

IEMA, BIODIVERSITY NET GAIN METRIC ERRORS AND ENVIRONMENTAL PI CLAIMS

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The Biodiversity Net Gain (BNG) requirement under section 90A of the Town and Country Planning Act 1990 (inserted by Schedule 14 of the Environment Act 2021) became mandatory for most planning applications in England in February 2024 and for nationally significant infrastructure projects in November 2025. The requirement is that most new developments deliver a 10% net gain in biodiversity value, measured against the statutory biodiversity metric published by Natural England.

THE METRIC

The statutory biodiversity metric (currently version 4 in routine use) translates habitat types, condition and area into biodiversity units. The metric is a spreadsheet-based tool with detailed rules on habitat classification, baseline assessment and post-development calculation. Errors at any stage feed through into the final unit count. A miscount or misclassification on baseline can over- or under-state the net gain by a margin large enough to make the development non-compliant.

WHO DOES THE WORK

BNG assessments are typically prepared by ecologists, often working within environmental consultancies. The work is undertaken under the IEMA Code of Practice and, where the assessor is a chartered ecologist, under the standards of the Chartered Institute of Ecology and Environmental Management (CIEEM). Both bodies publish technical guidance on metric application.

HOW ERRORS TRANSLATE TO CLAIMS

A metric error has three potential consequences for the consultant:

- The local planning authority refuses the application or issues a condition requiring a revised assessment, delaying the development. The developer's loss is the cost of delay and the additional consultancy fee to remediate.
- The application proceeds but the post-completion monitoring reveals the gain has not been delivered. The developer faces enforcement under the planning condition and may need to acquire off-site units at market rate. The market rate for statutory biodiversity credits is published by DEFRA and can be substantial.
- The consultant has under-stated the cost of delivering the on-site gain, leading the developer to commit to a scheme that proves unviable. The developer's claim is for the cost of the alternative compliance route.

THE 30-YEAR MANAGEMENT HORIZON

Section 100 of the Environment Act 2021 and the related secondary legislation require BNG to be secured for at least 30 years through a conservation covenant or a section 106 planning obligation. A consultant's assessment that gets the maintenance cost

wrong on day one creates a 30-year drag on the developer's project economics. PI cover responds to the negligence-based claim; the 30-year horizon means the claim notification window may be a long one.

Our [environmental consultants PI insurance guide](#) covers the BNG, statutory biodiversity metric and IEMA position in detail, including how insurers are treating the limit-setting question for ecology-led consultancies and the practical points to consider at renewal.

THE REGULATORY OVERLAY

BNG sits within a wider environmental regulatory framework. The Environment Act 2021 also introduces the Office for Environmental Protection (OEP), conservation covenants under part 7, and updated environmental impact assessment regulations. Consultants advising on EIA, habitats regulations assessment under the Conservation of Habitats and Species Regulations 2017, or contaminated land under part 2A of the Environmental Protection Act 1990 face parallel claim mechanics: a methodology error in the assessment, a regulatory consequence, and a downstream claim from the developer or operator.

METHODOLOGY AND VERSION CONTROL

The statutory metric has gone through several versions since launch. A consultant using the wrong version, or using a version that has been superseded between baseline survey and submission, may produce an assessment the planning authority will not accept. Version control on the metric input, the survey data and the calculation worksheet is part of the contemporaneous record that supports a PI defence if a claim follows.

NOTIFICATION

Where a consultant identifies a metric error after submission, prompt notification to the PI insurer protects the cover position. The duty of fair presentation under the Insurance Act 2015 applies at renewal; circumstances known to the firm at renewal time should be disclosed.

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