

Introduction

The Department of Agriculture, Environment and Rural Affairs (DAERA) welcomes the review by the Office for Environmental Protection (OEP) of the implementation of the Water Framework Directive Regulations and River Basin Management Planning in Northern Ireland. DAERA acknowledges the review's key findings that further progress is needed to enhance Northern Ireland's water environment. DAERA is committed to working closely with the OEP and all stakeholders to improve the quality of our rivers, lakes, transitional and coastal waters and groundwaters.

The OEP report recognises that efforts to achieve the goals within The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 (referred to as WFD NI Regulations) — such as improving water quality and restoring water bodies to good ecological status or potential — have faced significant challenges over the past 15 years. These challenges are partly due to limited investment and insufficient implementation of measures since the first River Basin Management Plans (RBMP) were published.

The approval of the Lough Neagh Report and Action Plan, in July 2024, by the Executive is a significant step aimed at fixing the long-term problems with our water environment. The Executive also approved the publication of Northern Ireland's first Environmental Improvement Plan (EIP) in September 2024. The EIP is a collective plan for significantly improving the natural environment, which includes the quality of our water.

Summary of the OEP's conclusions and recommendations

The OEP looked at whether plans to improve water bodies will be enough to meet the 'Environmental Objectives' under the WFD NI Regulations. It also looked more broadly at the effectiveness of the regulations, their implementation and how they interact with other laws and policies in Northern Ireland.

The OEP report compares the progress in Northern Ireland with that elsewhere in the UK and Europe and recognises that these issues are not unique to Northern Ireland. DAERA is fully aware that within the UK, Northern Ireland has the second lowest proportion of surface water bodies at 'Good or Better' Ecological Status (31%).

The latest RBMP, covering the third cycle of implementation of the regulations (2021-2027), was due to be published by December 2021. However, while DAERA consulted on a draft RBMP in 2021 and the plan was finalised in October 2022, the final RBMP could not be approved or published due to its cross-cutting nature and the collapse of the NI Assembly in early 2022.

DAERA welcomes that the OEP report concludes that most of the issues identified could be addressed within the existing regime. In addition, the OEP report considers that the WFD NI Regulations provide a broadly sound basis to manage and monitor

the water environment. However, DAERA also acknowledges that the OEP report highlights some key opportunities to improve the regime, without lowering current levels of protection or lessening ambition. It also makes recommendations to strengthen the wider legal, governance and policy landscape to better protect and enhance the water environment.

The OEP report makes 16 recommendations, and these recommendations have been grouped together in this response under the key themes brought out in the OEP report:

- Ten Recommendations are based on implementation of the WFD NI Regulations; and
- Six Recommendations are based on the legal, governance and policy framework

1. Summary of the Department's response

DAERA agrees with the OEP report that, whilst retaining the fundamental structure and approach to the WFD NI Regulations, the associated framework needs to be strengthened with improved implementation, resulting in increased effectiveness. Key drivers in our considerations are also the recent report focused on Northern Ireland's water environment from the Northern Ireland Audit Office and the Lough Neagh Report and Action Plan, the latter of which has been approved by the Executive.

In considering this response to the OEP report, it should be noted that the OEP report was developed in the context of the draft third cycle RBMP. It is therefore proposed that some of the recommendations will be addressed as part of the finalisation of that RBMP, which will be brought forward for Executive approval.

It also needs to be recognised that DAERA, and indeed other departments, are operating in the context of constrained financial resources which will impact on both the identification of measures and the delivery efforts. Nonetheless, DAERA will continue to seek additional resources to improve our water quality, in the context of constrained budgets and other competing priorities.

The OEP report acknowledges that coordination between the authorities in Northern Ireland and the Republic of Ireland has been maintained for many years in managing water bodies on a transboundary basis, which is also summarized in the draft plan. A high-level 'Shared Waters' document that addresses those international River Basin Districts that span the border with the Republic of Ireland is currently being developed and is expected to be published after the RBMP has gained Executive approval.

DAERA recognises that engagement with both the UK & Ireland and sharing learning, expertise and knowledge, is crucial if the complex water quality issues affecting us all, are to be addressed effectively.

More specific responses to the OEP recommendations are set out below.

2. The Department's Response to the OEP Recommendations

Note - The report recommendations are dealt with under themes so may not appear in numerical order. Each recommendation retains the number it is assigned in the report.

Recommendations on implementation of the WFD NI Regulations (recommendations 1-10)

There are 10 recommendations that address the main implementation issues identified by the Report.

2.1 Recommendations on Environmental Objectives and the related Programme of Measures (recommendations 1- 4)

Background

The first four recommendations address the need for urgent action to determine Environmental Objectives for 2027, and to set measures to make progress towards and maximise the likelihood of achieving them. The OEP report expresses concern about the adequacy of the measures to achieve Environmental Objectives with a 2027 deadline.

In **recommendations 1 and 3**, the OEP report states that the RBMP should set water body level Environmental Objectives including any associated 'exemptions', and a summary of 'Programme of Measures' to achieve those objectives. The Programme of Measures should be specific, timebound and demonstrate how the environmental objectives will be met at water body level, together with the confirmed funding to meet those outcomes. **Recommendation 2** seeks greater clarification on working targets and **recommendation 4** relates to the publication of an economic analysis and assessment of investment requirements for the final third cycle RBMP.

Response to Recommendations 1- 4

DAERA clearly recognises the urgency of publishing the third cycle River Basin Management Plan.

DAERA agrees that water body specific environmental objectives and specific SMART measures are the preferred outcome. However, as is the case in other parts of the UK, the resources are not available to complete specific water body level environmental objectives and SMART measures in the timeframe required to publish the third cycle RBMP, given that there are 571 water bodies in Northern Ireland.

In response to **Recommendation 1**, and in setting the environmental objectives for the final third cycle plan, DAERA adopted the statutory requirements of prevention of deterioration of the status and protection, enhancement and restoration of water bodies with the aim of achieving 'good' status as the environmental objectives. The statutory good status objective has been identified for each water body unless

exemptions have been applied. Regulation 16, which permits an exemption, has been applied to a number of identified lake water bodies (ecology status) and one groundwater body (chemistry status) where available scientific evidence supported this. Extended deadlines have been extrapolated to each surface water body (chemical status) as per 16 (4) (b). Environmental objectives for each water body and relevant exemptions where applicable are listed in a number of supporting documents for the third cycle.

The Programme of Measures referred to in **Recommendation 3** has been completed for the third cycle based on the environmental objectives contained in WFD NI Regulations and the applicable exemptions. Where it has been possible to include SMART targets within the third cycle, these have been developed through stakeholder engagement facilitated through thematic working groups. A number of measures relate to business priorities for various delivery partners and targets are contained within the specific delivery plans.

Looking forward, DAERA will actively work to explore ways to implement recommendations 1 and 3 regarding the setting of environmental objectives and SMART measures at specific water body level in the fourth cycle plan.

Recommendation 2 in the OEP report references 'working targets' in the third cycle plan. This recommendation is no longer relevant because it is proposed that the final RBMP will remove the reference to 'working targets'. The targets within the third cycle plan will reflect the statutory requirement that DAERA will implement environmental objectives with the aim of achieving good status subject to exemptions permitted within the regulations. This aligns with the target contained within the Environmental Improvement Plan.

Recommendation 4 is accepted regarding the need for an economic analysis and assessment of investment requirements. A high-level analysis has been completed for the final third cycle RBMP, which was not within the draft plan, and this will be published with the final third cycle RBMP.

2.2 Recommendations about the Ongoing Application of the Regulations (recommendations 5-10)

Background

The OEP report has recommended that, as required by WFD NI Regulations, there is a requirement to make measures operational within three years of approval (**recommendation 5**), and in order to do so, they must be time bound and require DAERA and NIEA to review and ensure clear alignment between legal requirements, policies, funding, guidance and operational practice.

The OEP report recommends that DAERA and NIEA present and justify exemptions at individual water body level (**recommendation 6**), with meaningful public participation for water body level environmental objectives, including exemptions or additional measures to achieve them (**recommendation 8**).

Looking forward to future cycles in **recommendations 7 and 9**, the OEP report makes reference to adjusting the structure, presentation and content of future plans, considering the 'driver-pressure-state-impact-response' information for each river basin district and water body. This should be supported by an improved approach to public consultation on future draft plans.

Recommendation 10 in the OEP report calls for an ambitious, coherent and nested monitoring and evaluation framework for the water environment in Northern Ireland, linked at all levels through waterbodies, catchments and river basin districts to overarching strategies.

Response to Recommendations 5-10

In response to **recommendation 5**, DAERA accepts that clear alignment is needed to ensure that policies and strategies that deliver measures detailed within the Programme of Measures, should be operational within three years and aligned. This will be addressed as far as possible in the final third cycle RBMP, whilst recognising the need for this plan to be published urgently, it will then be considered more closely as the planning for the fourth cycle plan progresses.

DAERA accepts that where exemptions are used, that they should be presented and the scientific basis for their inclusion outlined. An extended deadline for natural conditions is only acceptable where adequate scientific information is available to justify that the identified measures will work over a longer period of time.

Exemptions, as referred to in **recommendation 6**, have been included within the third cycle plan for a number of water bodies where the scientific evidence is available e.g. in the context of Lough Neagh, and this is identified in the supporting document on water body specific environmental objectives. DAERA accepts that exemptions may be further developed for the fourth cycle based on the availability of evidence.

Whilst recognising the response to recommendation 1 regarding the limitations of deliverability of water body level Environmental Objectives, DAERA accepts **recommendation 8** which relates to public participation and engagement. A number of Thematic Working Groups have met twice per year to consider the Programme of Measures within the draft RBMP and to further develop SMART targets for each measure. There has also been engagement with specific sectors at water body level to develop additional water body specific measures. Work was completed on one of the priority catchments and will be published as part of the final plan documentation. There has also been considerable engagement regarding the Lough Neagh Action Plan. Following publication, of the third cycle plan, an opportunity will be provided for the general public to provide feedback on the environmental objectives and the programme of measures. The outcome of this will be used to feed into the development of the fourth cycle plan.

Recommendations 7, 9 and 10 refer to the fourth cycle River Basin Management Plan and DAERA accepts these recommendations. DAERA accepts that public participation is important in the development of water body specific measures and

planning for the fourth cycle plan will incorporate public engagement at an early stage. It also accepts that a non-technical summary should be included, and this will be part of the future cycles of the RBMP. DAERA will consider the governance structures to ensure its responsibility for the co-ordination of the implementation for the fourth cycle plan is met.

Recommendations on the legal, governance and policy framework (recommendations 11-16)

The OEP report also identifies a further six recommendations in this area.

2.3 Recommendations on improving the future water quality regime (recommendations 11, 14, 15 and 16)

Background

Recommendations 11, 14, 15 and 16 relate to the core elements of any effective, future regime to protect and improve the water environment. This includes the implementation of general duties and guidance to public authorities.

The OEP report recommends that the fundamental underlying structure and approach of the WFD NI Regulations is retained, while proposals are consulted on to improve the legal and governance framework and produce a regime that is stronger and includes mechanisms for better implementation.

The OEP report also identified several barriers to the implementation of the general duties in relation to the RBMP, where public bodies and functions are concerned. A lack of coordination was highlighted, particularly between DAERA and DfI. No formal process for WFD assessment was also commented on.

Response to recommendations 11, 14, 15 and 16

DAERA, as the lead department, accepts **recommendation 11** to maintain the core structure and approach of the WFD NI Regulations while exploring avenues for strengthening the legal and governance framework. DAERA is committed to ensuring that the legislative and regulatory framework for water management is both effective and adaptable to emerging challenges.

In relation to **recommendations 14 and 15**, DAERA accepts both recommendations and recognises the need to reinforce the obligation of any public authorities when exercising functions affecting the river basin district to have regard to the RBMPs. DAERA will engage with the appropriate departments, as well as local planning authorities, in the NI planning system.

DAERA will undertake a targeted assessment to gauge the awareness and compliance levels of public authorities regarding their responsibilities, including adherence under Regulation 30. The assessment will focus on identifying areas where additional guidance or support may be needed to ensure that public authorities fully integrate the RBMP considerations into their functions.

In line with recommendations 14 and 15, the assessment will prioritise those public authorities whose roles are critical to achieving the environmental objectives outlined in the RBMPs. This will help to ensure that the assessment is focused on areas with the greatest potential for impact on water quality and environmental outcomes.

DAERA accepts **Recommendation 16** and supports its goal of strengthening accountability and transparency in water management. DAERA commits to reviewing its approach to ensure it aligns with best practice and supports effective environmental governance.

2.4 Recommendation on the monitoring and regulations of new and emerging chemical risks (recommendation 12).

Background

The OEP report states it is unclear whether the process for identifying and developing environmental quality standards (EQS) for substances of emerging concern in the future has begun or whether DAERA has developed processes for deciding whether to deselect or add priority substances, assuming that work to identify them is carried out by UK Technical Advisory Group (UK TAG). It also comments that new and emerging chemical risks to the water environment in Northern Ireland may be receiving inadequate attention.

Response to Recommendation 12:

DAERA accepts this recommendation. DAERA and NIEA will continue to engage with UK TAG. The Department also recognises the need for a timely, responsive system and will consider the potential for a system that best fits the needs of NI.

2.5 Recommendation on the alignment of various NI key plans and strategies from across NI Departments (recommendation 13).

Background

The OEP report examined the objectives of the key water management plans within Northern Ireland. Each of these different plans play an important role in the sustainable management of water and environmental protection. How the different plans relate to each other and may also present barriers to each other was discussed in the report and it highlights the need for effective cross-government working, combined with effective working with NI Water.

Response to Recommendation 13

DAERA accepts recommendation 13 and, in collaboration with DfI and other relevant bodies, is committed to enhancing the clarity, coherence, and alignment of water management frameworks, including the draft RBMP and the NI Environment Strategy.

DAERA, in conjunction with DfI and other relevant bodies, will undertake a review of the RBMP's coherence with the wider suite of laws and policies within which the regulations operate. This review should provide clarity around the improvements needed for stronger governance mechanisms to underpin delivery of the Environmental Objectives.

The incoherence mentioned in the report between the 2027 Working Target in the draft RBMP and the outcomes and targets of the draft Environment Strategy (now NI's first approved Environmental Improvement Plan) has been rectified as no reference to Working Targets will appear in the final plan.

In terms of reviewing and rationalising the overall suite of relevant plans and measures, it should be noted that the current 6-year RBMP cycle runs from 2021-2027. This aligns with NI Water's current 6-year Price Control (PC) cycle, which also runs from 2021-27, known as PC21 as well as the current 6-year cycle for Flood Risk Management Plans (2021-27). In addition, there is on-going coordination in river basin planning in both the Floods Directive and Water Framework Directive regulations.

Going forward, DAERA will continue to work closely with DfI and explore the possibilities for greater alignment of plans and measures as noted in Table 5.1, where possible. However, it is important to note that a number of plans/strategies are statutory or endorsed by the NI Executive and, therefore, any potential rationalisation, if identified and recommended, may require the approval of Ministers and the NI Executive in due course.