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Dr Viviane Gravey  
Chair  
Independent Review Panel  
**By email only**

1 May 2025

Dear Viviane,

I am pleased to provide input to the Independent Panel for the Review of Environmental Governance in Northern Ireland, which I trust you will find useful.

The OEP recognises the important and challenging task that the Panel has accepted. We have seen at first hand how critical good governance is for the delivery of environmental protection and improvement. It has featured in a number of our projects – in both England and Northern Ireland – and we welcome the Minister's prioritisation.

I know that one of the specific issues that you will be considering is the potential for the establishment of an independent environmental protection agency. We appreciate you have not asked for specific advice on the question, but we do want to take the chance to draw your attention to some important points worth noting when it comes to the *principle* of independence.

Regulators must act, and be seen to act, objectively, impartially, transparently and consistently. This is essential for stakeholders to have confidence in any regulatory regime. They must have assurance that the regulator is able to exercise its regulatory functions free from undue influence or interference.

A key question for the panel would be 'Does the current regime exhibit these attributes?' If in the panel's view it does not, or does not do so sufficiently well, then the panel may wish to note the Organisation for Economic Cooperation and Development advice that establishing an independent regulator can provide greater confidence that decisions are impartial, and send an important message to those regulated about the commitment of

the government to objective and transparent administration and enforcement of regulation.<sup>1</sup>

Independence of itself is not a guarantee of an effective regulatory regime or of desired regulatory outcomes, however. Other factors such as resourcing, strategy and purpose, delivery planning, internal systems and processes, and access to effective regulatory tools are all important. In particular, I would note that leadership – in the case of the environment cross-Government leadership - is especially significant.

That said, in our experience, regulators should be established with sufficient freedom to be able to balance diverse and changing needs from a wide range of stakeholders, and with the clarity of purpose to ensure they always do so in the public interest.

The rest of this letter covers the three areas which you have indicated you may find beneficial to receive our views on:

- the governance features of the Environment Act 2021
- the link between effective governance and delivery of the Environmental Improvement Plan (EIP), and
- the OEP's recent findings on matters related to governance in both England and Northern Ireland.

We have covered the first two in the body of the letter below, and the third in the annexes. In Annex 1 we have summarised the relevant findings of our recent Protected Sites report.<sup>2</sup> In Annex 2 we have summarised the emerging findings from our work on the attributes of effective environmental regulation.

We have already provided you with information on previous OEP publications, which we thought relevant to your review. I hope that you found that useful, and we would be pleased to discuss any of these matters further.

## **Environmental Governance and the Environment Act 2021**

The Environment Act 2021 ('the Act') created a new environmental governance system with the overall objective of achieving a significant environmental improvement in both England and Northern Ireland. Having a vision like this set out in law is an important feature of the Act. The Act contains provisions for the establishment of foundational elements of environmental governance in Northern Ireland to achieve that improvement:

- an EIP, setting out steps to improve the natural environment, which acts as a statutory delivery plan explaining how the Executive will achieve the overall objective of a significant environmental improvement
- an environmental principles policy statement (EPPS), which officials and ministers must have due regard to when making policy, which can embed

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<sup>1</sup> Organisation for Economic Co-operation and Development 'Being an Independent Regulator' (2016)

<sup>2</sup> Office for Environmental Protection 'Review of implementation of laws for terrestrial and freshwater protected sites in Northern Ireland (2025)

environmental considerations across the Executive, and foster policy-making which is coherent with environmental objectives, as set out in the EIP

- the OEP, an independent oversight body to scrutinise the implementation of the above, as well as the implementation of environmental law more broadly, and, where necessary, to enforce serious non-compliances with environmental law by public authorities.

Achieving significant environmental improvement relies on all of these elements playing their full part. As yet, these are not fully implemented in Northern Ireland. The EIP has only been in place since September 2024 and is, as yet, not accompanied by clear delivery plans. Its implementation is still at an early stage. The EPPS is still awaited, as are some other measures on which implementation of the EIP will depend, such as Northern Ireland's updated River Basin Management Plan, the Climate Action Plan and the Nutrient Action Programme - all of which are long overdue. Getting these in place and working should be a priority.

We consider another core element of environmental governance to be the existence of legally-binding targets relating to the environment. These targets should set the direction of travel, around which the other elements of environmental governance should coalesce.

In England, the mandate for such targets exists in the Act. There is no such requirement in the Act for Northern Ireland. There are, however, precedents for such legally binding targets, for example in the Climate Change Act (Northern Ireland) 2022 (CCA22) and in retained EU legislation on air quality and the water environment. In our experience, these targets are crucial to the successful operation of environmental governance.

The CCA22 establishes some targets in law, e.g. for greenhouse gas emissions and recycling rates, and requires that climate action plans must contain other targets - for soil quality and biodiversity contributions towards meeting carbon budgets.

Whilst useful to have targets in the Climate Action Plan (once published), we have yet to see what they will be. On the face of what is described in the CCA22, we do not consider that these are going to be comparable to those targets required by the Act for England. They do not cover the same breadth and have a different focus.

When you take the governance aspects of the Environment Act in the round, there is a clear logic to the structure. The targets should set clear and specific goals, which the EIP delivers through setting out the specific steps and actions. The EPPS then provides the guidance to policymakers across Government.

The final element of this governance structure is the OEP itself. Whatever form NI's environmental regulator takes, we believe it should remain, and would benefit from being, within the scope of our oversight.

## **Governance and the EIP**

The EIP provides the long-term blueprint for the protection and improvement of the environment.

In our report for England, [Taking Stock](#),<sup>3</sup> we set out our views on the principles of good governance which would be required for the effective delivery of the English EIP. We consider that those same principles are every bit as applicable for NI and its EIP.

In *Taking Stock* we noted that a framework of six building blocks needs to be in place to deliver the EIP successfully. These are: (1) understanding environmental drivers and pressures; (2) creating a vision; (3) setting targets; (4) coherent strategy and policy; (5) governance and; (6) monitoring, assessing and reporting. Item 5 is of course expressly about governance, but in a broader sense most of the other building blocks could be considered to be part of the wider governance framework.

Since publishing *Taking Stock* we have now completed three progress reports on the English EIP. The six building blocks are still just as relevant, but we would add one other crucial issue – that is the creation of clear, credible and coherent delivery plans.

In our research, we often find issues with the implementation of environmental law and policy. By this we mean that while the law (or the policy) may be sound and even ambitious, it is not translated into reality through sufficient practical action. This points to the need for a bold vision and a purposeful approach to implementation, supported by meaningful environmental indicators and ambitious, measurable goals, targets and actions. Where there are targets, we often find that there is a lack of detail around delivery planning. This is exemplified by our recent report on implementation of the Water Framework Directive Regulations in Northern Ireland,<sup>4</sup> where statutory objectives have not been backed up by delivery. You will be aware that we note that Northern Ireland is very unlikely to meet the headline target of bringing 70% of water bodies to ‘good status’ by 2027.

This delivery challenge becomes even more testing due to the breadth of the EIP. To make large-scale environmental programmes a success, governance arrangements need to facilitate collaboration amongst many stakeholders. They also need to provide oversight of whole sectors or policy outcomes, including setting the funding approach, policy design and front-line delivery.

Successful delivery of the NI EIP will therefore require strong central leadership, but also effective collaboration across many organisations, and clear lines of responsibility and resourcing.

I would also note that the political instability that NI has suffered in recent years does not help our cause. Environmental protection and improvement depends upon long-term planning and stable governance structures.

## **Conclusion**

The OEP welcomes this review of environmental governance in Northern Ireland.

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<sup>3</sup> Office for Environmental Protection, *Taking Stock: Protecting, Restoring and Improving the Environment in England* (2022)

<sup>4</sup> Office for Environmental Protection, ‘A Review of Implementation of the Water Framework Directive Regulations and River Basin Management Planning in Northern Ireland’ (2024)

It comes at an important moment. We have seen at first hand, the pressures that the environment is facing, most obviously evidenced at Lough Neagh. These issues are significant, but there are also opportunities. The new EIP provides a long-term roadmap for the protection and improvement of the environment. Delivery of the EIP will depend upon a robust system of governance.

In concluding I would highlight our key findings:

- the governance structures set out in the Environment Act are the right ones and are capable of driving environmental improvement
- one of the four governance pillars - legally-binding targets – is missing from Northern Ireland; this weakens the overall structure.
- as yet, the full system of governance has not been implemented. The EPPS should be adopted as soon as possible and the whole Executive (and all Departments) needs to get behind its implementation
- we have found that implementation and delivery of environmental goals has been weak. If the EIP is to be successful, Departments need to implement clear, credible, and coherent delivery plans.
- overall our work is revealing significant gaps in both implementation and compliance. These are worrying signs; strong governmental leadership is crucial, and any governance framework should consider this.
- 'independence' of the regulator is not in itself a guarantee of success, but regulators should be seen to act objectively, impartially, transparently and consistently.

In our reports, we frequently emphasize the need for urgency, and Minister Muir has shown a similar desire for pace in setting out the timeframe for your review. The panel will have been working quickly to digest a large amount of information, and in turn to develop your proposals. I wish you well in your deliberations.

In the meantime, please let me know if you have any questions or would like to discuss any further points with me or my team. I would also, of course, be very happy to meet with Minister Muir to discuss any of these issues.

Yours sincerely



Dame Glenys Stacey  
Chair  
The Office for Environmental Protection

## **Annex 1 – Summary of Governance section of OEP Review of implementation of laws for freshwater and terrestrial protected sites in Northern Ireland**

Our most recent report on Northern Ireland considers the effectiveness and implementation of the laws for protected sites.

Overall, we found that the formal protection of these sites has proven insufficient to prevent their deterioration over a period of decades. Our analysis leads us to conclude that failings are largely not in the legal framework itself. Rather, it is implementation of these laws that is falling short.

At times, positive progress has been made. During periods of real drive and purpose, new sites have rapidly been designated, and management agreements have effectively shaped and incentivised good work on sensitive sites.

Current implementation is, however, ineffective. We found several causes, but none so profound they cannot be put right. We identified inadequate governance structures and processes; gaps in evidence and understanding of sites, their condition and how best to manage them; a lack of transparency, for example in relation to site monitoring and enforcement; poor communication between DAERA and the owners and occupiers of land; and, unsurprisingly, insufficient funding and resources.

The following is a summary of our findings, starting with an overview of what ‘good governance’ should look like:

**Conditions for success:** A well-functioning governance system would be characterised by the existence and successful delivery of clear targets for protected sites and plans to achieve them. Their delivery would be overseen, coordinated and kept under review. Delivery would be a coherent, cross-government effort, with clarity of roles and responsibilities. Accessible information about protected sites would be publicly available, supporting delivery and allowing for public scrutiny and challenge.

We found several areas where we consider governance arrangements merit improvement to enable legislation to achieve the outcomes intended.

When targets have been set, they have not been legally binding and have not been achieved. They have sometimes led to periods of action, though this has not been sustained for long enough to achieve the intended outcomes in full. Delivery plans have been established for some sites, with positive planning for 40 of 58 Special Areas of Conservation, but plans are otherwise not consistently developed, implemented or kept under review.

Where legal duties, targets and plans exist, we assess that there has been insufficient oversight and coordination by the departments, agencies and other public authorities responsible for their delivery. There is no collaborative network among key delivery bodies to help support progress. We found a lack of clarity in, and limited understanding of, the allocation of responsibilities within government, with some important actions appearing not to be taken as a consequence.

Important information about the implementation of protected site laws has not always been published. This ranges from the specific, such as site assessment reports and

details of enforcement actions, to the general, such as strategies, plans and overall reviews of progress.

Publication has been patchy and transparency appears the exception rather than the rule. This has contributed to a lack of public understanding, scrutiny and accountability.

We have made the following recommendations in this area.

**Recommendation 1:** DAERA should consider proposing legislation to the Assembly that would, if adopted, provide for the setting of statutory targets for increasing the extent of protected sites, and improving their condition, in secondary legislation.

Where we refer to ‘protected site targets’ in subsequent recommendations, we are referring to the targets that we recommend are set on a statutory basis under Recommendation 1 or, in the absence of a statutory basis for targets, any equivalent targets set out in the Environmental Improvement Plan, the Nature Recovery Strategy or other documents.

**Recommendation 2:** DAERA should develop, publish and implement an overall strategy, and national and site-level delivery plans for achieving protected site targets. This should include the implementation of the existing management plans for SACs, and the development of plans for other protected sites. DAERA should regularly and transparently review progress against these plans and targets, and take corrective action if progress is not on track.

**Recommendation 3:** DAERA should strengthen its coordination and oversight of the delivery of protected site targets, strategy and delivery plans. This should include:

- a. clarifying for all, the allocation of roles and responsibilities for protected sites within and outside DAERA. In so doing, DAERA should ensure that achieving protected site targets is a key consideration for all relevant parts of the Department, and for other departments and agencies. This may require changes to governance structures, for example through the establishment of new working groups, and new guidance.
- b. creating and chairing a ‘major landowners and occupiers group’, covering those that own, or are responsible for, the largest areas of protected sites and those with the largest number of actions that need to be taken to protect, restore and enhance them. The group should aim to facilitate action at scale, collaboration, the exchange of learning and experience, and feedback to DAERA. It should also help DAERA provide oversight of work to meet the EIP target for protected site condition.
- c. providing additional coordination and oversight of the public authorities that are responsible for the largest areas of protected sites or for taking the largest number of actions. This should include ensuring that each authority publishes and reports against annual targets showing how it will individually contribute to meeting protected sites targets.

## **Annex 2 – Summary of the ‘emerging findings’ of the OEP’s work on the attributes of effective environmental regulation**

We are currently undertaking work on what makes for effective environmental regulation. This is intended to guide future OEP assessments of existing and proposed environmental laws.

Our thinking is not yet complete, but we have so far developed eight attributes of good regulatory design and implementation. While these may be subject to further development, it may be of help for you to see these now in summary form below.

In identifying these attributes, we have drawn upon previous work by other bodies including the NAO ‘Principles of Effective Regulation’,<sup>5</sup> the Macrory Review report (‘Regulatory Justice: Making Sanctions Effective’)<sup>6</sup> and the Hampton review (‘Reducing Administrative Burdens: Effective Inspection and Enforcement’).<sup>7</sup>

### Attribute 1: Environmental regulation should have a clear, evidence-based purpose and objectives

The purpose of a piece of intended legislation provides a fundamental starting point for its design, and the justification for a regulatory intervention in the first place. It asks: what is it intending to achieve, and what does it need to address to do so? A clear purpose should be informed by a strong evidence-base. It will also inform the development of clear objectives and the approach to implementation, so that the regime is applied in a purposeful way. Without a clear purpose and understanding of the issues, a regime may be poorly designed and ineffective and, accordingly, provide inappropriate solutions to the issue at hand.

### Attribute 2: Environmental regulation should allocate clear and appropriate roles and responsibilities

Clarity of roles and responsibilities is important to ensure accountability for the regulator and regulated parties, and to support coherence and avoid ambiguity or overlap across different regulators and regulations. Regulators should operate with an appropriate degree of independence to avoid undue influence. The roles of regulated parties should be well-defined to support compliance and effective implementation. Roles and responsibilities should also be targeted and realistic based on what can reasonably be expected in terms of those parties’ understanding, resources and capabilities, which will affect their ability to implement or comply with the law.

### Attribute 3: Regulators should be given, and make effective, proportionate use of, the right tools to promote compliance and achieve outcomes

Regulators should have the tools and systems they need to effectively support and enable the regulated to comply. Depending on the regime, these may include guidance, advice, monitoring systems and enforcement mechanisms. Effective use of technology

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<sup>5</sup> National Audit Office, ‘Principles of Effective Regulation’ (2021) <[www.nao.org.uk/insights/principles-of-effective-regulation/](http://www.nao.org.uk/insights/principles-of-effective-regulation/)> accessed 19 December 2024.

<sup>6</sup> Richard B Macrory, ‘Regulatory Justice: Making Sanctions Effective’ (2006) <[www.regulation.org.uk/library/2006\\_macrory\\_report.pdf](http://www.regulation.org.uk/library/2006_macrory_report.pdf)> accessed 26 November 2024.

<sup>7</sup> Phillip Hampton, ‘Reducing Administrative Burdens: Effective Inspection and Enforcement’ (2005) <[www.regulation.org.uk/library/2005\\_hampton\\_report.pdf](http://www.regulation.org.uk/library/2005_hampton_report.pdf)> accessed 26 November 2024.



and data is also highlighted as important for modern regulatory practices. Regulatory tools, and their underpinning legislation, should be designed so that the tools can be and are applied in manner that is effective to achieve the intended outcomes. Their application should also be objective, coherent, consistent, proportionate, efficient, clear and transparent, based on evidence, and subject to appropriate challenge and appeal.

Attribute 4: Regulators should have the right resources, capabilities and expertise

Regulators need sufficient funding, staffing, and expertise to fulfil their functions effectively. This highlights the importance of reliable and sustainable funding mechanisms. Adequate resources are essential for timely decision-making, consistent enforcement, and maintaining public trust. Successful implementation of environmental regimes may also depend on access to data and environmental information in clear, accessible and standardised formats.

Attribute 5: Environmental regulation should include meaningful engagement with regulated parties and others

Engagement with regulated parties and other stakeholders is important for transparency, accountability, and informed decision-making. This highlights the importance of substantive engagement with interested and regulated parties during the design and implementation of regulatory regimes. Ongoing engagement helps ensure that regulations are understandable, workable, and accepted by those affected. Safeguards should be in place to prevent 'regulatory capture'.

Attribute 6: Regulators should have a clear strategy, a robust culture and clear processes and procedures

Regulators should have clear strategies aligned with their (often legislative) mandate and environmental challenges and functions. Strong leadership and organisational culture are important for the development and impartial implementation of regulation. Clear procedures and guidance should ensure regulatory functions are carried out coherently, consistently and transparently, not only within an individual regime but also across regulators and regulations where appropriate. Strategies and processes should also demonstrate clarity of purpose, goals and objectives, and intended actions to achieve outcomes.

Attribute 7: Environmental regulation should provide for meaningful periodic review and evaluation

Environmental regulation should include provision for regular review and evaluation. This should involve the collection and use of data in a process of substantive and objective analysis to identify how the intervention is working in practice, successes, gaps, and areas for change. Such assessment should be built into legislative design and conducted with purpose to inform periodic reviews and continuous improvement.

Attribute 8: Environmental regulation should be clear, consistent and coherent

Much of the body of current environmental law is fragmented, complex and difficult to understand, even for specialists. This may hinder effective implementation of regulation if regulated parties find it difficult to interpret what legal provisions require of them. Whilst noting that some environmental regulations are necessarily complex owing to the

issues being responded to, regulations should be as simple, clear, and coherent as possible to facilitate understanding and compliance. Consistent and transparent decision-making by regulators is also crucial for building trust and ensuring fairness.