.36). We welcome the consideration of tranquil areas, however, there is no mention that the proposed sites might be in areas that are considered tranquil or whether mitigation should be provided where necessary to protect the tranquillity of an area. Affects on the tranquillity of areas is only raised in relation to construction noise impacts and not for the operation phase. The IOA would like to see recognition of potential noise impacts on tranquil areas from the operational phase in addition to the construction phase.

m) Appraisal of Sustainability Monitoring Strategy

The AoS notes that there are '*no strategically significant effects identified*'. It is not clear how this is consistent with the AoS for EN3 that identified negative effects from onshore and offshore wind and biomass/EfW projects. There remains some uncertainty (and current controversy) in the noise impacts from wind farms and the extent to which these are mitigated, so the IOA believes it is appropriate to monitor this issue in case it has an impact on future policy.

n) Revised Habitats Regulations Assessment for EN-1-5

No comment.

o) Revised Habitats Regulations Assessments for EN-6

No comment.

p) Revised Impact Assessment for the energy NPSs

No comment.

Please send your comments to:

Energy NPS consultation  
Department of Energy and Climate Change  
3<sup>rd</sup> floor A  
3 Whitehall Place  
London  
SW1A 2AW

Or email: [nps.consultation@decc.gov.uk](mailto:nps.consultation@decc.gov.uk)

**Confidentiality and data protection**

Responses to this consultation, including names, will be made public and may be used by Parliament as evidence in the Parliamentary scrutiny process, and may be published under the authority of Parliament, unless respondents specifically request confidentiality.

Respondents who wish for their responses to remain confidential should clearly mark the document/s to that effect and explain the reasons for confidentiality. Any confidentiality disclaimer that may be generated by your organisation's IT system will be taken to apply only to information in your response for which confidentiality has specifically been requested.

Respondents should be aware that confidentiality cannot always be guaranteed. For example, responses, including personal information, may be subject to publication or release in accordance with the access to information regimes (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).