

**MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF CULTURE  
AND LEISURE - INLAND FISHERIES AND THE NORTHERN IRELAND ENVIRONMENT  
AGENCY ON WATER MANAGEMENT ISSUES IN NORTHERN IRELAND**

**Date Issued: 28 March 2011**

**Review Date: 1 May 2012**

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## **1. INTRODUCTION**

The purpose of this Memorandum of Understanding (MOU) is to ensure effective co-operation between the Department of Culture and Leisure - Inland Fisheries (DCAL) and the Northern Ireland Environment Agency (NIEA) in relation to water management issues.

## **2. ROLES AND RESPONSIBILITIES**

### **2.1 Northern Ireland Environment Agency**

NIEA has the responsibility to maintain or improve water quality in surface waters and waters in underground strata as required by national policy, EC Directives and international agreements, and to generally manage river, estuarine and coastal waters to be at least "Good" under the adopted classification schemes with no downward movement between classes.

The overall aims of NIEA are to protect and conserve Northern Ireland's natural and built heritage, to control and regulate pollution and to promote the wider appreciation of the environment.

Water bodies such as rivers, lakes, estuaries, seas and groundwater are important natural resources for agriculture, industry, fisheries, amenity, tourism and as sources of drinking water. Under the Water (Northern Ireland) Order 1999, the Department of the Environment (DOE) has a duty to promote the conservation of the water resources of Northern Ireland and the cleanliness of water in waterways and underground strata. In performing this duty, it is required to have regard to:

- (a) the needs of industry and agriculture;
- (b) the protection of fisheries;
- (c) the protection of public health;
- (d) the preservation of amenity and the conservation of flora and fauna; and

- (e) the conservation of geological or physiographical features of special interest and any feature of archaeological, historical, architectural or traditional interest.

This work is carried out by the Water Management Unit (WMU) of NIEA. The WMU protects the aquatic environment through a variety of activities including:

- monitoring water quality;
- preparing water quality management plans;
- controlling effluent discharges;
- taking action to combat or minimise the effects of pollution; and
- supporting environmental research.

## **2.2 Department of Culture and Leisure - Inland Fisheries**

The Department of Culture and Leisure - Inland Fisheries is responsible in Northern Ireland for the supervision and protection of salmon and inland fisheries and for fostering their establishment and development (except those in the Foyle and Newry areas which are the responsibility of the Foyle, Carlingford and Irish Lights Commission).

The DCAL mission is "to protect, nurture and grow Northern Ireland's cultural capital by providing strategic leadership and resources for the promotion and sustainable development of the culture, arts and leisure sectors."

The Department is committed to the promotion of sustainable development in all aspects of its business.

Under the Fisheries Act (NI) 1966, as amended, DCAL has powers to supervise and protect fisheries with specific powers relating to water pollution.

### 3. WORKING ARRANGEMENTS

#### NIEA

3.1 Will investigate all reports of water pollution made to or discovered by our own staff.  
When a pollution incident occurs NIEA aims to:

- locate the pollution source, identify the polluter and, if appropriate, collect sufficient evidence to secure a prosecution or to undertake other appropriate enforcement action;
- secure from the polluter the necessary action to prevent the continuation, or the repetition, of pollution;
- liaise with other agencies;
- recover costs, where possible, from the polluter;
- record the information on its PILOTS database; and
- operate on a 24 hour / 365 day a year basis.
- undertake enforcement action in line with current NIEA Prosecution Policy.

3.2 Costs associated with restoring waters (including flora and fauna) will either be sought from the polluter or will be included in any Article 17 Notice served under the Water (Northern Ireland) Order 1999.

3.3 **NIEA will inform DCAL if pollution has caused or has the potential to cause a fish kill or to damage fish habitat within 30 minutes of knowledge of such an incident.**  
Investigating officers shall decide whether to proceed under the Water Order or the Fisheries Act.

- 3.4 Where it is agreed that the Fisheries Act is a more appropriate vehicle to secure a prosecution and compensation, NIEA shall provide investigation and monitoring information held by NIEA to DCAL on request to support enforcement files to be prepared by DCAL. These files will be progressed by DCAL solicitors.
- 3.5 DCAL will be consulted on Water Order draft consent applications that may have an impact, either directly or indirectly, on a fishery.
- 3.6 **NIEA will provide a chemical analytical service to DCAL in respect of samples to be used as evidence in Fisheries Act cases.** Recovery of costs for this service will be sought in line with procedures in the Fisheries Act or other available processes to recover costs consistent with the polluter pays principle.
- 3.7 NIEA will provide a biological assessment service to DCAL on request to support investigations into fish kills subject to the availability of suitably experienced biologists.
- 3.8 NIEA will train and audit DCAL Officers involved in sampling discharges associated with pollution incidents. NIEA will provide updates of the NIEA sampling manual to DCAL when necessary. NIEA will send one copy of each amended procedure to the Chief Fisheries Officer of DCAL together with a covering letter. This will allow DCAL to update to produce photocopies of the revised procedures for DCAL staff as they see fit. DCAL will be responsible for ensuring that their staff are trained and audited by NIEA in sampling techniques. NIEA Water Chemistry staff will demonstrate the changes outlined in the NIEA written sampling procedures if requested by DCAL. This will be done at the NIEA Lisburn.

### **Department of Culture and Leisure - Inland Fisheries**

- 3.9 DCAL will jointly investigate with NIEA any pollution incident involving a fish kill. DCAL will be responsible for recording details of the fish killed including numbers, species and age classes of fish, the extent of that kill in terms of length of river affected, and the nature of the fish habitat affected and the damage to it by the pollution. Where it has been agreed that the most appropriate vehicle for

prosecution is the Water Order, these details will be incorporated by NIEA into future reports or via witness statement into enforcement files prepared with a view to prosecution. Such files will be progressed to Public Prosecution Service by NIEA.

- 3.10 DCAL have the responsibility of submitting costs associated with any fish kill as a result of a pollution incident.
- 3.11 DCAL will pass any reports of pollution incidents to NIEA within 30 minutes of knowledge of such an incident.
- 3.12 DCAL will provide monitoring information held by DCAL to NIEA on request to support cases under the Water Order.

### 3.13 **Generic Pollution Incident Response and Investigation**

NIEA maintains pollution response capability 24/7 365 days and as such staff are rostered to fulfil the capability. The roster for response is produced on a weekly basis, and this will be e-mailed to the relevant DCAL contacts. The response may be in or out of office hours – both NIEA and DCAL staff should be able to respond within the relevant response time frames.

NIEA has set targets for responding to pollution incidents based on their assessed Severity, and these are routinely monitored as a performance measure.

When a report of pollution is received, NIEA staff aim to assess and estimate the incident severity (based on the information in the pollution report) and forward the incident details to field staff for investigation within 30 mins. The field staff aim to respond to incidents initially assessed as:

- High or Medium Severity, within 2 hrs (reported during normal working hours)
- High or Medium Severity, within 4 hrs (reported outside normal working hours)
- Low Severity incidents, within 1 working day

Where DCAL staff detect a pollution incident that does not include a fish kill or fish habitat damage they should inform NIEA via the Water Pollution Hotline as soon as practicable. Where evidence can be easily collected by DCAL staff (such as a sample of a polluting discharge) then this should be done while awaiting the arrival of NIEA staff). NIEA and DCAL will work together to ensure that evidence is gathered that allows the required level of enforcement action.

Where DCAL staff detect a pollution incident that includes a fish kill or fish habitat damage they would begin the investigation and notify NIEA for attendance, to avoid duplication of resources. NIEA will provide DCAL with the required support and undertake its regulatory function where necessary.

Where NIEA staff detect a pollution incident that includes a fish kill or fish habitat damage, they would begin the investigation and inform DCAL as soon as possible. NIEA and DCAL will work together to ensure that evidence is gathered that allows the required level of enforcement action.

### 3.14 **Water Pollution Incidents involving Northern Ireland Water**

As a result of Water Reform, Northern Ireland Water (NIW) have been under a normal environmental regulatory regime since 01 April 2007. NIW are subject to appropriate enforcement action for non-compliance with consent conditions and any pollution incidents caused by a failure to properly maintain and operate its' infrastructure. NIEA has developed a robust and successful protocol for dealing with both pollution incidents and consent failures and as such will lead on all water pollution incidents involving NIW. Where these incidents happen the procedures detailed above - Generic Pollution Incident Investigation and Response in 3.13 should be implemented.

Enforcement in all NIW related water pollution investigations shall be taken forward by NIEA with DCAL input. Any fish restocking/habitat restoration issues involved with the incident should be addressed by DCAL directly with NIW.



#### **4. ENFORCEMENT**

With respect to generic water pollution incidents and in line with NIEA policy, incidents involving water pollution where there has not been a fish kill will be enforced by NIEA using normal NIEA enforcement protocols. Where the incident involves a fish kill then both DCAL and NIEA staff involved in the incident will undertake a preliminary case review with the following objectives;

- a. To make a further informed decision who will lead on the enforcement action and how this will take place.
- b. Ensure investigation has been completed to the required standard, evidence has been gathered and witnesses involved have been interviewed.

The case review should take place within 10 working days of the incident, should include both the DCAL and NIEA regional managers and the staff involved in the investigation. A record of the case review should be retained with the file and the appropriate actions determined implemented within the agreed timeframes.

Appendix A shows the enforcement process for high and medium severity incidents.

#### **5. CATCHMENT MANAGEMENT**

- 5.1 Joint meetings will be held on a quarterly basis between NIEA and DCAL to discuss operational catchment management issues.

#### **6. JOINT REVIEW COMMITTEE**

- 6.1 This protocol is not intended by either party to be legally binding, and some, or all, of the arrangements or procedures referred to herein may be terminated by either party though they will use their best endeavours to give reasonable notice to the other party of such termination. A failure by either party to meet their responsibilities under the terms of this agreement will not constitute a breach of contract.
- 6.2 A joint Review Committee will meet, at least annually, to review the working of the Memorandum. Special meetings may be called by either party to resolve any

immediate operational difficulties that cannot be resolved at the local level. The chair will be taken alternately by the two specific parties to this Memorandum, with the Head of Water Management (or his/her nominated deputy) representing NIEA and the Chief Fisheries Officer (or his/her nominated deputy) representing DCAL.

**MICK CORY, DIRECTOR,  
DEPARTMENT OF CULTURE  
AND LEISURE - INLAND  
FISHERIES**

.....

**DATE.....**

**DAVE FOSTER FOR  
NORTHERN IRELAND ENVIRONMENT  
AGENCY**

.....

**DATE.....**

**Appendix A -**

Narrative

Any contact with NIWL staff at this stage should be carried out under caution and recorded as per guidelines

Preliminary Case Study:  
Group Staff  
Enforcement HSO  
Operations HSO  
WURG HSO/SSO

Postal Caution, format as per Template  
Preliminary Case Study will identify any specific questions to be asked in the caution.  
Postal Caution to be issued by Group Staff Lead

Full Case Study  
Group Staff  
Enforcement HSO  
Operations HSO  
WURG HSO/SSO

