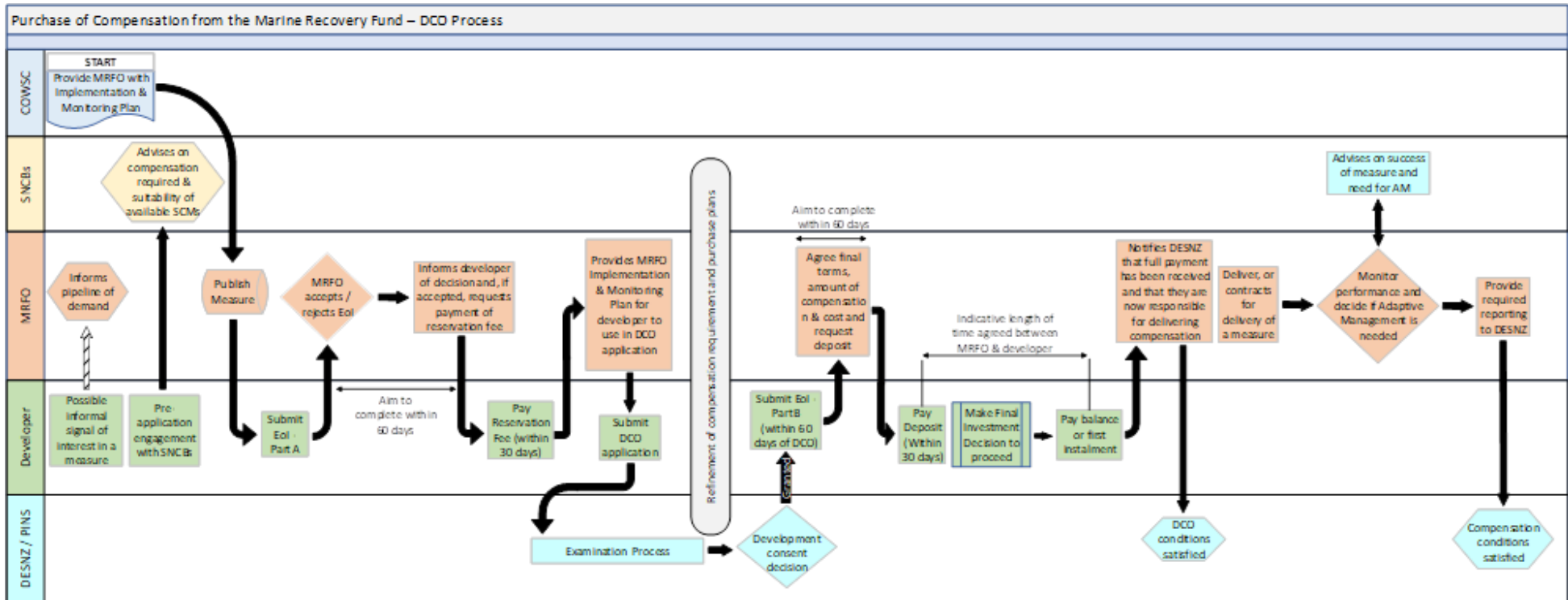


Annex A: MRF Process for purchasing compensation

The flowchart below shows the steps involved in securing compensation via the MRF, it is a visual depiction of the MRF Operational Process outlined in the Introduction of the consultation, and Part 1, Section 1 of the consultation questions. This annex also contains a text description of the flowchart.



Text Description of the Flowchart

1. Prospective applicants may informally signal to the MRFO that they are interested in using the MRF. The MRFO will be able to use this to gauge the potential demand for specific SCMs.
2. At the pre-application stage of the consenting process, developers will engage with SNCBs for advice on the expected adverse impact(s) of their project to produce the relevant environmental assessment documentation (for example, an Environmental Statement or Report to Inform Appropriate Assessment). These environmental assessments highlight the type and magnitude of impact of their proposed offshore wind development and the amount of compensation they may require. SNCBs will also be able to discuss with developers whether the SCMs available from the Marine Recovery Fund are appropriate to provide that compensation. (Details of the SCMs available to purchase from the MRF will be published).
3. If developers decide they would like to purchase compensation through the MRF, they will complete and submit Part A of an expression of interest (Eol) form to the MRFO (see annex B for a draft of Eol form part A). In the Eol, the developer will specify the amount and type of compensation they wish to purchase and provide evidence that they have agreement from SNCBs on the appropriateness of their proposed compensation, without prejudice to the consenting authority's decision. The MRF applicant will also state a timeframe in which they expect to submit their application for a consent which the applicant will be expected to adhere to, to prevent the indefinite reservation of an SCM. If the LoSCM does not contain a SCM that suits the developer's requirements, they cannot use the MRF until a suitable SCM is added to the LoSCM. In this instance, the developer would be expected to source their own compensation independently, although they could retain the right to use the MRF at a later date if a suitable SCM was added.
4. Upon receiving the Eol Part A, Defra (as MRFO) will consider the application – there will be a non-statutory target for Defra (as MRFO) to review and respond to the submission of an Eol form within 60 days. If the evidence and advice provided indicates that the SCM they have applied for is suitable, Defra (as MRFO) will accept the Eol and an agreement in principle can be reached.
5. At this point, the MRFO will request that the applicant pay a non-refundable reservation fee proportionate to the estimated value of the required compensation. This fee is intended to deter speculative reservations and will be deducted from the total cost of the SCM. The applicant will be expected to pay this reservation fee within 30-days to reserve the quoted compensation. Once complete, the MRFO will provide the applicant with a letter of acceptance into the MRF, and] an MRF IMP for the SCM to accompany their application for a DCO. This MRF IMP will be based on those produced for each SCM in the library but will be specific to each SCM project the applicant has been allocated and contain details of the amount of compensation reserved.

6. The applicant can then refer to this compensation in their application for development consent. This will demonstrate that SCMs can be secured, satisfying the requirements of the Habitats Regulations in the event of a Derogation, or those of MCAA in the event of a stage 2 MCZ assessment. DESNZ SoS, or the relevant Devolved Ministers, will still be responsible for making sure that adequate compensation is agreed and secured before consenting to an individual project. However, responsibility for delivery of that compensation would rest with Defra (as MRFO).

Post MRF application

7. The examination process will commence with the Examining Authority (ExA) reviewing the material submitted in the DCO application. Defra (as MRFO) will supply the applicant with the necessary documentation regarding their use of the MRF for them to submit as part of their consent application. During the review, SNCBs will advise on the scale of impact and quantity of compensation required. If changes to the applicant's compensation requirements are needed, the applicant can request (from Defra, as MRFO) a variation to the MRF contract for the additional amount. Alternatively, the applicant can address the shortfall by securing and delivering any outstanding compensation themselves, as per current industry practice.
8. The ExA will then provide DESNZ with a Recommendation Report. The MRF does not change this part of the standard DCO process or the subsequent decision phase. The Report will advise, as it does now, whether the compensation outlined by the applicant, and provided by the MRF, is sufficient. If necessary, DESNZ will consider the ExA report and undertake the appropriate assessment of the application. If DESNZ SoS is of the view that the amount of required compensation is greater than that reserved through the MRF, and the applicant has not renegotiated with the MRFO to increase the amount of compensation that was agreed during the pre-application stage, then DESNZ SoS may require the applicant to provide additional compensation. The applicant can choose to do this by renegotiating with the MRFO or by providing for the shortfall themselves.
9. If a developer or plan promoter is informed by an SNCB that they may require SCMs, they will be able to apply to the MRF in anticipation of confirmation of the requirement. They would need to pay the non-refundable reservation fee to reserve an SCM. If it is found during the examination stage or at the DESNZ decision making stage that the developer does need this compensation, it will already be reserved. Conversely, if it is found that this compensation is not required, then the developer would not need to proceed with the application to the MRF. They would forfeit the reservation fee already paid but not be subject to any further charge.

10. Once the level of compensation to be delivered by Defra (as MRFO) is contractually agreed by the MRF applicant the DESNZ SoS would make their development consent decision.¹

Following a consent decision

11. If consent is granted, the applicant is required to submit Part B of the EoI form, confirming the extent and type of compensation required as per the DCO, to the MRFO. Developers will have 60 days from the date of receiving their DCO to submit Part B of the EoI form.
12. Upon receiving Part B of the EoI form, the MRFO will review and confirm an exact allocation of an SCM (type and amount) to the project. There will be a non-statutory target for the MRFO to review and respond to the submission of an EoI form within 60 days. The MRFO response to the developer will seek agreement of the final terms and include a full breakdown of the estimated costs (see Part 1, Section 2) for the developer to utilise the MRF, to deliver their compensation requirements. The MRFO and applicant will also agree a reasonable time-period to pay the outstanding balance, recognising the need for a FID to proceed with the project. The deposit fee is then required to be paid by the developer to the MRFO within 30 days. As with the reservation fee, this will be attached to the specific project and proportionate to the amount and type of compensation required.
13. Following this, payment towards the full balance will be required before works relating to the adverse effect(s) can commence. This will usually be payment of the full balance but may be the first payment of a contractual agreement between the MRF and developer to make scheduled payments, until the full balance is paid. In the case of scheduled payments, the contractual arrangements will stipulate contractual obligations imposed on the developer for the fulfilment of payment conditions. Both the reservation fee and deposit payments will be treated as advanced payments towards the final full charge to applicants and will be deducted from the final bill received.
14. The applicant's DCO requirements pertaining to the reserved SCM will be satisfied once DESNZ has received proof of the agreement of payment with the MRFO and evidence that full payment, or the first of a series of instalments, has been made to the MRF. At this point, the MRFO will take on responsibility for the delivery of the agreed compensation as set out in the MRF IMP, including responsibility for monitoring and adaptive management.

¹ Using the MRF does not guarantee that consent will be granted, it remains the responsibility of the DESNZ SoS to agree that adequate compensation has been secured, and to provide consent.

If consent is not granted

15. If DESNZ SoS does not grant consent and the developer wishes to resubmit a new DCO application for consent, then their application to the MRF will remain live and their allocated compensation will continue to be reserved. If the developer does not proceed, then their reservation fee will be forfeited.

Following full payment

16. SCMs will be delivered either directly by Defra (for example, MPAs) or through third parties. The MRFO may also purchase compensation already delivered by third parties where this meets a need for compensation and is a type approved for the LoSCM.
17. Once an SCM is in place, its performance and efficacy will be monitored. The MRFO will appoint an appropriate organisation to monitor and report on the SCM's performance. This reporting, as well as advice from SNCBs, will inform the decision on whether adaptive management is required. Monitoring reports will also be provided to DESNZ SoS, and Defra (as MRFO) will inform DESNZ if adaptive management has been triggered. The cycle of monitoring, reporting and implementation of any adaptive management will be continuous over the lifetime of the SCM to ensure that the compensation conditions are satisfied. More information on the proposed approach to monitoring and adaptive management can be found in Part 2, Section 2.