

The Nature Restoration Levy Regulations 2026

Wildlife Trusts briefing

Executive summary

- The regulations form part of the new Environmental Delivery Plan process, which is meant to reduce harms to nature from development. This new process will struggle to fulfil this objective, exacerbated by flaws in the regulations.
- These flaws could allow developers to delay and reduce payments meant to rectify harm to nature caused by their development. This could mean more nature loss, at a time wildlife is in sharp decline.
- The regulations should be withdrawn and re-tabled with the delay and reduce payments provisions removed. As a bare minimum, the risk of exacerbated species decline should be addressed by guardrails applied through guidance.

Background

In June, The Nature Restoration Levy Regulations 2026 were laid in Parliament under the affirmative procedure.¹ They will pass into law after being approved by both houses. Parliamentary debates are expected in July or September.

The regulations implement key parts of the new Environmental Delivery Plan (EDP) process, a mechanism meant to reduce environmental harms from development, established by Part 3 of the Planning and Infrastructure Act 2025. The EDP process allows for the replacement of site-specific harm reduction measures with a blanket approach. Under this blanket approach a developer can discharge their duty to address environmental harms through payment of a Nature Restoration Levy, to fund an EDP that tackles harms from multiple developments. The regulations set out the process for Natural England (the EDP administrators) to calculate and receive levy payments.

The Wildlife Trusts opposed the introduction of the EDP process during the passage of the Planning and Infrastructure Act. Site specific measures are the most effective way to minimise environmental harms from development and do not constitute an unreasonable impediment for developers. At a time when nature in England is in sharp decline, the abandonment of an effective approach for minimising development harms for a generic, weaker mechanism is a profound mistake.²

The Wildlife Trusts recognise that the Act has now been passed by Parliament. However, during the passage of the Act, the Government committed to measures to reduce the harms posed by the new EDP system. These commitments have not been fully carried through into the new regulations.

¹ The [Nature Restoration Levy Regulations](#)

² See Wildlife Trusts [briefings](#) on The Planning & Infrastructure Act

The flaws in the regulations

During Lords Third Reading of the Planning and Infrastructure Act, the Bill Minister responded to significant cross-party concern about EDPs by committing to “*articulate how the principles of the existing mitigation hierarchy are expressed through the new system*”.³ This is a key measure to reduce harms from the new EDP system. The mitigation hierarchy requires developers to rectify environmental harms by seeking to avoid those harms first, only then seeking to minimise them through mitigation if avoidance is impossible. If in turn mitigation is impossible, the developer is then permitted to compensate the impacts of development after the harm has occurred. This hierarchy is a tried and tested method for reducing environmental harms from development and, although most effective when applied at a site level, will still improve outcomes for nature if built into EDPs.

Two of the Nature Restoration Levy Regulations do not honour the Government’s mitigation hierarchy commitments, namely:

- Regulation 11, which states that ‘*Natural England may allow the levy to be paid by instalments*’. This opens the door to delayed levy payments, coming significantly after harm to nature is caused, effectively functioning as post-development compensation rather than mitigation. This would place compensation before mitigation, contravening the mitigation hierarchy.
- Regulation 23(2), which allows for reduced levy payments ‘*to account for actual or expected sources of funding other than the levy for the conservation measures set out in the EDP*’. This undermines the key mitigation principle that the developer should pay to rectify the damage caused by their development. Developers should not be able to evade their responsibilities under the mitigation hierarchy because a lucky correlation between an EDP and another conservation initiative. This get-out-of-obligation-free card could also see public money meant to deliver public goods, such as Environmental Land Management funds meant to reward nature-friendly farming, actually being used to meet the obligations of private developers. This would not be appropriate, value-for-money use of taxpayer funds.

These two regulations amount to a weakening of the mitigation hierarchy and as such will compound the environmental risks posed by the EDP process.

Regulations 33 and 34 are also worthy of note. Regulation 33 states that Natural England may spend levy funds on administrating the EDP, a sensible inclusion as effective administration will be a key factor in the success of an EDP. However, regulation 34, concerning how Natural England must report on how the levy is spent, does not require reporting on the amount of the levy spent on administration. Specific reporting on this aspect would be useful, for transparency and to allow for intervention in any cases when administrative costs become disproportionate. In such cases, extra funding from Defra to support administrative burdens may be necessary to allow for Levy payment funds to remain concentrated on direct environmental delivery.

³ Lords Third Reading [debate](#) on the Planning & Infrastructure Act, 10th November 2025

Related issues: The Environmental Delivery Plans (Appropriate Prioritisation) Regulations 2026

A further set of regulations have been published, with the stated intention of delivering on the Ministerial commitment to include the mitigation hierarchy in the new system. The Environmental Delivery Plans (Appropriate Prioritisation) Regulations 2026 have been laid under the negative procedure and are due to come into force on 9th July.⁴ These require Natural England, when preparing EDPs, to prioritise avoidance measures over mitigation measure and mitigation measures over compensation measures.

Unfortunately, as with the Nature Restoration Levy Regulations, the Appropriate Prioritisation Regulations do not deliver fully on the Ministerial commitment to the mitigation hierarchy. Regulation 3 states that the hierarchy of avoidance over mitigation and mitigation over compensation only applies '*where Natural England considers it is appropriate to do so*', informed by Natural England's consideration of '*value for money*'. This represents a highly conditional application of the mitigation hierarchy, and establishes a route for developers to pressurise Natural England to abandon it on value for money grounds. Ministers had promised that the mitigation hierarchy would be wired into EDPs. Instead, the hierarchy risks being only loosely connected to the new system, with ties that are easy to prise loose.

Fixing the regulations

If the Government is determined to proceed with the EDP system, it should abide by its promise to incorporate the mitigation hierarchy fully into that system. To fulfil this commitment, the Nature Restoration Levy Regulations should be withdrawn and re-introduced without damaging regulations 11 and 23 (2).

If this is not possible, as a bare minimum, the Government should embed ecological guardrails in the guidance that will accompany the regulations. The guidance should impose strict time limits on payment by instalment, to prevent money being paid well after harm has occurred. Similarly, the guidance should state a general expectation that levy rates will not be reduced due to other forms of conservation funding, and that this can only occur in exceptional, tightly prescribed circumstances. Finally, the guidance should state that the mitigation hierarchy must always be considered by Natural England when setting and applying levy rates. These guidance measures would limit the harm caused by the Nature Restoration Levy Regulations, and by the Environmental Delivery Plans (Appropriate Prioritisation) Regulations.

Guidance should also be accompanied by a statement concerning the geographical coverage of the first EDPs, which are to be nutrient pollution EDPs. There are some areas, like the Solent, where private nutrient mitigation markets are already in place and could swiftly deliver all that an EDP is meant to do in that area. The only barrier to that delivery is the ongoing prospect of an EDP being centrally imposed, causing developers to refrain from participating in the private market for fear investment in it could be wasted upon the introduction of a requirement to go through a new, separate EDP process. By clarifying that EDPs will not be applied to areas with existing nutrient mitigation markets, Ministers could resolve

⁴ The Environmental Delivery Plans (Appropriate Prioritisation) [Regulations](#) 2026

this uncertainty at a stroke and allow markets to unlock housebuilding. This would also effectively concentrate nutrient EDPs in areas where private alternatives don't exist.

The Wildlife Trusts would be grateful if Parliamentarians could raise these points during debates on the regulations. The EDP process is still taking shape, and there is still time for Ministerial concessions to improve outcomes for nature.

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