Response on Biodiversity Net Gain Regulations and Implementation

About the Institute

The Institute of Chartered Foresters is the Royal Chartered body for tree professionals in the UK. Its membership covers the full range of tree professionals, and this range of expertise is one of its greatest strengths. It has 2,000 members who practise forestry, arboriculture and other related disciplines in the private and third sectors, central and local government, research institutions, universities and colleges throughout the UK. The Institute regulates standards of entry to the profession. It provides support to members, guidance to professionals in other sectors, information to the general public, and educational advice and training to students and tree professionals seeking to develop their careers. Many of our members work in planning and development and will be the very people responsible for implementing this policy, alongside allied professionals.

Our Response

Introduction

Biodiversity Net Gain (BNG) is a policy lever with the potential to provide huge benefits to nature and people by harnessing the power of development to improve the environment. While compensatory planting and other offsetting measures have been practised for a long time across the UK, BNG in England aims to make significant improvements to nature outcomes. We welcome this opportunity to shape its implementation as mandated in the Environment Act 2021.

Mandatory BNG has been a long time coming and is the most significant change to expectations for new development regarding ecology for decades. We see it as a positive step that will level the playing field for developers and mean that biodiversity requirements are more clearly defined and assessed. However, while the basic principle is simple, its implementation will be a significant challenge.

We received significant interest in this consultation from our members – their views have shaped this response. We have also worked closely with partners across the sector and with allied professions and found considerable alignment in our priorities.

Main risks

The following areas are of most concern to the Institute.

- Issues in the planning system
- Need for qualified tree professionals
- Knowledge and skills for future habitats
- Metric not weighing woodland options appropriately
- Definition of urban trees
- Species choice
- Time to target
- Need for an integrated approach

Pre-existing issues in the planning system

We recognise that BNG is being developed alongside planning reforms and related nature policies such as Local Nature Recovery. However, there are existing challenges within planning processes that will be obstacles to delivering BNG on the ground. There is already a lack of appropriate resources for delivery and enforcement, which could undermine the influence of BNG on development, while developers who are well-resourced and less scrupulous can play the system (for example by clearing a site before applying for planning permission). Related to this resourcing issue is a serious lack in many local authorities of the professional skills that will be needed to assess BNG submissions.

'Competent person' = qualified tree professional

As the Royal Chartered body for tree professionals, we are all too aware of the shortage of appropriately qualified staff working with trees in local authorities and the pressures on those who are. Paragraph 1.5 of the technical supplement states that *'a competent person must carry out the habitat survey and condition assessment'*. This does not go far enough and needs to be defined. Trees and woodland must be assessed by a qualified forester or arboriculturist (rather than, say, an ecologist). This point has been supported by many of our members who share our concerns. Professionals in one field should not carry out work which is outside their professional competencies, as our fellow professional bodies will attest.

Knowledge and skills for future habitats

Ecologists and others have spent much time and effort producing guidance for assessing the value and condition of existing baseline habitats. However, less attention has been paid to assessing the value of newly created habitats, the 'menu' of characteristics associated with the various possible scores and multipliers. There will be a steep learning curve for all those professionals involved in assessing new habitat creation and management, over the timescales concerned with BNG, to provide a valid picture of what the future values of these habitats will be.

Metric not weighing woodland options appropriately

We have concerns about the quality of the tools proposed to produce and assess BNG data, notably the metric. So far this does not provide a robust approach for trees or woodland habitats that effectively assesses their value. The small sites metric does not include trees or woodlands (as an area assessment); table 7-2 has an error (should read circumference/girth and girth); and a crown spread formula would be a more logical and meaningful metric for key tree habitat rather than stem diameter or Root Protection Area formula. Furthermore, the calculations do not encourage tree planting. In fact, a proposed replacement of moderate quality grassland with moderate quality woodland produces a negative BNG score.

Definition of urban trees

Defining the urban Tree Habitat Description (identifying 'individual trees', 'perimeter blocks' and 'linear blocks') risks many trees being missed, for example individual trees with touching canopies or groups of trees not part of a linear feature or perimeter. This will likely cause uncertainty about which trees to include, or trees being missed from an assessment entirely.

Species choice

While we welcome many of the changes to the metric between versions 2.0 and 3.0, there is still too much emphasis on native species as opposed to cultivars. Gardens and other areas populated with non-native species are often rich in biodiversity as well as being increasingly needed as we adapt to a future climate. The Condition Assessment Criteria (1) that more than 70% of trees are native species could have unintended consequences. Most urban trees will be assessed as 'moderate' or 'poor' which is likely to go against the species diversity and resilience required for climate adaptation.

Time to target

Currently, the BNG score is discounted against the timeframe required for measures to be implemented. Woodland schemes can be discounted over as much as 30 years, whereas measures like hay meadows are calculated as being established in just one or two years and therefore look much better on the 'balance sheet'. Prior to canopy closure, an applicant would score more units by classing their woodland as rough grassland habitat for its first 10 years. One member shared a case study which showed the following options:

- Habitat "enhancement" i.e., more diverse grassland, hedges etc. = +66.32% net gain
- Woodland creation = -31.18% net LOSS
- Scrub creation = 63.14% net GAIN

This long time to target for woodlands fails to recognise all the habitat creation benefits of the developing woodland as it is undergoing its establishment phase. The penalisation of lowland mixed deciduous woodland discourages attempts at optimal woodland creation and incentivises suboptimal design and implementation. The reality is that woodlands and trees start to provide a benefit much sooner than 30 years.

In addition, habitats like meadow and scrub are transient and require a commitment to ongoing annual management or their biodiversity value decreases quickly. Well-planned woodland is relatively low maintenance once established. Even unmanaged it delivers greater benefits than most other options.

However, the fact that 30 years is the maximum time for BNG is also problematic. It should be possible for BNG to be a permanent gain, and we suggest the option of a longer commitment with a mandatory review at 30 years.

Need for an integrated approach

As in all policy development there is a need for an integrated approach to delivery. Biodiversity Net Gain proposals must be considered alongside and connected to other strategic goals and policies, including climate change mitigation, flood alleviation and 'levelling up'. There are a huge number of interrelated policies and consultations under development currently, for example environmental targets and nature recovery, and Biodiversity Net Gain must align with them. All policies relating to biodiversity need to be properly integrated. However, while the BNG policy itself focusses on habitat, real-world decisions depend on many factors; in terms of land use decisions, the productivity of the land must also be considered.

Conclusion

We have outlined some of the risks above about overlooking the benefits of trees and woodland and the skills required to deliver them, which we believe will undermine BNG's implementation, its positive impact on habitats and the broader government agenda on the climate and nature crises. It is essential that government engages meaningfully with the practitioners who will be expected to deliver this so that what is developed works in practice – only this way will it be successful and accepted.

It will also require a steep learning curve, and everyone involved will need to understand their part in the process. As the professional body we will support our members to engage with BNG and upskill themselves accordingly. We welcome a conversation with Defra on the points raised above and on plans to communicate with the sector.