



The inherent tensions arising from attempting to carry out strategic environmental assessments on all policies, plans and programmes

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ARTICLE INFO

Article history:

Received 12 May 2011

Received in revised form 25 February 2012

Accepted 7 March 2012

Available online 12 May 2012

Keywords:

Strategic environmental assessment

SEA Directive

Screening

Public participation

Scotland

European Union

ABSTRACT

This paper evaluates the tensions that result from routinely applying SEA to *all* policies, plans and programmes within Scotland. The European Union SEA Directive, effective in many EU member states from 2004, introduced a requirement for environmental assessment of *certain* plans and programmes. Scotland, a devolved nation within the EU member state of the United Kingdom, aimed to be a 'world leader in SEA' by legislating for SEA to be undertaken of *all* public sector plans, programmes and strategies, with the word 'strategies' being equated with 'policies'. This paper presents detailed data regarding Scottish SEA activity between 2004 and 2007, including responses to consultations on SEA reports. This empirical research found that, reflecting a general difficulty in determining where and when SEA should be applied, engagement with the SEA process was not as widespread as intended (including the pre-screening and screening stages). Eight tensions evident from Scotland's application of SEA are identified, and their broader relevance is examined.

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1. Introduction

Environmental assessment of a 'project', such as a road or landfill site, is referred to as environmental impact assessment. *Strategic* environmental assessment (SEA), on the other hand, is far broader and covers the environmental assessment of a policy, plan or programme. This paper argues that various strains or "tensions" exist between the aspiration to apply SEA broadly to integrate the environment into strategic decision-making and the unintended side-effects that then arise. Tension can be defined as "a situation or condition of hostility, suspense, or uneasiness" (Collins English Dictionary, 2000). This paper is informed by analysing data about SEA application in Scotland, rather than individual perceptions of people engaged with SEA.

The rationale for undertaking environmental assessments at a higher decision making level than 'projects' is that, with the involvement of the public, cumulative impacts and sustainable alternatives can be considered from the policy level down (Glasson et al., 1994; McGillivray and Holder, 2007; Tromans and Roger-Machart, 1997). In theory, a policy will affect and inform a plan, a plan will affect and inform a programme, and a programme will affect and inform a project. In other words there is a hierarchy of influence from policy level to project.

This assumption of hierarchical influence from policies to projects also *implicitly* supports a related assumption that haunts academic and practitioner debate about SEA – that the more widespread the

application of SEA, the better. For example, the assumption is evident in the concluding section, *The future of SEA*, of Thérivel's (2004) influential "practical guide on how to carry out [SEA]" (Thérivel, 2004, back cover). Thérivel (2004, p. 209) states:

"National level government decision-makers will feel pressure to carry out SEAs of their policies when local and regional level decision-makers start arguing that the un-SEAed national policies do not provide them with an acceptable, sustainable framework for their decisions."

However, it is important to note that Thérivel's (2004) ambition for a widespread application of SEA is goal orientated: the goal itself being the dissolution of SEA:

"Decision-makers will start 'thinking SEA' while they develop their strategic action. Instead of perceiving SEA as a separate process that is 'done on' their strategic actions, they will start integrating environmental and sustainability thinking into their strategic actions ... to the point where ultimately, hopefully, SEA will make itself (and this book) redundant." (Thérivel, 2004, p. 209)

As such, this statement suggests SEA is an educative process; techniques can be learnt, become 'ingrained', and forever after be tacitly applied. The detail of how education can take place through the use of SEA is not the focus of this paper, rather (more generally) it is important to note that many academics have identified SEAs potential, alongside other forms of impact assessment, as an 'educational tool' (e.g. Fischer et al., 2009; Thérivel, 2004).

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The assumption of need for a widespread application of SEA recently surfaced within the [International Association of Impact Assessment \(IAIA\)](#), 2011 conference on SEA Implementation and Practice which took place in Prague, Czech Republic. The conference programme's first core question (out of seven) was, "What needs to be done to accelerate environmental integration into strategic level decision making through the application of SEA?" (IAIA, 2011, p. 7). Literature continues to support widespread application of environmental assessment to all 'tiers' of plan making (e.g. [Desmond, 2007](#); [Kirchhoff et al., 2011](#)).

SEA already has an expansive geographical reach: over much of Europe the requirement for "assessment of the effects of certain plans and programmes on the environment" across a range of sectors primarily concerned with land use were put in place in 2004 by the SEA Directive ([European Union, 2001](#)). "For convenience... the term [SEA] is used... to mean an environmental assessment which complies with the Directive" ([ODPM, 2005, p. 9, s.2.2](#)). The SEA Directive intends to support transparency and public participation in environmental matters and thus contribute to international agreements such as the Aarhus Convention ([UNECE, 1998](#)). However, it requires public bodies in European member states to undertake environmental assessments of *certain* public sector "plans and programmes", but not of "policies".

Therefore, [Thérivel](#) identifies that the SEA Directive is limited because it "does not apply to policies, which set the framework for plans or programmes: as such, SEAs are required for [plans and programmes] whose predecessors do not require SEA, with all the possible inconsistencies and conflicts this raises" ([Thérivel, 2004, p. 33](#)). [Thérivel's](#) statement supports the outcomes from [Fisher's \(2002\)](#) analysis of SEA in Transport and Land Use Planning in three European countries undertaken prior to the SEA Directive's introduction. Fisher identifies need for "formal requirements for tiered SEA application" from the policy level, down ([Fischer, 2002, p. 241](#)).

In the EU, the practical application of SEA is influenced by how the provisions of the SEA Directive have been transposed into the laws of individual EU member states. Following the principle of subsidiarity ([European Union, 2008, Article 5](#)), each member state produced SEA regulations that reflected their own system of planning and governance (discussed in [Schmidt et al., 2005](#)). All of these legal commitments have as their objective to "provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes..." ([European Union, 2001, Art 1](#)). One devolved UK Government, Scotland, legislated to apply SEA to a broader range of plans and programmes than required by the SEA Directive -the intension, Scotland would become "a world leader" in SEA ([SEEG, 2004](#)).

SEA does have a burgeoning critical academic literature to balance the "promotional tone" which often accompanies this tool ([Wallington et al., 2007, p. 569](#)). Literature has questioned whether SEA influences decision making, particularly in relation to what is 'effective' SEA (debates are summarised in [Cashmore et al., 2010](#)). SEA academic and policy literature has noted uncertain connections between policy and project level decisions (e.g. [Arts et al., 2005](#); [Scottish Executive, 2006](#); [Thérivel, 2004](#)). The role and purpose of SEA has been critically examined ([Bina, 2007](#); [Wallington et al., 2007](#)). However, despite the 'strategic' intent behind SEA being linked to a broad application, the tensions of SEA being undertaken of policies, plans and programmes have never been directly considered.

This paper reviews potential tensions, points of strain, evident from examining an attempt to have SEA undertaken of all Scottish plans, programmes and strategies. The tensions revealed in the Scottish context enable an assessment of what tensions are likely to arise in other circumstances, particularly other European Union member states. [Section 2](#) provides an overview of SEA in Scotland. [Section 3](#) outlines how empirical study of SEA informs this paper and presents the results. [Section 4](#) concludes this paper by providing a summary of the tensions revealed.

2. SEA of all Scottish plans, programmes and strategies

The UK is a member state of the EU. However, the devolved UK Governments of Northern Ireland, Scotland and Wales have powers to make laws related to devolved issues, which include those linked to planning and the environment. Each part of the UK made a straightforward transposition of the SEA Directive that resulted in four sets of similar SEA regulations: one applying to plans and programmes relevant to England or more that one part of the UK, or both; with others exclusively referring to Northern Ireland, Scotland and Wales. All regulations came into force in July 2004 (refer to [Jackson and Illsley, 2006](#) for a detailed comparison of these regulations).

In Scotland, the Environmental Assessment (Scotland) Act 2005, the 'SEA Act', extended and replaced the provisions of the SEA Directive set out in the 2004 Scottish SEA Regulations.¹ Rather than the "certain plans and programmes" referred to by the SEA Directive, the SEA Act required "all plans, programmes and strategies" undertaken by "public authorities" to engage with SEA (with a small number of exemptions, the most notable being financial or budgetary plans and programmes). [Fig. 1](#) illustrates the area covered by the SEA Act together with the main political boundaries relevant to the governance of Scotland – the Scottish Local Government (Local Authority) boundaries.

During the development of Scottish SEA there was a lot of activity in support of broadening Scottish SEA to virtually all plans, programmes and strategies. In particular, this support came from environmental NGOs represented by Scottish Environment Link, the forum for Scotland's 35 environmental and conservation organisations (e.g. [Scottish Environment Link, 2004, 2005](#)).² The organisations leading this activity were the Royal Society for the Protection of Birds (RSPB) and Friends of the Earth Scotland (FOES) – the Scottish branch of the international NGO. The proposal to broaden SEA appeared in print in *Voting for the Environment*, a short publication produced by the RSPB, written prior to the Scottish Parliament's inauguration in 1999 ([RSPB Undated \[1999\]](#)).

The Scottish Parliament indicated that extending SEA through legislation enabled wide public consultation and acknowledged the importance of SEA in Scotland ([Scottish Parliament, 2005a](#)). This broad application could make Scotland "a world leader" in SEA ([SEEG, 2004](#)) – a view propagated nationally and internationally by the Scottish Executive and referenced in journal articles and conference papers ([Illsley et al., 2007](#); [Jackson and Dixon, 2006](#); [Jackson and Illsley, 2005, 2006, 2007, 2008](#)).

The 'word leader' tag arose, in part, because it was claimed that 'strategies' were policies and thus SEA in Scotland would remedy the limitations of the SEA Directive ([Jackson and Illsley, 2006, 2007](#)). However, there was debate about what this semantic broadening meant in practice ([SEEG, 2004](#)). The SEA Act still refers to "plans and programmes" although it notes "any reference to plans or programmes includes strategies" (SEA Act, 4(4)). Government guidance goes further, stating "although the Act refers to plans and programmes, it includes plans, programmes and strategies (which include policies)" ([Scottish Executive, 2006, s. 6.2.2](#)).

This reflects general confusion about what plans and programmes are, and whether or not the definition of "plan" or "programme" influences where SEA is required. As [Wood and Djeddour \(1991, cited in Thérivel, 2004\)](#) identify, 'policy', 'plan' and 'programme' are fuzzy categories. Further, the European Commission's Environment Directorate-General acknowledged that the "name alone ('plan', 'programme', 'strategy', 'guidelines', etc.) will not be a sufficiently reliable guide" to where SEA should be done ([DG Environment, 2003, Section 3.3](#)). Documents "having all the characteristics of a plan or programme as defined in the Directive may be found under a variety of names" ([DG Environment,](#)

¹ The Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004.

² In 2004–2005 there were 34 organisation in Scottish Environment Link but this has since increased to 35 ([Scottish Environment Link, 2011](#)).

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