

## Response ID ANON-HDY8-S3AT-R

Submitted to Proposed Changes to the Environmental Regulation (Scotland) Guidance on Public Participation and Fit and Proper Person Test  
Submitted on 2025-03-28 15:56:31

### About you

About you

What is your name?

Name:

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What is your email address?

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If you have supplied an email address, are you happy to receive communication from SEPA about ongoing developments in the Better Environmental Regulation Programme?

Yes

Are you responding to this consultation on behalf of yourself, or a business or organisation?

Business or Organisation

If you are responding on behalf of a business or organisation, please provide the name below:

REA - Renewable Energy Association

Are you happy for us to publish your response to this consultation?

Yes

### Public Participation Statement (PPS)

Do you agree with the proposed approach on pre-application?

No

If you answered 'No', please explain why:

While, in principle, the REA agrees that the public should have the opportunity to be involved in developments impacting their local communities, we have concerns about the ways this is proposed in the consultation document.

First, the consultation does not clarify which types of authorisations this new requirement will apply to, stating only 'The requirement of pre-application engagement will not be expected for all permit applications or variations. Details will be provided on our website to make it clear which activities we would normally consider pre-application engagement a requirement for.' This lack of clarity makes it difficult to support this proposal unequivocally. Furthermore, we feel greater detail is necessary around the process for sourcing and responding to public feedback and how any public involvement will be taken into consideration. Specifically, we feel we need a better understanding of the following:

- What is the process for moving forward if the public (even a very small minority) are ultimately unsupportive of the authorisation?
- How will SEPA judge the outcomes of the process (i.e., how will the public's views be taken into consideration during the determination process—if members of the public oppose a permit, will it be automatically rejected?)
- How will (pre-)applicants be expected to demonstrate they've tried to solicit public participation (particularly in the event that no feedback is raised)
- What is the expected timeframe for soliciting public participation? This should be reasonable and not unnecessarily hinder development.
- For activities that affect more than one localised area (e.g., land spreading), how would public participation be expected to be undertaken?

Do you have additional suggestions for the prospective applicant in terms of the public consultation process outlined in the proposed in the additional annex?

Yes

If you answered 'Yes', please provide your suggestions.:

Applicants should include information explaining why the authorisation is needed, and beneficial—particularly for the local area.

'e.g. This composting site is needed to process local food and garden waste. It will provide an important waste management service for the local residents who produce this organic waste and is preferable, both environmentally and visually, to landfilling. Local residents may be able to source compost for their gardens directly from this facility once operational.'

Do you think we should have minimum criteria that we expect the potential applicant to demonstrate to meet the requirement for pre-application engagement?

No

If you answered 'Yes', what do think the minimum criteria should be:

The appropriate engagement measures may vary depending on the localised area and the activity covered under the prospective authorisation. Therefore, while greater guidance about the expectations for pre-application engagement would be useful, a set of standardised 'minimum criteria' does not seem suitable. Applicants should be afforded the latitude to tailor their approach to the circumstances. Additionally, if minimum criteria are provided, applicants may only go as far as what is strictly required, even if this is not the most appropriate intervention.

Finally, we appreciate that if pre-applicant engagement is required, applicants may be expected to demonstrate they have attempted to engage with the public. However, if the public does not engage following good-faith attempts, how will the process proceed?

Do you have any additional suggestions for engaging with the local community?

) Do you have any additional suggestions for engaging with the local community? :

Community councils, local schools, local business groups.

## Simplification of call-in process

Is the new text understandable?

No

If you answered 'No', please explain why:

The latter statement reads like there is no longer an option for third parties to request ministerial determination, and instead the minister may choose to call-in an application for their own determination (e.g., effectively removing the ability of third-parties to make such requests).

This is not what we understand to be the case from reading the EASR 2018: process for considering third party representations, as section 3.2 states 'If they feel the determination leaves any significant issues outstanding, third parties will then have a further 21 days, by virtue of Schedule 1, paragraph 22 of EAR 2018, in which to request that Ministers determine the case themselves.'

We feel the text should be modified to either just reference the document, or include more info on the various options.

## Fit and Proper Person Test

Do you agree with the proposal for SEPA to ask applicants if they, or their relevant associates, have any convictions for relevant offences ("relevant convictions"), which includes both environmental and non-environmental offences, as part of their application?

Yes

If you answered 'No', please explain why:

Other changes to the guidance on who can hold an authorisation