

## Strategic Environmental Assessment Procedure Note

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### Introduction

This document has been developed to support Council officers in undertaking Strategic Environmental Assessment (SEA) in the development of strategic actions (e.g. Plans, Programmes, Policies, Strategies and Masterplans). The functions of SEA are to:

- Systematically assess and monitor the significant environmental effects of qualifying strategic actions;
- Ensure a full and comprehensive consultation is in place throughout the process from both the general public and Consultation Authorities, who are: Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH) and the Scottish Ministers (Historic Environment Scotland); and
- Ensure accountability by demonstrating how the SEA process and the consultation comments have been taken into account throughout the strategic action-making process.

### Statutory Context

The Environmental Assessment (Scotland) Act 2005 establishes a framework for Strategic Environmental Assessment (SEA) in Scotland. SEA is a key component of sustainable development, establishing important methods for protecting or enhancing the environment and extending opportunities for public participation in decision-making.

In accordance with the Act, Responsible Authorities (any person, body or office-holder exercising functions of a public character) should also be aware of their statutory obligation to comply with European Directive 2001/42/EC (the 'SEA Directive'). In this context, East Dunbartonshire Council constitutes a Responsible Authority and therefore all Council service areas have a responsibility to undertake and ensure compliance with the SEA of all strategic actions produced by and on behalf of the Council. This includes those produced for and by the Community Planning Partnership (CPP) and Health and Social Care Partnership (HSCP).

As per the Act, all qualifying strategic actions with significant *positive* or *negative* environmental effects must undergo SEA; however, there are 3 types of strategic actions that are automatically exempt from the requirements of the Act, including:

1. National defence or civil emergency plans;
2. Financial or budgetary plans; and,
3. Plans relating to individual schools.

SEA also helps the Council to meet other legislative requirements, e.g. Nature Conservation (Scotland) Act 2004 and the Climate Change (Scotland) Act 2009.

### Why and when do we do SEA, and what happens if we don't?

SEA can provide a valuable opportunity to identify and address the environmental implications of strategic actions. SEA processes can help plan-makers to consider how to deliver a strategic actions differently, in order to achieve better environmental outcomes, while still delivering important objectives. Although challenging, the SEA process can be worthwhile with the benefits significantly outweighing the costs. The benefits of SEA can include:

- The identification of environmental effects and assist the plan-maker in identifying potential problems to avoid proposing alternative options.
- A more systematic approach to plan-making, and can contribute to an evidence base by providing meaningful environmental information.
- An alternative perspective for the development of strategic actions by ensuring the integration of environmental considerations.

- Enhanced communication and transparency of a strategic action's effect on the environment.
- Reduction in long-term costs and minimisation of the need for potential remedial action, via the identification and avoidance of environmental effects at an early stage.

In light of a growing body of evidence showing the significant threats posed by unsustainable activity, it is increasingly important that the Council takes a robust approach to SEA. In taking a systematic, thorough approach, the SEA process can also benefit plan-making in a wider sense by ensuring that other important considerations, besides environment-related ones, are not overlooked. This includes the consideration of reasonable alternatives and providing an opportunity to scrutinise the content of all plans against the initial objectives.

The success of SEA can be demonstrated in various ways including small proposed alterations to a strategic action through the assessment process to help to avoid or mitigate adverse environmental effects, or enhance positive ones. Strategic actions may also have significant impacts which SEA can assist in avoiding by, for example, helping to identify and avoid areas at risk of flooding; suggesting changes to development plans in order to reduce impacts on landscape; recognising the potential loss of important habitat; and identifying potential breaches of European legislation.

Although there are currently no direct financial penalties for non-compliance, failure to meet the obligations of the 2005 SEA Act has been shown to result in:

- **Delays:** if not undertaken at the appropriate stage, there may be a need for new or repeated consultation and reporting process.
- **Legal challenge:** The Council could be challenged through the courts. This can be costly and can result in reputational damage to the authority concerned.
- **Indirect financial costs:** Corrective action could involve further work being undertaken and potentially additional costs arising from measures such as further consultation.
- **Environmental damage:** Failing to take proper account of the environment, prior to implementation, could result in environmental damage requiring remedial action.
- **Policy uncertainty:** The Council could be forced to abandon a strategic action, resulting in a policy vacuum pending a compliant review process being undertaken.
- **Reputational risk:** Together with ensuring legislative requirements are met there is a reputational risk to the Council through non-compliance with SEA which can be mitigated by ensuring that all Council activities are regularly reviewed, analysed and monitored professionally and comprehensively.

Where the Council fails to comply with the 2005 SEA Act, Section 11 allows the Scottish Ministers to make a Direction requiring remedial action to be undertaken, even if a strategic action has already been adopted.

The Council also has its own system for enforcing SEA requirements. The Policy Development Framework, and accompanying checklist, sets out the main legislative and corporate requirements to be adhered to when developing or updating plans, programmes, policies, strategies and masterplans. Completion of the checklist and all related assessments are required before a document is submitted to Committee/Council for approval.

### **Overview of SEA Procedure and Responsibilities**

SEA provides a systematic assessment process for considering the likely significant environmental effects of all strategic actions and raises the profile of the environment in decision making processes. SEA also makes the decision making process fully transparent by incorporating various levels of consultation together with public and key agency involvement throughout the production of strategic actions.

The SEA legislation requires action to be taken on all strategic actions produced by the Council, except those specifically excluded from the legislation or to which the Act does not apply. The main stages of SEA include:

1. Pre-Screening
2. Screening
3. Scoping
4. Environmental Assessment
5. Post-Adoption Statement

The following chart shows the main stages and their inter-relationships.

**Policy Development Checklist:** The Policy Development Checklist allows the lead officer to provide details to the SEA Officer prior to the development of the proposed strategic action. Each Checklist should be completed and submit to the relevant assessment officer at the inception stages of strategic action development.

**SEA Letter of Determination:** After the submission of the Checklist to the SEA Officer, the SEA Officer can make a decision as to the minimum stage of SEA required. A SEA Letter of Determination will be sent to the lead policy officer before commencing the first stage of SEA.

**Pre-Screening:** Pre-screening is effectively a process of self-exemption undertaken by the Council. This can be undertaken where it can be clearly established that a plan is likely to have no or minimal effects on the environment. This only applies to Section 5(4) plans – those falling under Section 5(3) of the 2005 Act cannot be pre-screened.

**Screening:** Screening takes the form of a formal submission, where the Council requests the views of the Consultation Authorities on whether a plan is likely to have significant environmental effects and therefore whether a SEA is required. The submission, referred to as a 'screening report', sets out the characteristics of a plan and its likely environmental effects, if implemented. Plans within the description of Section 5(3) of the 2005 Act can go direct to scoping, and do not require screening.

**Screening Determination:** Screening Determination is the stage at which the Council determines whether a SEA is required or not. The views offered by the Consultation Authorities at screening should be taken into account in making this decision. Screening determinations have to be advertised in a local newspaper, whether a SEA is required or not.

**Scoping:** Scoping reports should provide sufficient information about a plan and its potential environmental effects to allow the Consultation Authorities to provide an informed view. Providing sufficient detail to the Consultation Authorities at this stage, about the assessment, alternatives, data sources, etc. has proven to be useful, as comments from the Consultation Authorities in response can be more readily accommodated.

**Environmental Assessment:** The assessment establishes the likely significant (positive and negative) environmental effects of implementing a plan. The effects of a plan and any potential reasonable alternatives should be considered at this stage, along with viable mitigation measures to avoid, reduce or offset adverse effects. The environmental assessment is fed in to an Environmental Report to outline the findings.

**Environmental Report Consultation:** The main consultation on the Environmental Report and the draft plan has to take place at a sufficiently early stage within a plan's preparation, to ensure any views received during the consultation process can be taken into account.

**Post-Adoption Statement:** This statement is produced after a plan has been adopted. It outlines how the assessment and consultation responses have been taken into account, within the finalised plan.

**Monitoring:** Monitoring is an important component of SEA, as it seeks to ensure that plans avoid generating unforeseen adverse environmental effects. It means the Council will have to be prepared to take remedial action where adverse environmental effects arise.

SEA should be considered **prior** to commencing any preparation of strategic actions. This will allow potential significant environmental effects to be identified and therefore can be considered during the development stages of the strategic action. It is also important that the SEA Officers are contacted prior to any drafting via the submission of the Policy Development Checklist to determine the level of SEA required and for initial advice and guidance. Early engagement between the SEA Officer and the appropriate strategic action development officer will ensure that drafting is efficient and delays in production are avoided. SEA Officers' contribution towards the project plan and related timescales will ensure that the plan-making process and corresponding SEA requirements are met and will also limit impacts on the development programme.

The responsibility for leading and completing each stage of the SEA process is outlined in the table below. Ultimately, the accountability for effective implementation of the Framework in developing Policies, Plans, Programme activity or Strategies, sits with the relevant Strategic Lead who will need to ensure that a designated officer completes the Policy Development Checklist.

| INTERNAL SEA PROCEDURE   |  |
|--|--|
| Stages/Tasks   | Responsibility   |
| 1. Completion of Policy Development Checklist and submission to SEA Officers | Lead policy development officer/Strategic Lead                             |
| 2. SEA Letter of Determination   | SEA Officer  |
| 3. Pre-Screening   | SEA Officer  |
| 4. Screening   | SEA Officer with input from lead policy development officer/Strategic Lead |
| 5. Screening Determination   | SEA Officer  |
| 6. Scoping   | SEA Officer with input from lead policy development officer/Strategic Lead |
| 7. Environmental Report  | Lead policy development officer/Strategic Lead with input from SEA Officer |
| 8. Post-Adoption Statement   | Lead policy development officer/Strategic Lead with input from SEA Officer |
| 9. All SEA report submissions to SEA Gateway and consultation arrangements   | SEA Officer  |

The internal SEA procedure (stages 1-6 above) also applies to Community Planning (CP) Partnership documents. If a strategic action is determined to require a full SEA then each CP partner (or chosen lead partner) is responsible for undertaking the SEA requirements beyond Scoping. Support from the Council's internal SEA resources will be available where capacity allows. For each stage of SEA following on from Scoping (Environmental Assessment and Post-Adoption Statement) the required reporting should be submitted to the Council's Sustainability Policy Team for review and to ensure legal compliance prior to submission to the Scottish Government and statutory Consultation Authorities. It is essential that information is provided to the Sustainability Policy Team within agreed timescales, to allow the process to run as smoothly as possible.

Where demand exceeds capacity, consultants can be commissioned and the corresponding SEA requirements should be undertaken in conjunction with the Sustainability Policy Team. Stages 1 to 6 set out in the above table should be undertaken by the Sustainability Policy Team in partnership with the policy-maker and consultants, where appropriate, before responsibility for Stages 7 and 8 are passed to the relevant consultant.

The Sustainability Policy Team offers a range of proactive support to help the Council achieve compliance with SEA, including:

- The undertaking of an annual audit to assess compliance with requirements and forecast and programme future Council assessment needs.
- Running a programme of awareness-raising sessions targeted at areas of the Council of greatest need, identified through the audit or on request.
- Management and coordination of the 'Assessment Officers Forum' IBM Connections Community Group to promote SEA, post any live consultations, provide updated SEA report templates and examples and provide a format for corporate colleagues to contact the SEA Technical Officers for advice and guidance.

**What are the mechanisms for monitoring the delivery of mitigation measures recommended through the SEA process?**

As part of environmental assessments, mitigation measures may be proposed, in order to avoid, reduce and offset any negative environmental effects identified as well as to further enhance positive effects. In order to ensure that these measures are carried forward into delivery teams' work plans and are taken into considering when developing projects, the following steps should be undertaken:

1. All SEA mitigation measures and/or the SEA Post-Adoption Statement provided by SEA Technical Officers to lead policy development officers for each strategic action should be aligned with the policy document and integrated into project plans.
2. SEA monitoring recommendations should be integrated into the policy-monitoring framework to improve efficiencies and align the development of mitigation measures.
3. Concerning sites that have been allocated for development within the Local Development Plan, site briefs should be used to inform development management processes for these sites to be taken forward. SEA mitigation measures should be incorporated into the development of site briefs.
4. Regular liaison should take place between lead policy development officers and delivery teams; it is particularly important that this happens where teams have current or significant strategic actions which have undergone SEA. This will be further enforced through Council-wide SEA awareness raising sessions on an annual basis.

**Useful Links and Contact Details**

The Assessment Officers Forum on IBM Connections as well as the [Council's live SEA webpage](#) provide information about current and past completed documents, the SEA process and templates. For further advice the SEA Officers are available to guide the completion of SEA documents.

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This document was issued in April 2018 and will be updated as appropriate, to reflect any relevant developments either corporately or externally.