



Office for
Environmental
Protection

Review of implementation of laws for terrestrial and freshwater protected sites in Northern Ireland



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The Office for Environmental Protection is a non-departmental public body, created in November 2021 under the Environment Act 2021. Our mission is to protect and improve the environment by holding government and other public authorities to account. Our work covers England and Northern Ireland. We also cover reserved matters across the UK.

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Foreword



Foreword

Northern Ireland's natural environment is a vital asset for its people and its economy. More than that, it is a defining part of its character.

Iconic loughs and coasts, rivers, forests, uplands and lowlands together form a rich natural tapestry across the landscape. Among these, the most valued sites have been carefully selected for protection as vital sanctuaries that together should form an ecological network, not just to conserve nature but also to support human well-being. From Rathlin to the Mourne Mountains, and from Lough Erne to the Antrim Hills, Northern Ireland's protected sites must safeguard its natural heritage.

And yet, formal protection of these sites has proven insufficient to prevent their deterioration over a period of decades. This is against the backdrop of a legal framework that, applied robustly, ought to secure these natural treasures.

At the same time, work to designate further sites for protection has been slow, and has effectively stalled. This has left Northern Ireland with natural spaces and an ecological network that are so much less than they could and should be.

We have looked to establish where and why things have gone wrong and considered how they might now be put right. We have asked what has worked well and what now needs to change so that protected sites can contribute, as they ought, to protecting and improving the natural environment.

Our analysis and our engagement with public authorities, landowners and occupiers, environmental groups and other stakeholders lead 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, management agreements have effectively shaped and incentivised good work on sensitive sites, and well-supported environmental farming schemes have formed groups of farmers and conservation organisations to work together for nature's recovery at landscape scales. These actions and ways of working have doubtless contributed to the habitats and species on protected sites being buffered against the worst of wider losses of biodiversity.

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 of protections; poor communication between the Department for Agriculture, Environment and Rural Affairs and the owners and occupiers of land; and, perhaps unsurprisingly, insufficient funding and resources.

Even with the constant effort, expertise and experience of their people, sometimes sustained over decades and entire careers, resourcing by the Department has rarely matched the scale of the task.

Things could be so much better. We outline what this could look like, by identifying positive ‘conditions for success’ that would characterise an effective protected sites system. We have then drawn up recommendations that could help guide the Department and other public authorities towards achieving these conditions and towards fulfilling the promise of protected sites for nature and for society.

The recently adopted Environmental Improvement Plan for Northern Ireland takes a vital initial step along this route. With this Executive-endorsed Plan, the Department has made commitments to increase the area of land that is protected, connected and managed for nature, to improve the condition of protected sites, and to ensure Northern Ireland contributes its part to 30 by 30 and wider global commitments to restore biodiversity. We are further encouraged that the Programme for Government 2024-2027 identifies protecting Lough Neagh and the environment as one of nine priorities for acting now on what matters most for shaping a better tomorrow. We hope that this Programme for Government and this Environmental Improvement Plan will now provide the reset required to translate commitments into results.

The need to act is urgent. Protected sites need to be at the heart of renewed efforts to halt and then reverse nature’s decline, and to make long overdue improvements in the state of the environment for current and future generations.



A handwritten signature in black ink, appearing to be 'G Stacey'.

Dame Glenys Stacey
Chair, Office for Environmental Protection

Executive summary and recommendations



Executive summary and recommendations

Protected sites are areas of vital importance for safeguarding the natural environment, for building environmental resilience, and for mitigating and adapting to climate change. They are also of enormous importance for people's health, well-being and prosperity.

Their importance is reflected in domestic and international laws, commitments and targets. Best known, perhaps, is the Global Biodiversity Framework under the Convention on Biological Diversity, which includes targets to effectively conserve and manage at least 30% of land and sea by 2030, and to ensure that at least 30% of areas of degraded ecosystems are under effective restoration. Well-managed protected sites have a large part to play in both, but particularly the former.

Legislation in Northern Ireland requires that, where criteria are met, protected sites are designated and then aims to secure their protection and appropriate management. The Department of Agriculture, Environment and Rural Affairs (DAERA) and its executive agency, the Northern Ireland Environment Agency (NIEA), and their predecessors, have set targets over the years to support the effective implementation of these laws. Most recently, DAERA has set a target in the Environmental Improvement Plan to improve the condition of protected sites.

Despite their importance, the implementation of protected site laws in Northern Ireland has not been subject to detailed, independent assessment for many years, leaving uncertainty about its effectiveness. With this report, we aim to fill that gap.

About this report

We review the implementation of protected site laws for species and habitats on land and in freshwater in Northern Ireland. These laws relate to the designation, protection, monitoring and management of Areas of Special Scientific Interest (ASSIs), Special Protection Areas (SPAs) and Special Areas of Conservation (SACs). These laws are found in the Environment (Northern Ireland) Order 2002 ('the Environment Order'), and the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 ('the Habitats Regulations').

We focus on the work of DAERA, including NIEA, as the body that is responsible for implementing a wide range of functions under protected site laws.

We have assessed whether those laws are fulfilling their intended purpose of protecting, restoring and enhancing the natural environment. Where we have judged that they are not fulfilling that purpose, we make recommendations for action, to ensure that the legislation is applied effectively.

We are separately investigating DAERA in relation to a potential failure to comply with its duties to classify, manage or adapt SPAs, and to protect and maintain wild bird populations, as required by the Habitats Regulations. For this reason, we have not considered the designation of SPAs in this report.

Are protected site laws achieving their intended objectives?

Our overall assessment is that protected site laws are not being well implemented. This is manifest in two primary ways.

First, progress in designating more sites has been slow and has effectively stalled. No new ASSIs have been designated since 2018, leaving important places for nature unprotected. Northern Ireland's coverage of SACs and SPAs is lower than the UK as a whole, lower than the Republic of Ireland, and lower than any European Union member state.

Second, the proportion of features for which protected sites are designated that are in favourable condition has declined. In 2008, 61.7% of the assessed habitats and species features of ASSIs were in favourable condition. By 2024, with increased numbers of features, this had fallen to 51.5%.

We have found areas where laws have at times been well implemented and initiatives have contributed to environmental improvements. Of particular note are a period in which significant progress was made designating new sites, the successful delivery of a programme for entering into management agreements, and group-level agri-environment schemes that brought farmers together and enabled access to high-quality advice. While these positive initiatives may not have been sustained or scaled up to the extent needed, they nevertheless indicate that the legal framework can be made to work well.

We therefore conclude that, in most cases, it is not the nature of the laws themselves that has led to shortcomings. Rather it is the way in which laws are being implemented that reduces their effectiveness.

Our conditions for success, conclusions and recommendations

Our assessment starts with reviewing the governance and resourcing of the implementation of protected site laws. We then examine the implementation of protected site laws relating to designation, monitoring, management and the regulation of activities and enforcement of protections.

In looking at these topics, we identify what we consider to be the 'conditions for success' for a well-functioning system of protected site laws. These conditions represent the fundamental components we believe are necessary to apply the legislation effectively and achieve its intended outcomes.

We intend that these conditions, our conclusions on how laws are being implemented, and the related recommendations will guide more effective delivery of protected site laws. This should create better prospects for protected sites in Northern Ireland, deliver more for nature and for people, and help fulfil domestic and international targets.

We have directed our recommendations to DAERA as the body that is given functions under protected site laws and which we consider bears overall responsibility for the governance and resourcing of work to implement these laws. DAERA would also be responsible for proposing legislation to the Northern Ireland Assembly to amend or create new powers and duties. References to DAERA in our recommendations should be taken to include the delivery of functions by NIEA.

Governance

Conditions for success: A well-functioning 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 SACs, 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 of 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.

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.

Funding and resourcing

Conditions for success: A well-functioning system would be characterised by planned, sufficient and sustained resource allocation. Long-term provision of resources, including staff capacity and expertise, would be based on a sound assessment of what is needed to implement the law effectively and achieve targets.

We found that resource constraints hinder the implementation of protected site laws and the delivery of targets. Constraints are such that delivery of any one activity often requires other activities to be paused or halted, and progress is often not at the pace intended. Resource constraints fundamentally compromise government activity in this area and go a long way towards explaining why protected site laws are not achieving their objectives.

We found that DAERA has made no recent assessment of the required level of staffing or funding for protected sites. This creates an information gap which compromises the possible remediation of deficiencies and long-term planning to deliver against the Department’s responsibilities.

Recommendation 4: DAERA should assess the resourcing requirements and the adequacy of current resourcing within the Department and other public authorities to implement protected site laws and achieve targets. DAERA should publish this assessment.

Designation

Conditions for success: A well-functioning system would be characterised by an ecologically effective, well connected and resilient network of protected sites, which is regularly reviewed and adapted. The purpose and process of designation would be understood by, and undertaken collaboratively with, landowners and occupiers.

We found that insufficient progress has been made in designating protected sites.

Northern Ireland has designated approximately 8.4% of its area as SACs and SPAs. This is lower than the UK as a whole (9.5%) and lower than the Republic of Ireland (13.2%). Were it comparable to European Union member states in its own right, Northern Ireland would have less than half the average coverage of SACs and SPAs (20.2%), and the lowest coverage among all member states.

In 1990, there were 24 ASSIs in Northern Ireland, covering 0.5% of land. In 2025, there are 394 ASSIs, covering 7.7% of land. As hard-won as this progress has doubtless been, it falls short of previous government targets to have designated 10% of land as ASSIs by 2015, to have designated 440 ASSIs by 2016, and to have substantially completed network designation by 2020. Forty-six sites with features of special interest identified as priorities for ASSI designation in 2007 had not been designated by the end of 2024. Work to designate more sites stopped in 2018.

We found insufficient engagement with landowners and occupiers during the designation process to apply the legislation effectively. This has created misunderstandings about site designations and has negatively affected their management.

Recommendation 5: DAERA should restart the designation of protected sites. It should designate sites it has previously identified as meeting the relevant criteria. DAERA should keep the protected site network under regular review, promptly publishing the results of reviews and filling any identified gaps.

Recommendation 6: DAERA should engage with landowners and occupiers during the designation process with the aim of building effective and sustainable working relationships. DAERA should discuss the importance of the land, future management expectations, and the financial incentives that are available to achieve them.

Monitoring, evaluation and reporting

Conditions for success: A well-functioning system would be characterised by comprehensive and timely monitoring, evaluation and reporting. This would provide a detailed understanding of the condition of protected sites, the pressures affecting them and the action that needs to be taken. Evidence would be published, discussed with landowners and occupiers, and regularly reviewed to track progress towards achieving outcomes for individual sites and the network as a whole.

We found that monitoring of the condition of protected sites is too infrequent to detect change, inform management or identify non-compliance in a timely way. NIEA's aim to

assess all features of protected sites within a six-year cycle has not been achieved and the proportion of features being assessed in each cycle has declined. Some features have not been assessed for 20 years or more. Resource constraints hinder monitoring.

Where monitoring has been undertaken, site-level results are not fully utilised. The data that are collected are used more for reporting, and less for wider practical purposes, such as the development or evaluation of management options. Reporting is often high-level and has primarily remained internal to DAERA, though the Department published site-level summary information in September 2024. The outcomes of site monitoring are not proactively provided or discussed with landowners and occupiers. This inhibits owners' and occupiers' ability to deliver and adapt their management activities.

Limited communication and publication of information hinders public scrutiny of authorities in fulfilling their responsibilities. This lack of transparency constrains people's understanding of, and confidence in, what DAERA is doing. It also hinders building relationships between the Department and landowners and occupiers.

Recommendation 7: DAERA should bring up to date and publish condition assessments for all protected sites and their features.

Recommendation 8: DAERA should consider proposing legislation to the Assembly that would, if adopted, establish a duty on DAERA to monitor and publicly report on the condition of protected sites. We suggest that such a duty should also require DAERA to publish guidance explaining how frequently it will monitor different types of protected site features.

Recommendation 9: DAERA should discuss the results of its condition assessments with protected site owners and occupiers in a timely way. Where action is required, DAERA should clearly explain what should be done, by whom, and by when. DAERA should then work with the owner or occupier to ensure and support the effective delivery of necessary actions. This should include regularly reviewing progress where features are determined to be in unfavourable condition.

Management incentives and advice

Conditions for success: A well-functioning system would be characterised by incentives for landowners and occupiers that are widely taken up and that help ensure protected sites are maintained in, or restored to, favourable condition. Site management would embody genuine partnership and collaboration between the responsible public authorities and the landowners or occupiers. This would be rooted in relevant and enduring expertise and experience and use a mixture of face-to-face and other approaches.

Environmental Farming Scheme (EFS) Higher Level agreements are the primary tool used by DAERA to secure the appropriate management of protected sites. Just over half of the ASSIs eligible for EFS have areas overlapping with land subject to agreements under EFS management.

Where sites are not eligible for EFS, DAERA has used management agreements under the Management of Sensitive Sites (MOSS) programme to fund the necessary management. The number of MOSS agreements peaked at 106 in 2007 and subsequently fell to zero by 2023. We understand that a small number of one-year MOSS agreements have been entered into since then.

The limited coverage of EFS and MOSS agreements means that landowners or occupiers may need to fund necessary management themselves. This is a significant barrier for the owner and occupier, and for DAERA, in being able to achieve the appropriate management of sites.

When agreements have been in place, we found several areas where improvement is needed. They lack sufficient funding and are often short in duration. In contrast to MOSS, EFS agreements are not always aligned to best effect with the needs of individual sites. We also found that assessments and consequent adjustment of prescribed actions have been insufficient to achieve intended outcomes.

Apart from correspondence relating to monitoring visits and engagement in relation to the MOSS programme, NIEA carries out little proactive engagement with site owners and occupiers. While general training and support on a wide range of matters are available through the College of Agriculture, Food and Rural Enterprise, it appears that ongoing formal advice and support, tailored to specific protected sites are lacking. Funded advice is delivered by some environmental non-governmental organisations but this covers a small number of geographic areas. As a result, landowners and occupiers lack understanding of what funding they may be eligible to receive or how to access it.

Recommendation 10: DAERA should ensure that tailored and ongoing advice and support are available to all owners and occupiers of protected sites, and other relevant stakeholders, to secure the appropriate management of sites. Each protected site should have a specified point of contact who should be supported by the expertise of a multi-agency and disciplinary team.

Recommendation 11: DAERA should ensure that achieving its protected site condition target is a key consideration in the development and implementation of its future agri-environment scheme, Farming with Nature. DAERA should build on the successes of EFS, notably the Group Level schemes, while improving its areas of weakness. This should include:

- a) achieving the level of uptake that will be needed to achieve the condition target by providing for agreements that are sufficiently long-term and well-funded to make them attractive to protected site owners and occupiers;
- b) ensuring agreements are tailored to the specific features and condition of each protected site, are informed by site condition monitoring data and conservation management plans and (in the case of agreements in the areas surrounding sites) explicitly consider how to address offsite pressures.

Recommendation 12: DAERA should significantly increase the scale of the MOSS programme and ensure long term agreements are possible. MOSS should be used to ensure that protected site owners and occupiers not eligible for EFS or, in future Farming with Nature, receive the funding and advice they need to appropriately manage their site.

Regulatory tools and enforcement

Conditions for success: A well-functioning system would be characterised by prompt action, using a range of regulatory approaches and tools, to secure positive management of sites, and to deter and address non-compliance.

We found that owners and occupiers of protected sites often lack awareness of, or are disengaged from, the regime under which they must apply for consent or assent to carry out potentially damaging activities. This is not helped by the lack of detailed published guidance and advice on the consenting system and application process.

NIEA's ability to detect non-compliance has been hindered by the scaling back of protected site compliance monitoring. There is limited capacity within NIEA to carry out enforcement work when breaches are detected. This appears to have contributed to low levels of enforcement action. We expect this is also a result of the limited range of enforcement options. Unlike in England, DAERA is unable to use civil sanctions to enforce protected site laws. Instead, it must pursue potentially lengthy and costly criminal prosecutions.

We also found that, unlike in England, there is no register of what enforcement action has been taken in respect of protected site offences. Making this information publicly available would improve public understanding and could provide a deterrent effect.

Where protected site laws are being complied with, but sites are not being appropriately managed, we found that NIEA has not used regulatory tools enabling it to mandate appropriate management. This has been the case even where voluntary measures such as incentives and advice are failing to achieve positive outcomes.

Recommendation 13: DAERA should:

- a) develop and publish more detailed guidance on consenting obligations and processes for landowners and occupiers, as well as ensuring access to support and advice;
- b) address unlawful and inadequate activities by owners, occupiers and other relevant persons by increasing monitoring to identify non-compliance, using management notices when voluntary agreements are not complied with or cannot be entered into, and taking appropriate enforcement action in response to non-compliance; and
- c) produce and publish records of enforcement action.

Recommendation 14: DAERA should consider proposing legislation to the Assembly that would, if adopted, make civil sanctions available as an enforcement option for protected site offences.

Chapter 1. Introduction



Chapter 1. Introduction

1.1 Focus of this report

In Northern Ireland, as in the rest of the UK, nature conservation legislation can be divided between laws relating to the direct protection of rare, threatened or otherwise important species of animals and plants, and those relating to the place-based protection of specific sites and their features. In this report, we are primarily concerned with the latter and, in particular, the designation and management of protected sites for habitats and species on land¹ and in freshwater environments.

Protected sites are a cornerstone of nature conservation, globally² and domestically.³ Protected sites are clearly defined geographical areas that are recognised and managed through legal or other effective means (for example through voluntary agreements), to ensure the long-term conservation of species, habitats and geological features.⁴

In practice, within this definition, there is significant variation in the management, governance and use of sites, such as for agriculture or recreation.⁵ In Northern Ireland, as in the rest of the UK, there are several types of site designation, serving various legislative purposes. These include sites designated for their natural beauty (for example, Areas of Outstanding Natural Beauty), and for the conservation of nature (for example, National Nature Reserves).

In this report, we focus on protected sites for the conservation of habitats and species. Specifically, we assess the implementation of laws for the designation, protection, monitoring and management of:

- Areas of Special Scientific Interest (ASSIs) designated for flora, fauna, or geological, physiographical or other features⁶ under the Environment (Northern Ireland) Order 2002 ('the Environment Order'). While our focus is on ASSIs designated for habitats and species, many of the statistics we use in this report include earth science features and sites;
- Special Areas of Conservation (SACs), designated for habitats and species (excluding birds) under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 ('the Habitats Regulations'); and
- Special Protection Areas (SPAs), designated for species of, and habitats for, breeding, over-wintering and migrating birds, under the Habitats Regulations.

1 For the purposes of this report, we have defined "land" and "terrestrial" (which we use interchangeably) as extending to the mean low water mark (MLW). This is because ASSIs are designated by NIEA up to MLW (article 28, Environment Order and Section 45, Interpretation Act (Northern Ireland) 1954). This is reflected in D Paul Brazier and others, 'SSSI Guidelines - Chapter 1b Marine Intertidal and Shallow Subtidal Habitats' (JNCC 2019) 28 <<https://hub.jncc.gov.uk/assets/3e8b58d8-ff6b-4bc6-ba4f-aeed92710e14>> accessed 26 February 2025. It is also confirmed by NIEA via written response to information request (17 September 2024)), and NIEA, 'Areas of Special Scientific Interest' <<https://admin.opendatani.gov.uk/dataset/areas-of-special-scientific-interest>> accessed 25 February 2025.

2 Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 69.

3 DAERA, 'Environmental Improvement Plan for Northern Ireland' (2024) <www.daera-ni.gov.uk/publications/environmental-improvement-plan-northern-ireland> accessed 27 September 2024.

4 Convention on Biological Diversity, 'Texts and Annexes' (United Nations 2011), Article 2.

5 Nigel Dudley and others, 'The Revised IUCN Protected Area Management Categories: The Debate and Ways Forward' (2010) 44 Oryx 485.

6 While much of our report is relevant to all ASSIs, our main focus is on sites with biological features and how laws are contributing to the conservation, restoration and enhancement of species and habitats.

Several aspects of protected sites are out of scope of this report. We do not review the implementation of laws for marine protected areas. This is because we are separately gathering evidence on the contributions of marine protected areas in England and Northern Ireland to achievement of good environmental status. We do not address the operation of environmental assessment regimes such as Habitats Regulations Assessments, as we have reported on this as part of an earlier project.⁷ The OEP is currently undertaking an investigation into DAERA in relation to duties within the Habitats Regulations (Box 1). Matters relating to these duties are not considered within this report.

The remainder of this chapter summarises the purpose and scope of our assessment, namely the ecological and other benefits of protected sites, and the evolving policy framework in relation to them. Following this we provide a summary of the development of the laws relating to protected sites and their state (extent and condition), our approach to the work of assessing the implementation of these laws, and the structure of the remainder of the report.

Box 1. OEP investigations into Special Protection Areas and protection of wild birds in Northern Ireland and England

In March 2024, the OEP launched an investigation into DAERA,⁸ having determined that there were indications that the Department may have failed to comply with its duties to classify, manage and/or adapt SPAs, and to protect and maintain wild bird populations more widely, as required by the Habitats Regulations.

Many bird populations in the UK and Ireland are in decline,⁹ and SPAs play a vital role in conserving rare and threatened wild birds naturally occurring in Northern Ireland, including regularly visiting migratory species. A key consideration of the investigation is the implementation of recommendations made by the Joint Nature Conservation Committee (JNCC), and other statutory nature conservation bodies, on the classification, adaptation and management of SPAs. These recommendations were provided through three reviews of the SPA network, published in 1992, 2001 and partially in 2016. At the time of writing, Phase Two of the 2016 review has not been published.

Having identified these issues as a topic of interest, the OEP subsequently received evidence through this project's Call for Evidence which highlighted gaps in implementation of the SPA network reviews as an area of concern.

Alongside this investigation, we began a similar investigation in England into the Secretary of State for Environment, Food and Rural Affairs, and Natural England. At the same time, Environmental Standards Scotland launched an investigation into similar issues in Scotland, with the Interim Environmental Protection Assessor for Wales also undertaking work relating to protected sites. To find the latest information on the OEP investigations, see our Investigations webpage.¹⁰

7 Office for Environmental Protection, 'A Review of the Implementation of Environmental Assessment Regimes in England' (2023) <www.theoep.org.uk/report/environmental-assessments-are-not-effective-they-should-be-due-practical-barriers> accessed 15 January 2025.

8 Office for Environmental Protection, 'OEP Launches Investigations into Special Protection Areas for Wild Birds' (18 March 2024) <www.theoep.org.uk/news/oep-launches-investigations-special-protection-areas-wild-birds> accessed 25 April 2024.

9 Andrew J Stanbury and others, 'The Status of Our Bird Populations: The Fifth Birds of Conservation Concern in the United Kingdom, Channel Islands and Isle of Man and Second IUCN Red List Assessment of Extinction Risk for Great Britain' (2021) 114 *British Birds* 723; Gillian Gilbert, Andrew Stanbury and Lesley Lewis, 'Birds of Conservation Concern in Ireland 4: 2020–2026' (2021) 43 *Irish Birds* 1.

10 Office for Environmental Protection, 'Investigations' <www.theoep.org.uk/investigations> accessed 11 March 2025.

1.2 Protecting sites for species and habitats

Protected sites are intended to be, and in many cases are, a crucial mechanism for halting and reversing the decline of biodiversity, and supporting the recovery of the natural environment.¹¹ Protected sites are not, however, immune to wider losses of biodiversity or landscape-scale pressures.¹² ASSIs, SPAs and SACs in the UK provide vital protections to nationally and internationally important species and habitats (Box 2).

Beyond nature conservation, protected sites provide wider benefits to society and to the economy. These areas provide ecosystem services including climate change mitigation and adaptation (for example, carbon sequestration),¹³ improvements to water quality¹⁴ and support for pollinators.¹⁵ They enhance human health and well-being by offering opportunities to spend time in nature,¹⁶ and preserve historical and cultural values.¹⁷ As we outline in Chapter 3, studies have shown that the costs of protecting and restoring protected sites are significantly outweighed by the economic value of doing so.

The importance of protected sites is reflected in nature conservation policy at both the domestic and the international scale. Whilst we address the implications of policy further in Chapter 2 and elsewhere in the report, the following sections summarise key commitments.

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- 11 Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 69; International Union for Conservation of Nature, 'Conserving at Least 30% of the Planet by 2030 – What Should Count?' (2023) <www.iucn.org/resources/factsheet/conserving-least-30-planet-2030-what-should-count> accessed 19 June 2024.
 - 12 Charles A Cunningham and others, 'The Effectiveness of the Protected Area Network of Great Britain' (2021) 257 Biological Conservation 109146.
 - 13 Rob H Field and others, 'The Value of Habitats of Conservation Importance to Climate Change Mitigation in the UK' (2020) 248 Biological Conservation 108619.
 - 14 Natural Capital Solutions and others, 'Valuing Our Peatlands: Natural Capital Assessment and Investment Appraisal of Peatland Restoration in Northern Ireland' (2020) <<https://web.archive.org/web/20220815101714/https://www.rspb.org.uk/globalassets/downloads/about-us/valuing-our-peatlands.pdf>> accessed 28 February 2025.
 - 15 Rob Cooke and others, 'Protected Areas Support More Species than Unprotected Areas in Great Britain, but Lose Them Equally Rapidly' (2023) 278 Biological Conservation 109884.
 - 16 Nick Hanley and others, 'Sites of Special Scientific Interest (SSSI) Economics' (Natural England 2022) NECR415 <www.publications.naturalengland.org.uk/publication/6319377778737152> accessed 23 June 2024.
 - 17 Sue Solton, Peter Shadie and Nigel Dudley, 'Guidelines for Applying Protected Area Management Categories.' (International Union for Conservation of Nature 2013) <<https://portals.iucn.org/library/node/30018>>; Sue Solton and others, 'Values and Benefits of Protected Areas', *Protected Area Governance and Management* (ANU Press 2015) <www.press-files.anu.edu.au/downloads/press/p312491/pdf/CHAPTER6.pdf> accessed 23 June 2024.

Box 2. Benefits of protected sites for nature in the United Kingdom

- **Bird species and communities:** Studies have demonstrated that rare and declining bird species, as well as habitat specialists, gain substantial benefits from protected sites. These benefits are reflected in increases in their occurrence, abundance, productivity and colonisation.¹⁸ Protected sites have also been shown to provide ‘spillover’ benefits for birds in the wider countryside,¹⁹ and support colonisation driven by climate change.²⁰ In Northern Ireland, whilst over-wintering pochards (a species of diving duck) have declined, this has occurred at a slower rate within protected sites, and virtually no pochards now occur outside of protected sites.²¹
- **Habitats:** Evidence from England demonstrates that Sites of Special Scientific Interest (SSSIs) retained more grassland (91%) compared with non-protected sites (27%).²² Fenlands and heathlands have been shown to be in better condition within SSSIs than those outside.²³ Monitoring undertaken by NIEA also suggests that some habitats within protected sites are generally in better condition than outside.²⁴
- **Invertebrate species and communities:** protected sites have been shown to have greater species richness compared to unprotected areas, with 15% more invertebrate species and almost double the number of rare species.²⁵ Recovery of butterfly populations coincided with greater protection and management of sites²⁶ and trends for populations of threatened butterflies were generally positive in protected sites considered to be in favourable condition.²⁷ Protected sites have been shown to provide “landing pads” for range-shifting pollinators,²⁸ and to facilitate colonisation driven by climate change.²⁹
- **Plant species and communities:** a high proportion of threatened plant species occur within protected areas, despite the fact that many of these areas were not originally designated for conserving these species.³⁰

18 Ailidh E Barnes and others, ‘Rare and Declining Bird Species Benefit Most from Designating Protected Areas for Conservation in the UK’ (2022) 7 Nature Ecology & Evolution 92.

19 Fiona J Sanderson and others, ‘Benefits of Protected Area Networks for Breeding Bird Populations and Communities’ (2023) 26 Animal Conservation 279.

20 Chris D Thomas and others, ‘Protected Areas Facilitate Species’ Range Expansions’ (2012) 109 Proceedings of the National Academy of Sciences 14063.

21 Teresa Frost and others, ‘Waterbirds in the UK 2018/19: The Annual Report of the Wetland Bird Survey’ (BTO, RSPB, JNCC, WWT 2020) <www.bto.org/sites/default/files/wituk-2018-19-web.pdf> accessed 24 June 2024.

22 Lucy E Ridding, John W Redhead and Richard F Pywell, ‘Fate of Semi-Natural Grassland in England between 1960 and 2013: A Test of National Conservation Policy’ (2015) 4 Global Ecology and Conservation 516.

23 E Hewins and others, ‘The Condition of Lowland Heathland: Results from a Sample Survey of Non SSSI Stands in England’ (Natural England 2007) <www.publications.naturalengland.org.uk/file/60013> accessed 26 June 2024; Natural England, ‘State of the Natural Environment 2008’ (2008) N85 ch 7 <<https://publications.naturalengland.org.uk/publication/31043>> accessed 17 January 2025.

24 Call for evidence response from NIEA to the OEP (14 June 2023).

25 Cooke and others (n 15).

26 Tom M Brereton and others, ‘The Changing Status of the Chalkhill Blue Butterfly *Polyommatus Coridon* in the UK: The Impacts of Conservation Policies and Environmental Factors’ (2008) 12 Journal of Insect Conservation 629.

27 Harriet Davies and others, ‘Government Targets for Protected Area Management: Will Threatened Butterflies Benefit?’ (2007) 16 Biodiversity and Conservation 3719.

28 Cooke and others (n 15).

29 Thomas and others (n 20).

30 Sarah F Jackson, Kevin Walker and Kevin J Gaston, ‘Relationship between Distributions of Threatened Plants and Protected Areas in Britain’ (2009) 142 Biological Conservation 1515.

Convention on Biological Diversity

The UK is a signatory to the Kunming-Montreal Global Biodiversity Framework, under the Convention on Biological Diversity.³¹ This sets out a vision and framework for action to conserve, use sustainably, and share equitably the benefits of biodiversity.³² The framework includes four Goals for 2050 and 23 targets to be achieved by 2030. Signatories to the Convention must translate the framework into national proposals,³³ and set out these proposals and report on progress to the Secretariat.³⁴

Of these targets, many relate to, or will affect, protected sites. These include targets to halt species extinction (Target 4),³⁵ reduce pollution (Target 7),³⁶ and ensure that data and information are accessible and available (Target 21).³⁷ Protected sites are central to Target 3,³⁸ which is aimed at conserving and managing at least 30% of land, waters and seas for biodiversity. Target 3 is often referred to as the ‘30 by 30’ target for protected areas. This is closely linked with, and supported by Target 2,³⁹ which focuses on restoring at least 30% of all degraded ecosystems by the same year (Box 3). Together, these two targets create a framework and requirement for both conservation and restoration efforts in, for example, Northern Ireland.

As well as ensuring that at least 30% of land and waters are effectively conserved, Target 3 requires that these areas are also effectively managed. Guidance notes for this target state that the protected areas and ‘other effective area-based conservation measures’⁴⁰ must be managed with the primary objective of achieving positive outcomes for biodiversity. This requires the adoption of “appropriate management objectives and processes, governance systems, adequate and appropriate resources and consistent monitoring”.⁴¹ The condition of sites, and of their species and habitats, is therefore of equal importance to the spatial extent of area designated. By safeguarding ecosystems and increasing their resilience, these targets also underpin efforts to maintain essential ecological processes and services. This focus is pivotal for fulfilling broader environmental obligations, such as improving water quality.⁴²

31 Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 69.

32 Kunming-Montreal Global Biodiversity Framework (adopted 19 December 2022) CBD/COP/DEC/15/4.

33 *ibid* art 6.

34 *ibid* art 26.

35 Convention on Biological Diversity, ‘Target 4 Halt Species Extinction, Protect Genetic Diversity, and Manage Human-Wildlife Conflicts’ <www.cbd.int/gbf/targets/4> accessed 27 February 2025.

36 Convention on Biological Diversity, ‘Target 7 Reduce Pollution to Levels That Are Not Harmful to Biodiversity’ <www.cbd.int/gbf/targets/7> accessed 27 February 2025.

37 Convention on Biological Diversity, ‘Target 21 Ensure That Knowledge Is Available and Accessible To Guide Biodiversity Action’ <www.cbd.int/gbf/targets/21> accessed 27 February 2025.

38 Convention on Biological Diversity, ‘Target 3 Conserve 30% of Land, Waters and Seas’ <www.cbd.int/gbf/targets/3> accessed 10 June 2024.

39 Convention on Biological Diversity, ‘Target 2 Restore 30% of All Degraded Ecosystems’ <www.cbd.int/gbf/targets/2> accessed 27 February 2025.

40 We do not address ‘other effective area-based conservation measures’ (OECMs) within this report.

41 See the section on “explanation of the target and its elements” as part of Convention on Biological Diversity, ‘Target 3 Conserve 30% of Land, Waters and Seas’ (n 38).

42 Office for Environmental Protections, ‘A Review of Implementation of the Water Framework Directive Regulations and River Basin Management Planning in Northern Ireland’ (2024) <www.theoep.org.uk/report/implementation-water-framework-directive-northern-ireland> accessed 4 September 2024.

Box 3. Targets 2 and 3 of the Kunming-Montreal Global Biodiversity Framework under the Convention on Biological Diversity

Global targets for 2030

The Kunming-Montreal Global Biodiversity Framework has 23 action-oriented global targets for urgent action over the decade to 2030. The actions set out in each target need to be initiated immediately and completed by 2030. Together, the results will enable achievement towards the outcome-oriented goals for 2050. Actions to reach these targets should be implemented consistently and in harmony with the Convention on Biological Diversity and its Protocols, and other relevant international obligations, taking into account national circumstances, priorities and socioeconomic conditions.

Target 2: Restore 30% of all Degraded Ecosystems

Ensure that by 2030 at least 30 per cent of areas of degraded terrestrial, inland water, and coastal and marine ecosystems are under effective restoration, in order to enhance biodiversity and ecosystem functions and services, ecological integrity and connectivity.⁴³

Target 3: Conserve 30% of Land, Waters and Seas

Ensure and enable that by 2030 at least 30 per cent of terrestrial, inland water, and of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed through ecologically representative, well-connected and equitably governed systems of protected areas and other effective area-based conservation measures, recognizing indigenous and traditional territories where applicable, and integrated into wider landscapes, seascapes and the ocean, while ensuring that any sustainable use, where appropriate in such areas, is fully consistent with conservation outcomes, recognizing and respecting the rights of indigenous peoples and local communities, including over their traditional territories.⁴⁴

Delivery of the 30 by 30 target in Northern Ireland requires the effective implementation of laws related to the designation and management of protected sites. A 2023 assessment by the International Union for Conservation of Nature (IUCN) UK Protected Areas Working Group concluded that, while each ASSI had a management statement attached to the citation, measures to achieve conservation objectives on ASSIs were not being implemented given that only 55% of features were in favourable condition.⁴⁵ They also found there was insufficient publicly available evidence to assess the level of monitoring or identify if measures were working. The assessment concluded that only some ASSIs were being managed effectively. It reached the same conclusion for SACs and SPAs. There is, therefore, a gap between the areas that are currently considered effectively managed in Northern Ireland, and the area that is required to contribute to meeting the 30 by 30 target.

43 Convention on Biological Diversity, 'Target 2 Restore 30% of All Degraded Ecosystems' (n 39).

44 Convention on Biological Diversity, 'Target 3 Conserve 30% of Land, Waters and Seas' (n 38).

45 Protected Areas Working Group of the IUCN National Committee UK, 'Statements of Compliance for UK Protected Areas and "Other Effective Area-Based Conservation Measures": 2023 Review' (2023) <<https://iucn-nc.uk/wp-content/uploads/2023/12/Statements-of-Compliance-for-UK-protected-areas-and-%E2%80%98other-effective-area-based-conservation-measures-2023-Review.pdf>> accessed 3 June 2024.

As environmental law and policy is devolved within the UK, Northern Ireland, along with the other devolved administrations, is expected to contribute to the UK's fulfilment of the Global Biodiversity Framework.

At the time of writing, the Convention's Online Reporting Tool contains no commitments, policy measures or actions that are specific to Northern Ireland for how it will contribute to the UK's achievement of the 30 by 30 target. There is specific information relating to England, Scotland and Wales, as well as four of the Crown Dependencies and UK Overseas Territories.⁴⁶

The Environmental Improvement Plan (EIP) for Northern Ireland includes a commitment to develop a Nature Recovery Strategy by the end of 2024 that will set the direction for Northern Ireland's contribution to the Global Biodiversity Framework. This strategy will also replace the previous Biodiversity Strategy, which expired in 2020. The law requires DAERA to have a biodiversity strategy.⁴⁷

The Environmental Improvement Plan (EIP)

Under the Environment Act 2021, DAERA is required to prepare an EIP.⁴⁸ The EIP for Northern Ireland includes six Strategic Environmental Outcomes (SEOs), under each of which there is a set of proposals (for actions, targets and future vision/outcomes).⁴⁹ These SEOs are not legally binding but are instead outcomes through which the Northern Ireland Executive intends to deliver its environmental commitments within the Programme for Government.⁵⁰

SEO 3 relates to 'thriving, resilient and connected nature and wildlife.' Under this SEO there are several targets and actions relating to protected sites on land and in freshwater. These include: by 2030 having 'at least 30% of land and freshwater protected, connected and managed for nature' and '95% of the features underlying the designation of ASSIs to be in, or approaching, favourable conservation condition.' These and other commitments relating to the governance, monitoring and management of protected sites are discussed in the following chapters.

It is therefore important that the Nature Recovery Strategy, when it is issued, is coherent with the EIP and its SEOs, and that they will together ensure that the above international and domestic targets are met.

46 Convention on Biological Diversity, 'National Targets: United Kingdom of Great Britain and Northern Ireland' <<https://ort.cbd.int/national-targets/my-country/part-1/7C459F44-F96F-938F-F72B-0113FF30CA30/view>> accessed 28 October 2024.

47 S. 3, Wildlife and Natural Environment Act (Northern Ireland) 2011.

48 Sch 2, para 1(7), Environment Act 2021.

49 DAERA, 'Environmental Improvement Plan for Northern Ireland' (n 3).

50 Northern Ireland Executive, 'Our Plan: Doing What Matters Most. Programme for Government 2024-2027' (2025) <www.northernireland.gov.uk/sites/default/files/2025-03/programme-for-government-2024-2027-our-plan-doing-what-matters-most_1.pdf> accessed 5 March 2025.

1.3 Protected sites in Northern Ireland

1.3.1 The extent, ownership and condition of protected sites

The designation of ASSIs in Northern Ireland began in 1986 with Carrickbawn ASSI in Fermanagh, which was designated because it is the only known locality for Cornish heath in Ireland.⁵¹

The total area of Northern Ireland above mean low water (MLW) and including lakes,⁵² that is designated as an ASSI, SAC or SPA is calculated as 140,374 ha (approximately 9.8%) (Figure 1).⁵³ This comprises 394 ASSIs (calculated area 110,438 ha, 7.7%), 58 SACs (42,903 ha, 3.0%) and 16 SPAs (93,828 ha, 6.6%).⁵⁴ The areas of protected sites with these different designations overlap to a large degree and so the separate figures cannot simply be summed. The total area above MLW and including lakes that is designated as either an SAC or an SPA is 119,558 ha (approximately 8.4%).

These figures are indicative. Published data on the extent of protected sites in Northern Ireland relate to the whole site, comprising land and sea, calculated when sites were confirmed. We have encountered several limitations associated with data on the extent of protected sites in Northern Ireland. These challenges include inconsistencies in the reported figures and the accessibility of data layers on mean low water, which are necessary for extracting information on terrestrial boundaries.

51 NIEA, 'Terrestrial and Marine Protected Sites - Sites, Features, and Condition Spreadsheet (2022/23)'. Provided as part of call for evidence response from NIEA to the OEP (14 June 2023).

52 For the purposes of this report, NIEA calculated the land area of Northern Ireland from OSNI products to be 1,425,481 ha, including inter-tidal areas above MLW and lakes. Provided via written response to questions from DAERA to the OEP (3 March 2025).

53 Written response to questions from DAERA to the OEP (3 March 2025).

54 Figures for sites above MLW provided through written response to questions from DAERA to the OEP (3 March 2025). NIEA clarified, through a written response to information request (17 September 2024), that including marine sites (marine protected areas) – those below MLW – 58 SACs (246,300 ha) and 16 SPAs (114,600 ha) had been designated across Northern Ireland. ASSIs are not designated below MLW, as such there is no differentiated figure for marine sites. The area extent of terrestrial and freshwater sites is indicative because separating marine and terrestrial extent is unavoidably imprecise.

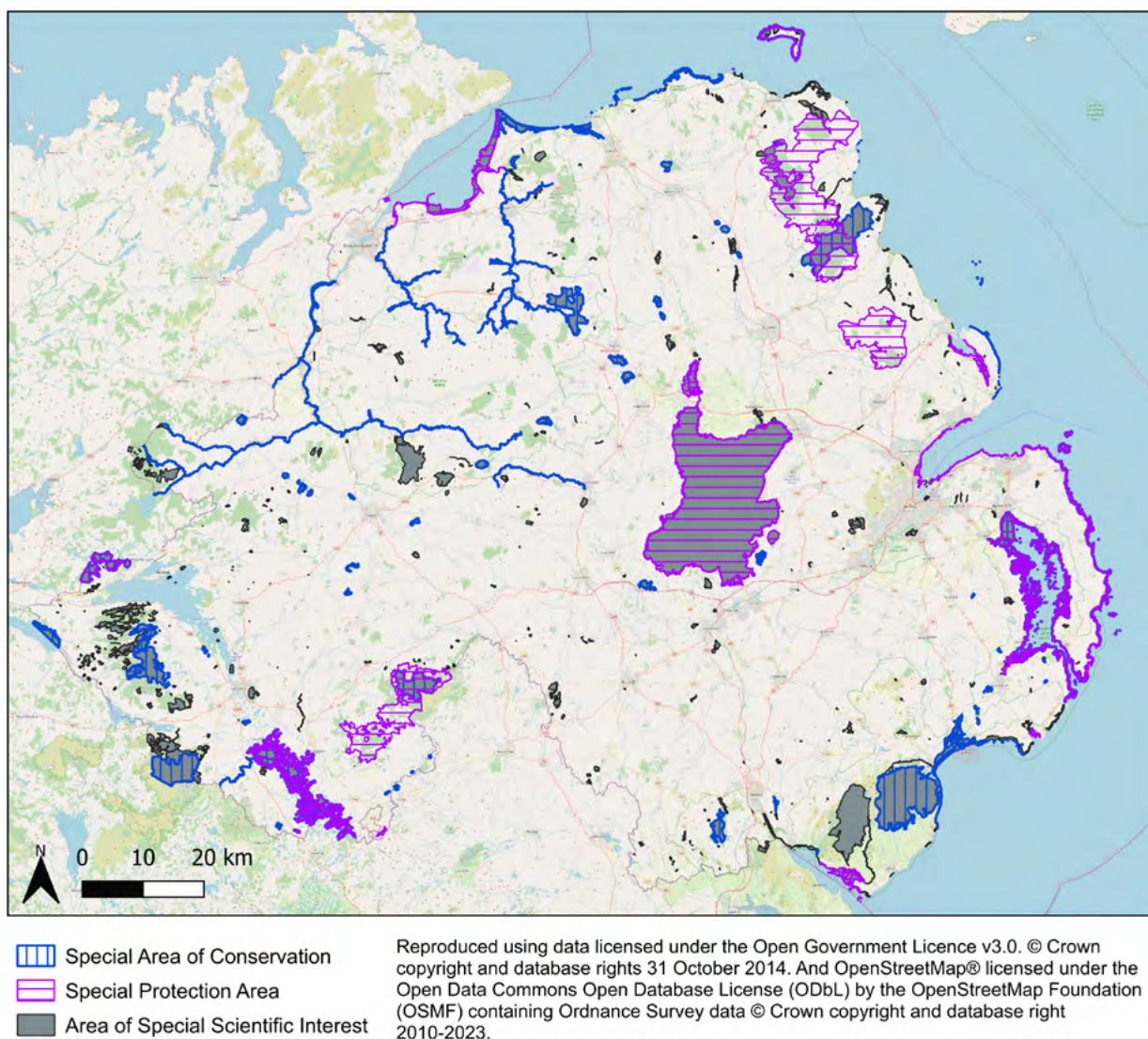


Figure 1. Map of terrestrial and freshwater Areas of Special Scientific Interest, Special Areas of Conservation and Special Protection Areas designated in Northern Ireland. Sites are shown to mean low water.

The total proportion of land that is within protected sites in Northern Ireland is comparatively low. For example, approximately 7.7% is designated ASSI, which is the same as 7.7% SSSI cover in England,⁵⁵ but less than the 12.0% in Wales,⁵⁶ and 12.6% in Scotland.⁵⁷ The coverage of SACs and SPAs (8.4%)⁵⁸ compares unfavourably with other countries in Europe (Figure 2). Figure 2 is indicative, and there are likely slight differences in the determination of extent, for example whether mean high or mean low water is used to determine extent of land.

55 Calculated on basis of total England land area 13,046,000 ha, with 1,009,620 ha of SSSI. Data obtained from Natural England, 'Sites of Special Scientific Interest (England)' <<https://naturalengland-defra.opendata.arcgis.com/datasets/Defra::sites-of-special-scientific-interest-england/about>> accessed 3 March 2025.

56 Calculated on basis of total Welsh land area 2,120,341 ha, with 255,264 ha of SSSI. Data obtained from Natural Resources Wales, 'Sites of Special Scientific Interest (SSSI)' <<https://datamap.gov.wales/showmetadata/xsl/386>> accessed 13 January 2025.

57 Calculated on basis of Scotland's total land area 7,878,900 ha, with 1,011,000 ha of SSSI. Data obtained from NatureScot, 'Sites of Special Scientific Interest (SSSIs)' <www.nature.scot/professional-advice/protected-areas-and-species/protected-areas/national-designations/sites-special-scientific-interest-sssi> accessed 13 January 2025.

58 Written response to questions from DAERA to the OEP (3 March 2025).

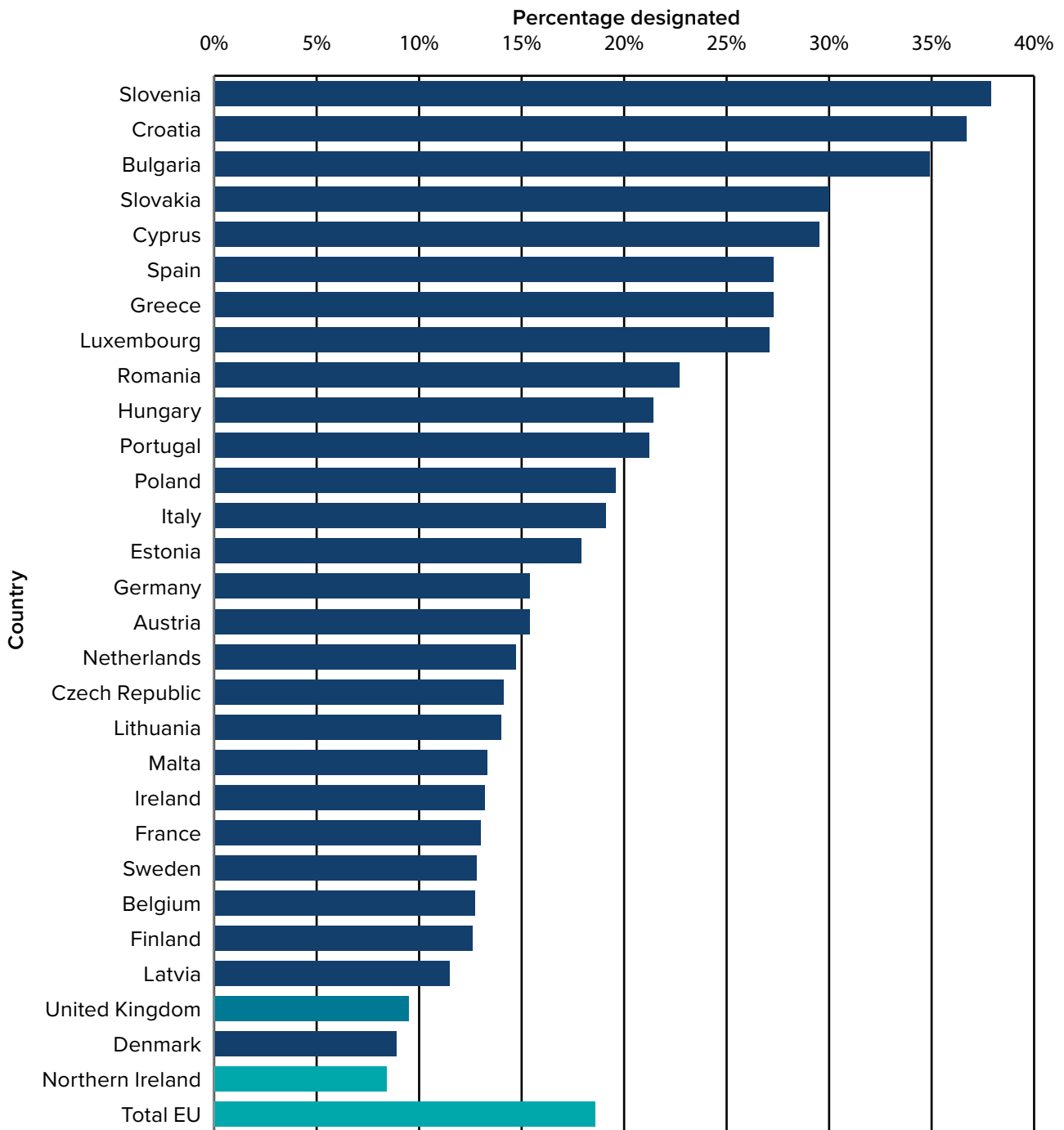


Figure 2. Comparison of the approximate proportions of land area designated as either Special Protection Areas or Special Areas of Conservation across European Union member states and the United Kingdom as a whole, for comparison with Northern Ireland. These figures are indicative and may be subject to minor variation among jurisdictions arising from land area calculations.⁵⁹

⁵⁹ EU data were obtained from the European Environment Agency, 'Natura 2000 Barometer' (*European Environment Agency*) <www.eea.europa.eu/data-and-maps/dashboards/natura-2000-barometer> accessed 2 September 2024. The European Environment Agency was unable to confirm how the seaward boundary "without coastal water areas" relates to mean high water or mean low water. UK data were provided via written response to questions from JNCC to the OEP (7 November 2024). UK data are mapped to mean low water. NIEA provided a combined figure for Northern Ireland via written response to questions from DAERA to the OEP (3 March 2025).

Information on the ownership of protected sites is not publicly available. We have determined that at least a quarter of protected sites are owned or managed by DAERA (including Forest Service and NIEA), Northern Ireland Water (NI Water) and the Ministry of Defence. The actual proportion of sites within public ownership or management will be higher as we have not accounted for every public sector organisation, for example local authorities. Most sites are likely privately owned, including by farmers, environmental charities and others. NIEA told us that it has “11,066 landowner records across our designated sites network”.⁶⁰

The condition of both earth science and biological features of ASSIs has deteriorated since 2015, and is worse than when data were first available in 2008 (Figure 3). Figure 3 includes all ASSI features, including habitats, species and earth science features. Data were not published for 2021 and 2022, however we were provided with data for 2023⁶¹ and data for 2024 were published.⁶²

In 2008, 66.2% of earth science and biological ASSI features were in favourable condition.⁶³ NIEA’s published data show that in 2024, the percentage of assessed earth science and biological ASSI features in favourable condition declined further and is now 58.1%.⁶⁴

Looking only at biological ASSI features (habitats and species), 61.7% of the assessed features were in favourable condition in 2008,⁶⁵ but by 2024 this had fallen to 51.5%.⁶⁶

Causes for unfavourable condition are complex. For example, a report on the condition of protected sites in 2008 identified pressures such as invasive species, agricultural activities, water quality and development as causes of poor condition.⁶⁷ Recent assessments, including our work on the drivers and pressures affecting biodiversity loss, indicate that these pressures persist.⁶⁸

60 Call for evidence response from NIEA to the OEP (14 June 2023).

61 *ibid.*

62 This is because the Northern Ireland environmental statistics reports from 2022 onwards do not separately report on the condition of ASSI features. The 2022 report states that “For the first time in 2022, a combined feature condition metric for Northern Ireland has been produced for total network features on land and at sea.” This is set out in Tables 5.2a and Table 5.2b. The latter shows that the network includes ASSIs, SACs, SPAs and Marine Conservation Zones.

63 NIEA, ‘The Condition of Northern Ireland’s Areas of Special Scientific Interest: The Results of the First Condition Assessment Monitoring Cycle 2002-2008.’ (2008) Research and Development Series No 08/10. Provided as part of the call for evidence response from NIEA to the OEP (14 June 2023).

64 DAERA, ‘2023/24 Summary Feature Condition Status’ <www.daera-ni.gov.uk/publications/202324-summary-feature-condition-status> accessed 16 January 2025.

65 NIEA, ‘The Condition of Northern Ireland’s Areas of Special Scientific Interest: The Results of the First Condition Assessment Monitoring Cycle 2002-2008.’ (n 63).

66 DAERA, ‘2023/24 Summary Feature Condition Status’ (n 64).

67 NIEA, ‘The Condition of Northern Ireland’s Areas of Special Scientific Interest: The Results of the First Condition Assessment Monitoring Cycle 2002-2008.’ (n 63).

68 Office for Environmental Protection, ‘Drivers and Pressures Affecting Terrestrial and Freshwater Biodiversity in Northern Ireland’ (2024) <www.theoep.org.uk/report/drivers-and-pressures-northern-ireland> accessed 19 October 2024.

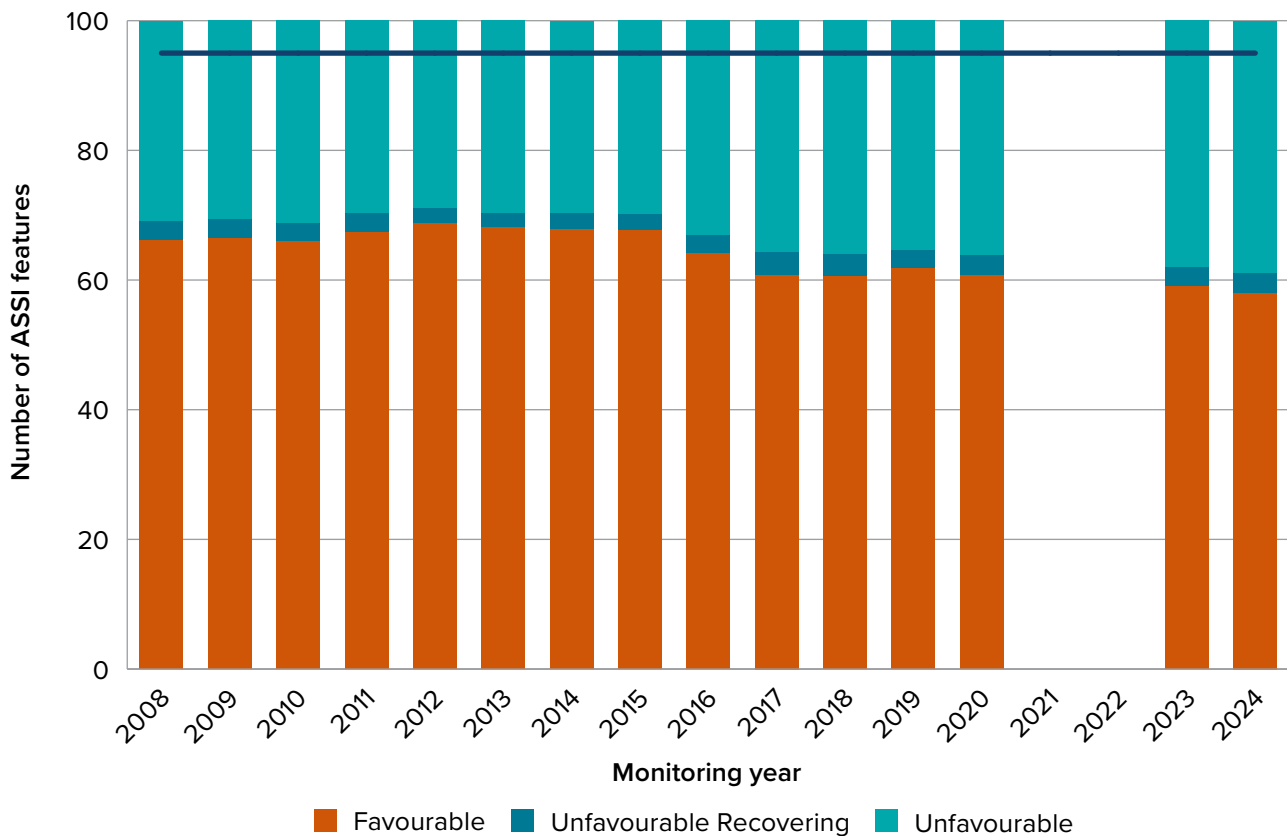


Figure 3. Variation over time in the condition of the assessed biological and earth science features of terrestrial and freshwater Areas of Special Scientific Interest in Northern Ireland. Data represent a 6-year rolling figure to 31 March of the reporting year and are taken from annual statistics reports for 2008–2020, with data for 2023 and 2024 taken from summary assessments. Reporting by DAERA does not provide for a like-for-like comparison for 2021 and 2022. The dark blue line indicates targets for 95% of features being in ‘favourable’ or ‘approaching favourable’ condition.

1.3.2 The legislative framework for protected sites for nature

The laws through which these sites have been designated and managed have evolved over several decades. Here we summarise the development of these laws. A more detailed description of the relevant specific provisions is included in Chapters 4 to 7.

Here, and throughout the report, where the legislative provisions refer to ‘the Department’, this refers to DAERA. Whilst DAERA is legally responsible, the discharge of many of these powers and duties has been delegated to NIEA as its executive agency. Therefore, where appropriate we refer to either DAERA or NIEA (and their predecessors), but nonetheless it is DAERA as a whole that is legally responsible for carrying out statutory functions.

Areas of Special Scientific Interest

The Amenity Lands Act (Northern Ireland) 1965 provided the first legislative provision for designating sites because of their special scientific interest.⁶⁹ This Act was later repealed by the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985, which was itself the precursor of the Environment Order. Amendments to the Environment Order have been made, for example through the Wildlife and Natural Environment (Northern Ireland) Act 2011.⁷⁰ However, the Environment Order remains the primary law governing the designation and management of ASSIs.

The Environment Order was established to enhance the protection and management of the environment.⁷¹ It provides DAERA with a range of powers and controls to designate (after consultation with the Council for Nature Conservation and the Countryside (CNCC)),⁷² manage (including through financial assistance)⁷³ and enforce the protection of ASSIs for their special interest by reason of any of its flora, fauna or geological, physiographical or other features.

In designating an ASSI, DAERA must specify the features by reason of which the site is of special interest.⁷⁴ The citation document for the site must also include a list of operations that appear likely to damage such features. These are known as ‘notifiable operations’. The restrictions that the Environment Order places on operations that are likely to damage ASSIs can, and do, affect owners’ and occupiers’ use of their land.

Special Areas of Conservation and Special Protection Areas

The Environment Order is domestic legislation. By contrast, the legislative framework for SACs and SPAs has its origins in international and European law.

In the 1970s, several international treaties entered into force in respect of nature conservation, and these apply to the UK. They are:

- (a) the Ramsar Convention (Convention on Wetlands of International Importance especially as Waterfowl Habitat) of 1971,
- (b) the Bonn Convention (Convention on the Conservation of Migratory Species of Wild Animals) (CMS) of 1979,
- (c) the Bern Convention (Convention on the Conservation of European Wildlife and Natural Habitats) of 1979.

69 The National Parks and Access to the Countryside Act 1949 provided the first legislative provision for the designation of lands within Great Britain. This Act does not extend to Northern Ireland.

70 Ss. 29-34, Wildlife and Natural Environment Act (Northern Ireland) 2011.

71 The Environment Order contains provisions beyond nature conservation, including those around waste management and pollution control. We have not assessed these provisions within this report.

72 Art 28, Environment Order.

73 Art 37, Environment Order.

74 Art 28, Environment Order.

The Ramsar Convention requires that parties designate wetlands of international importance due to their flora and fauna, amongst other things.⁷⁵ The Bonn Convention requires that parties, whenever possible, take appropriate and necessary steps to conserve certain migratory animal species (particularly those whose conservation status is unfavourable), and their habitats.⁷⁶ The Bern Convention requires that parties take “appropriate and necessary legislative and administrative steps” to ensure the conservation of habitats of certain wild flora and fauna, and specific endangered habitats.⁷⁷

Partly to implement these international obligations, in 1979 the European Union (EU) adopted Directive 2009/147/EC on the Conservation of Wild Birds [1979] OJ L103/1 (‘the Birds Directive’),⁷⁸ which required the UK, as a Member State, to create protected areas for wild bird species and their habitats. Such areas, referred to as SPAs, were to be designated if they fulfilled certain objective ornithological criteria.⁷⁹

Similarly, Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora [1992] OJ L206/7 (‘the Habitats Directive’) required the UK, as a Member State, to identify Sites of Community Importance by reference to ecological criteria.⁸⁰ If these sites were adopted by the European Commission in light of its own scientific advice, they were then to be designated as SACs by the UK.

The SPAs and SACs together formed the so-called Natura 2000 network of European sites.

The Habitats Regulations implement the requirements of the Habitats Directive and the Birds Directive, and govern the protection and management of SPAs and SACs in Northern Ireland. The original version of the Habitats Regulations required DAERA to propose a list of sites as SACs. This list was to be drawn up based on the relative importance of sites for the natural habitat types listed in Annex I of the Habitats Directive, and for the species listed in Annex II. The Habitats Regulations were subsequently amended to require the designation of SPAs with reference to the criteria set out in articles 4(1) and 4(2) of the Birds Directive.

DAERA has an ongoing obligation to prioritise the designation of SACs and SPAs in light of the importance of the sites for the maintenance or restoration at a ‘favourable conservation status’ of Annex I habitats and Annex II species (the Habitats Directive) and Annex I species, and those migratory birds naturally occurring in the territory (the Birds Directive).

ASSIs, SACs and SPAs can be designated on both public and private land.

Together, the Birds Directive and Habitats Directive have had a profound influence on nature conservation law in the UK. Following the UK’s exit from the EU, the UK retained the Birds and Habitats Directives as retained EU law. In practice, this made little substantive change to the transposing regulations (for example the Habitats Regulations), though functions were transferred from the European Commission to the appropriate domestic authority (in this context, primarily DAERA), and led to the combination of the Natura 2000 network in the UK with the UK’s ASSI/SSSI series, to form what is now known as the ‘UK National Site Network’.

75 Art 2, Convention on Wetlands of International Importance especially as Waterfowl Habitat 1982.

76 Art III, Convention on the Conservation of Migratory Species of Wild Animals 1979.

77 Art 4.1, Convention on the Conservation of European Wildlife and Natural Habitats 1979.

78 Replaced by Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20/7).

79 European Commission, ‘Designating Natura 2000 Sites’ <https://environment.ec.europa.eu/topics/nature-and-biodiversity/natura-2000/designating-natura-2000-sites_en> accessed 9 July 2024.

80 *ibid.*

The concurrent designation of protected sites

Although it is not required by the Habitat Regulations, in practice and as a matter of DAERA policy, SPAs and SACs tend also to have been designated as ASSIs.⁸¹ Therefore, most (but not all) SACs and SPAs, being considered of European importance, are also ASSIs, and considered of national importance. Only a subset of ASSIs are also SACs or SPAs as only some ASSIs meet the relevant criteria. This policy has been implemented for most but not all sites. Of the 58 SACs⁸² and 16 SPAs,⁸³ two terrestrial SPAs (Antrim Hills SPA and Slieve Beagh-Mullaghfad-Lisnaskea SPA) are not entirely underpinned by designation as an ASSI.⁸⁴

The implication of the concurrent designation of an SAC or SPA as an ASSI is that the site features benefit from an additional layer of protection and management. Hence SACs and SPAs mostly benefit from protections afforded by the Environment Order, but not all ASSIs benefit from protections afforded by the Habitats Regulations.

The Environment Order is used to manage certain activities⁸⁵ in ASSIs through the consenting⁸⁶ or assenting⁸⁷ regimes, or under a management agreement or notice.⁸⁸ The Habitats Regulations, however, do not have equivalent provisions for the management of activities, other than where the site is underpinned by an ASSI declaration. Rather, regulation 16 of the Habitats Regulations provides that if an ASSI declaration exists in relation to an SPA or SAC, then owners and occupiers cannot undertake the operations listed in the ASSI declaration without agreement from DAERA. Concurrent designation therefore provides the greatest level of protection to species and habitats.

1.4 The approach adopted in this report

Our methodology, including review, is summarised in Annex 1.

First, we reviewed the laws and guidance relating to the designation and management of ASSIs, designated under the Environment Order, and of SPAs and SACs, designated under the Habitats Regulations. The history and development of these laws was considered, as well as the intended purpose of current provisions.

Second, we commissioned a literature review on the effectiveness of the laws governing the designation and management of protected sites in Northern Ireland and England.

Third, we engaged with a range of organisations and individuals with an interest or expertise in protected sites. In addition to DAERA/NIEA, these included other agencies and public authorities, owners and occupiers of protected sites, groups representing farmers and environmental charities. Annex 2 provides information on the stakeholders that contributed to the research. Engagement included:

81 As cited in Sharon Turner and Karen Morrow, *Northern Ireland Environmental Law* (Gill & Macmillan Ltd 1997) 365, 367. DAERA confirmed, through the written response to questions (16 January 2025) that this is a departmental policy. We have not been provided with official documentation that confirms this policy position.

82 JNCC, 'SACs in Northern Ireland' <<https://sac.jncc.gov.uk/site/northern-ireland>> accessed 5 February 2024.

83 JNCC, 'Special Protection Areas (SPAs): List of Sites' <www.jncc.gov.uk/our-work/list-of-spas/#northern-ireland> accessed 5 February 2024.

84 Call for evidence response from NIEA to the OEP (14 June 2023).

85 Art 28 (2)(b), Environment Order.

86 Art 32, Environment Order.

87 Art 39, Environment Order.

88 Art 32(3), Environment Order.

1. **Public call for evidence:** From February to April 2023 we received 58 responses to our public call for evidence from a range of stakeholders across England and Northern Ireland. Eleven of these specifically concerned Northern Ireland, and another eight related both to England and to Northern Ireland. Our assessment of the responses identified six major themes of research: governance, funding and resourcing, designation, monitoring, land management, and the regulatory regime and enforcement. Our analysis and reporting subsequently followed these themes.
2. **Meetings with stakeholders:** We held online meetings with individuals, organisations and public authorities to explore perspectives and issues, including the six themes of research.
3. **Site visits:** We visited several protected sites across Northern Ireland (Annex 1). Sites were selected through discussions with stakeholders, and for the purpose of engaging in specific issues identified through our research.
4. **Expert panel:** We established a panel comprising members who had relevant expertise in protected sites (Annex 1). These experts were then involved in workshops, as well as considering the findings and recommendations set out in this report. Some panel members were also engaged individually on subject-specific matters, and provided written comments on our research and drafts of our report.
5. **Information requests:** We requested and obtained additional written evidence, including data and reports not in the public domain, from DAERA/NIEA, NI Water and the Forest Service. Whenever figures are presented in this report, we provide clarification of the sources and address any discrepancies between sources and reporting by third parties.

1.5 Structure of this report

In chapters 2 and 3, we focus on what we consider to be the enabling mechanisms for delivery of protected site obligations, and present our assessment of governance arrangements, and of funding and resourcing. In chapters 4 to 7, we provide our assessment of the effectiveness of the implementation of key aspects of the law, including designation, monitoring and regulation of protected sites.

Chapter 2. Governance



Chapter 2. Governance

2.1 Overview

In any programme of action, it should be clear what is to be done, who will do it, how and when. While legislation might put some of this structure in place, in practice the successful implementation of laws requires effective governance arrangements. These should include clear objectives, strategies and plans to achieve them, and systems of accountability and oversight, as well as of monitoring, evaluation and learning. These will enable the objective and transparent assessment of progress towards the desired outcomes and, critically, will provide for adaptation and the timely and effective adjustment of actions, to ensure that things stay on track.

We assessed current governance arrangements that support the implementation of protected site laws and help to meet targets.

While some elements of effective governance are in place, our view is that significant improvements are required.

- A target for improving the condition of protected sites has now been set in the EIP. This is welcome. After several years with no such target, much of the detail regarding actions remains to be developed. While plans are important to guide implementation, the time to effect change is short.
- Management plans have been put in place for some SACs. This positive step was the result of an explicit push to develop these, following intervention from the European Commission. But most individual sites do not have a management plan listing the actions that are needed. Where plans are in place, we have seen little evidence of a programme to implement them.
- While DAERA has ultimate responsibility for carrying out functions in legislation, the division of responsibilities within the Department, and between DAERA and other public authorities, has not been set out explicitly. It has been described as unclear by some of those we spoke to, resulting in some actions being slow to be taken or not being taken at all.
- There is a lack of oversight and coordination by DAERA of other public bodies to ensure that they fulfil their legal duties relating to conservation and enhancement of protected sites. Key delivery bodies have not made clear the objectives, or the means of assessment, of their contribution to conserving and enhancing sites.
- There is no network of delivery bodies that enables collaboration between them. Experience from England has shown that such a network (the Major Landowners Group) can help to speed up and scale up progress in improving site condition.
- Information relating to protected sites has sometimes not been published. This has contributed to a lack of public understanding and scrutiny of, and accountability for, performance. There has also been a failure in some cases to review progress or to address problems identified by reviews.

To improve governance arrangements, we make three recommendations:

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.

2.2 Governance of protected sites

Achieving the intended outcomes of protected site laws, and delivering the new commitments for protected sites set out in the EIP, are not simple tasks that lie within the control of any one body. They require a concerted and sustained effort from public and private organisations and many individuals, to tackle complex systems that are often beset by deep-rooted problems.

Such endeavours require effective governance.⁸⁹ By governance, we mean:

“The system by which entities are directed and controlled. It is concerned with structure and processes for decision-making, accountability, control and behaviour [...] [influencing] how an organisation’s objectives are set and achieved, how risk is monitored and addressed, and how performance is optimised.”⁹⁰

Governance provides for steering, coordinating and enabling collective action amongst diverse groups to achieve change, and it allows problems to be shared and solved by all those who need to act.⁹¹ Although the aim is to secure common action by many, government has a special role in initiating and leading this process.⁹²

We consider that effective governance for the implementation of Northern Ireland’s protected site laws requires the following:

1. **Leadership:** clearly defining and communicating leadership roles and responsibilities.
2. **Targets:** establishing long-term direction and prioritisation, with interim targets to track progress and enable measures to correct course.
3. **Strategy:** setting the strategic direction for what is needed to deliver against targets, and the pace and scale required.
4. **Delivery:** creating and delivering detailed plans for the way that the strategy will be realised, and providing clarity over the delivery bodies’ responsibilities.
5. **Coherence:** integrating and coordinating work within and outside government, and building relationships and networks for delivery.
6. **Review:** regularly reviewing and reporting on progress, and taking action where necessary to achieve the required pace and scale of progress.
7. **Transparency and accountability:** publishing targets, strategies, plans, data and progress reports.

2.2.1 An independent environmental protection agency

Before assessing elements of effective governance, we briefly address NIEA’s status as an executive agency within DAERA. The bodies that are primarily responsible for implementing protected site laws elsewhere in the UK (Natural England, NatureScot and Natural Resources Wales) are all independent bodies that are given functions by law. NIEA is not similarly independent. It is an agency working within DAERA, to the extent that department and agency are described by senior officials as one and the same. NIEA carries out statutory functions that are the legal responsibility of the wider department.

89 Office for Environmental Protection, ‘Taking Stock: Protecting, Restoring and Improving the Environment in England’ (2022) 38–42 <www.theoep.org.uk/report/taking-stock-protecting-restoring-and-improving-environment-england> accessed 27 November 2024.

90 ibid 39.

91 James Evans, *Environmental Governance* (1st Edition, Routledge 2011) 4–5.

92 Chris Ansell and Alison Gash, ‘Collaborative Governance in Theory and Practice’ (2008) 18 *Journal of Public Administration Research and Theory* 543, 544.

Several stakeholders told us that the position of NIEA within DAERA is a key weakness in the governance of Northern Ireland's protected sites.⁹³ They argued that it is unhelpful that NIEA operates within the context of DAERA's overall vision, strategic objectives and policies, rather than being able to set its own. They consider that making NIEA independent would be a significant improvement.

Stakeholders articulated potential benefits of independence. It could support better delineation of policy and regulatory roles and the agency could have more freedom to develop its own positions and priorities, and to challenge government and other agencies to deliver more for the natural environment. Independence might put the agency in a better position to recruit and retain the expertise it needs, with more flexibility than is possible as part of a government department.⁹⁴

We consider that the degree of independence of an environment agency does not necessarily relate directly to the effectiveness of governance, including for protected sites. There would still be a need to put in place the elements of effective governance that we explore in this chapter, irrespective of whether an independent agency is created.

Recently, the Minister of Agriculture, Environment and Rural Affairs stated that he wants “to explore options for strengthening environmental governance for the longer term, in particular looking at the benefits that could accrue from setting up an independent environmental protection agency.”⁹⁵ The Minister has announced an independent review to strengthen environmental governance, including considering options for an independent environment protection agency. The independent panel undertaking this wide-ranging review is expected to report to DAERA in the summer of 2025.⁹⁶ Clearly, any review of the status of the environment agency will be of relevance to the governance arrangements for the implementation of protected site laws.

2.3 Leadership

Effective governance requires clarity on who is responsible for providing leadership and who is to be held accountable.⁹⁷ This avoids confusion over who should be taking the lead, so that there is no duplication of effort, and all tasks are undertaken. It allows resources to be allocated to the right bodies, to deliver on their responsibilities, and ensures that accountability sits at the right level. It should be possible to answer the question ‘who is accountable to whom, and for what?’⁹⁸

Legislation assigns to DAERA specific legal duties and powers for implementing protected site laws, including designating new sites, and using enforcement tools to protect them. We understand that these duties and powers have been delegated within the department to NIEA, as its executive agency. This leaves the wider department, and its Natural

93 Call for evidence responses to the OEP from Friends of the Earth NI (21 April 2023); Mourne Heritage Trust (21 April 2023); National Trust (21 April 2023); Ulster Wildlife (19 April 2023); Woodland Trust (20 April 2023).

94 Meeting with former NIEA staff member (4 March 2024); meeting with former NIEA staff member (27 March 2024).

95 ‘Minister Muir’s Response to Mr Patsy McGlone MLA Assembly Question (AQO 16/22-27)’ (2024) <<https://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2024-02-19&docID=388359#AQO%2016/22-27>>.

96 DAERA, ‘Minister Muir Announces Independent Review to Strengthen Environmental Governance’ <www.daera-ni.gov.uk/news/minister-muir-announces-independent-review-strengthen-environmental-governance> accessed 19 November 2024.

97 Grazia Borrini-Feyerabend and Rosemary Hill, ‘Governance for the Conservation of Nature’ in Graeme L Worboys and others (eds), *Protected Area Governance and Management* (1st edn, ANU Press 2015) 174, 191 <<http://press-files.anu.edu.au/downloads/press/p312491/pdf/CHAPTER7.pdf>> accessed 23 September 2024.

98 J Graham, B Amos and T Plumpton, ‘Governance Principles for Protected Areas in the 21st Century: A Discussion Paper.’ (Institute of Governance, Parks Canada, Canadian International Development Agency 2003) 17 <www.files.ethz.ch/isn/122196/PA_governance.pdf> accessed 23 September 2024.

Environment Policy Division (NEPD) in particular, taking a more strategic role and taking responsibility for setting strategy and policy, for example with the EIP and Nature Recovery Strategy, and for enabling legislative development.

This reflects an internal operational arrangement between the department and its agency. We are not aware of, and have not been given, documentation setting out the relationship between NIEA and the wider department as it relates to protected site laws and their implementation.

At present, we are not clear how responsibilities have been distributed, or whether there are gaps that in some areas may be associated with actions not being taken. A clear, public statement of the operating relationship between NIEA and the wider department, would move beyond the overall financial controls in the NIEA Framework Document.⁹⁹ It could clarify for all where responsibility lies, whether these issues are operational matters “in the field” or overall policy, where divisions might be clearer, or are issues that lie between, such as the general approach to designation, monitoring, management, communications and enforcement.

The strategy and national delivery plan for achieving protected site targets that we recommend (Recommendation 2) provide an additional opportunity for clarifying which teams and agencies within the department will be taking specific action.

We consider that there is also value in making clear the responsibilities that extend beyond DAERA. This includes for example, other departments, agencies and public bodies in relation to land that they own or manage. Relevant public bodies have statutory duties to, in the exercise of their functions, take reasonable steps to conserve and enhance ASSIs¹⁰⁰ and, so far as it is relevant to protected sites, to further the conservation of biodiversity.¹⁰¹ They also have a duty, in the exercise of their functions, to have regard to the requirements of the Birds and Habitats Directives¹⁰² Northern Ireland departments have a stronger duty, in the exercise of their functions relating to nature conservation, to secure compliance with the requirements of the Directives.¹⁰³

It is not clear to us where responsibility lies for providing guidance,¹⁰⁴ oversight and coordination of these bodies’ exercise of these general duties, and for ensuring that they are all delivering towards protected site targets.

99 DAERA, ‘NIEA Framework Document’ <www.daera-ni.gov.uk/publications/niea-framework-document> accessed 30 October 2024.

100 Art 38, Environment Order. This duty applies to a public body in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological, physiographical or other features by reason of which an ASSI is of special scientific interest.

101 S. 1, Wildlife and Natural Environment Act (Northern Ireland) 2011.

102 Reg 3(3), Habitats Regulations.

103 Reg 3(1), Habitats Regulations. These requirements include those relating to the management of a coherent SAC and SPA network, including preventing the deterioration of sites and avoiding significant disturbance of the species for which the sites have been designated (Art 6 (1-2)), Habitats Directive), and relating to achieving favourable conservation status (Art 3, Habitats Directive). The requirements relating to the assessing of plans and projects are outside the scope of this report.

104 The only published guidance we were able to find on these duties is guidance on the biodiversity duty from 2016, which only briefly refers to protected sites. See DAERA, ‘The Biodiversity Duty: Guidance for Public Bodies’ (2016) <www.daera-ni.gov.uk/publications/biodiversity-duty> accessed 23 February 2025.

2.4 Targets

To steer collective action, and as part of an effective governance system for implementing laws, the government needs first to set out what it wants to achieve, and the priority it attaches to this. It can do this by setting long-term, legally binding targets,¹⁰⁵ with shorter-term milestones or interim targets. These should quantify the level of performance that is expected, based on measurable indicators.

There is no legal requirement to set statutory targets for the implementation of protected site laws. However, in our view, doing so is an essential part of effective governance. Up until this point, protected site targets have not been set under statutory powers; they have instead been set in a variety of departmental strategies and plans. We explain below why we consider statutory targets would make a difference. This will also help to demonstrate Northern Ireland's contribution towards meeting international commitments such as effectively protecting and managing 30% of land,¹⁰⁶ and restoring 30% of degraded ecosystems.¹⁰⁷

Targets provide a sense of direction for delivery bodies. They drive the development of strategy and delivery plans (including key performance indicators which provide measures of performance), and shape bids for resources.¹⁰⁸ They ensure that the focus remains on long-term strategic goals, without being diverted by short-term pressures.¹⁰⁹ They also enable accountability, by making it possible to measure and report on progress.¹¹⁰

We have found that these benefits have not been fully realised. Until September 2024, there had been no targets setting out government's intended outcomes for protected sites for several years. When these targets were in place in the past, there was a mixed picture of success. Some led to increased and improved efforts to implement laws, although progress ultimately fell short of the desired outcomes. Others, however, appear to have had little impact.

2.4.1 The absence of protected sites targets between 2020 and 2024

The recently published EIP sets targets and policy objectives for protected sites.¹¹¹ The last such targets expired in 2020.¹¹² Prior to 2020, targets had been in place without any gaps for at least 20 years.¹¹³ A possible consequence of the absence of targets has been that protected sites appear to have been a low priority for government.

105 House of Commons Library Research, 'Targets as a Policy Tool: Key Issues for the 2010 Parliament' (2010) <www.parliament.uk/globalassets/documents/commons/lib/research/key_issues/key-issues-targets-as-a-policy-tool.pdf> accessed 17 June 2024.

106 Convention on Biological Diversity, 'Target 3 Conserve 30% of Land, Waters and Seas' (n 38).

107 Convention on Biological Diversity, 'Target 2 Restore 30% of All Degraded Ecosystems' (n 39).

108 House of Commons Library Research (n 105).

109 *ibid.*

110 Graham, Amos and Plumtre (n 98) 19.

111 DAERA, 'Environmental Improvement Plan for Northern Ireland' (n 3).

112 Department of the Environment, 'Valuing Nature: A Biodiversity Strategy for Northern Ireland to 2020' (2015) 16 <www.daera-ni.gov.uk/publications/biodiversity-strategy-northern-ireland-2020-0> accessed 12 July 2024; NIEA, 'Natural Heritage Vision & Strategic Plan 2020' (2011) 13. Provided as part of the call for evidence response from NIEA to the OEP (14 June 2023).

113 Environment and Heritage Service, 'A Forward Programme for the Declaration of ASSIs in Northern Ireland' (2003); NI Executive, 'Sustainable Development Strategy' (2006) <www.daera-ni.gov.uk/publications/ni-executive-sustainable-development-strategy-everyones-involved> accessed 23 September 2024; Environment and Heritage Service, 'ASSI Review: Developing a Priority List of ASSIs' (2007); NIEA, 'Natural Heritage Vision & Strategic Plan 2020' (n 112); Department of the Environment, 'Valuing Nature: A Biodiversity Strategy for Northern Ireland to 2020' (n 112). Unpublished documents provided as part of the call for evidence response from NIEA to the OEP (14 June 2023).

The last three published DAERA business plans do not set any key performance indicators for the extent or condition of protected sites and make no mention of terrestrial or freshwater protected sites.¹¹⁴ NIEA's most recent business plan contains a commitment to safeguard protected sites, but does not set out any specific, national measures or indicators for extent or condition, beyond carrying out monitoring. The plan does contain actions relating to Lough Neagh. Action to improve this site's condition is urgently needed though there are many other sites in poor condition. The EIP target to improve the condition of protected sites will require action at a much greater scale.

We found a similar picture in two public bodies responsible for large areas of protected sites: the Forest Service and NI Water. Forest Service's Corporate Plan and recent business plans do not contain targets or actions for protected sites.¹¹⁵ Whilst NI Water has completed Drinking Water Safety Plans and Sustainable Catchment Area Plans for drinking water catchments, they have not included specific habitat actions or targets for designated sites within their strategies or business plans.¹¹⁶ An employee at another public sector organisation that owns protected sites in Northern Ireland stated that, prior to the publication of the EIP, they did not know what DAERA's ambitions are.¹¹⁷ It is difficult for delivery bodies to set objectives if they do not understand what government is aiming to achieve.

We are concerned by the impact of the four years in which there were no targets. In England, we found that gaps between the expiry of a protected site target and the setting of another can result in loss of progress. This can be seen even where the gap may be considered minimal. The loss of momentum and support amongst stakeholders is a real risk from which it can take a considerable amount of time to recover.¹¹⁸

Several organisations responding to our call for evidence pointed out the absence of protected site targets, and explained why these were needed. For example, Northern Ireland Environment Link (NIEL) considered their absence to be one of the main factors contributing to the poor condition of protected sites.¹¹⁹ The Northern Ireland Agricultural Producers Association (NIAPA) told us that DAERA needs to set overarching targets so that it is clear what outcomes it wants farmers to contribute towards through their land management.¹²⁰

The period without protected sites targets means that significant effort will now be needed to rebuild delivery structures and capacity, and to revitalise relationships with stakeholders.

114 DAERA, 'DAERA Business Plan 2021-22' (2021) <www.daera-ni.gov.uk/sites/default/files/publications/daera/20.21.193%20DAERA%20Business%20Plan%202021%20V5.PDF> accessed 21 June 2024; DAERA, 'DAERA Interim Business Plan 2023-24' (2023) <www.daera-ni.gov.uk/sites/default/files/publications/daera/DAERA%202023-24%20Interim%20Business%20Plan%20Final.PDF> accessed 13 June 2024; DAERA, 'DAERA Business Plan 2024-25' (2024) <www.daera-ni.gov.uk/sites/default/files/publications/daera/Annex%20A%20-%20DAERA%20Business%20Plan%202024-25%20Final%20-%2012%20Aug%2024.PDF>.

115 Forest Service, 'Forest Service Business Plans' (2024) <www.daera-ni.gov.uk/publications/forest-service-business-plans> accessed 23 September 2024; Forest Service, 'Forest Service Corporate Plan from April 2021' (2021) <www.daera-ni.gov.uk/publications/forest-service-corporate-plan-april-2021> accessed 11 March 2025.

116 NI Water, 'PC21 Business Plan' (2021) <www.niwater.com/siteFiles/resources/pdf/2020/PC21/OurStrategyFastRead.pdf> accessed 13 June 2024.

117 Meeting with an employee at a public sector organisation that manages protected sites in Northern Ireland and the OEP (2024).

118 Meeting with a Regulator and the OEP (2024).

119 Call for evidence response from NIEL to the OEP (21 April 2023).

120 Meeting with NIAPA and the OEP (12 October 2023).

2.4.2 Previous targets were not achieved

To be effective, targets should be prominent and unambiguous statements demonstrating that they are given high priority by government, and they should be accompanied by a strategy, and timebound, costed plans for their delivery. Progress should be transparently evaluated and reported to ensure accountability and that actions are taken to keep progress on track. We found that these steps were only partially addressed and we consider that this contributed to failures to meet previous targets for the condition (Figure 3) and extent of protected sites (Figure 4).

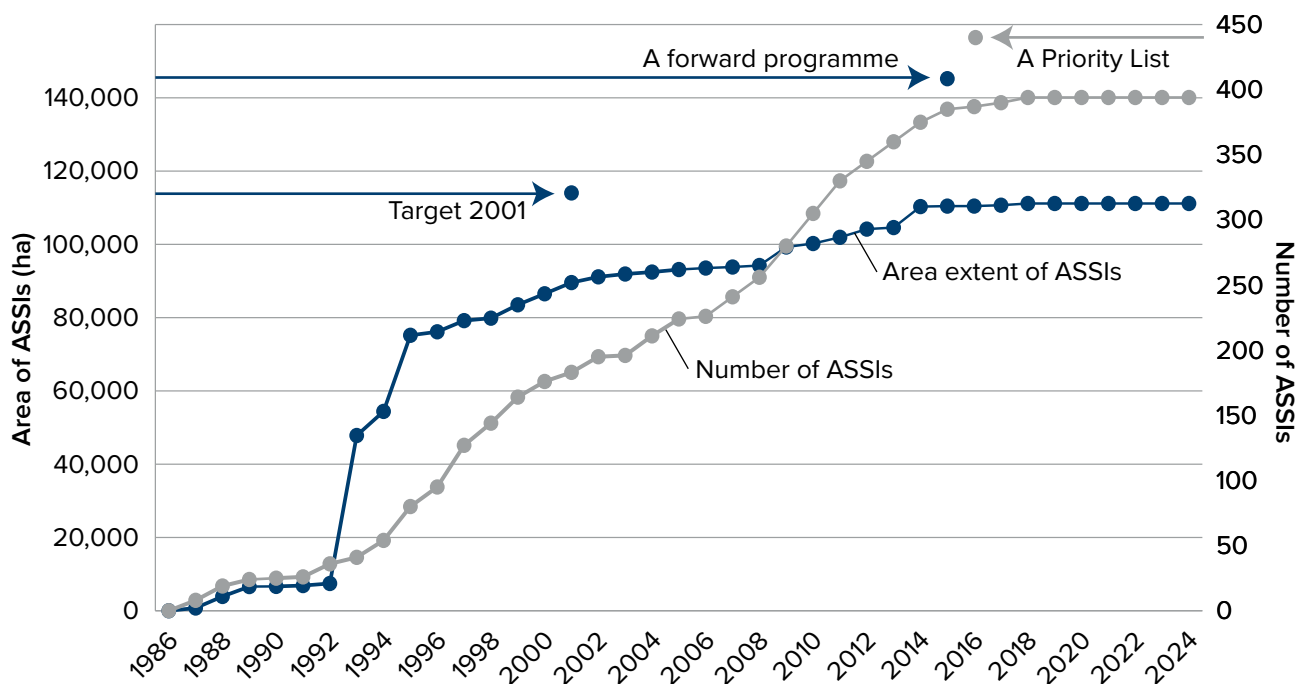


Figure 4. Timeline of targets and changes to the extent of Areas of Special Scientific Interest between 1986-2024. Figures presented of area extent are indicative and may be subject to variation due to calculations.¹²¹

The most effective targets were those to increase the number or extent of ASSIs, that were set in 1993, 2003 and 2007 (see also Table 1 within Chapter 4). These targets provided clear, specific and measurable objectives and led to impressive progress in designating new sites. For example, in 1993, Environment Services set a target for 8% of land to be designated as an ASSI by 2001 ('Target 2001').¹²² By 2001, 141 new ASSIs had been designated, doubling the percentage of land area from 3% to approximately 6%.¹²³

However, a 2003 report by EHS found that the 8% target had not been achieved due to a lack of resources to deliver this programme alongside other work such as implementing European Directives in respect of SACs and SPAs. This was despite evidence that more areas merited declaration as ASSIs than had initially been anticipated.¹²⁴

¹²¹ Extent data taken from cumulative ASSI figures (as of 22 May 2020). Dataset provided by NIEA to the OEP (12 September 2024) and written communication from NIEA to the OEP (4 December 2024). Targets plotted include (1) "Target 2001" to designate 8% of land as ASSI (calculated 114,038ha), and (2) "Forward Programme for the Declaration of ASSIs in Northern Ireland" to designate 10% as ASSI (142,548ha), and (3) a Priority List of ASSIs 440 ASSIs. Areas calculated on basis of 1,425,481 ha, including inter-tidal areas above Mean Low Water mark and lakes, as the total land area (see also Footnote X). See also Table 1.

¹²² Environment Service, 'Target 2001: A Programme for the Survey, Declaration and Monitoring of Areas of Special Scientific Interest in Northern Ireland' (1993). Provided as part of the call for evidence response from NIEA to the OEP (14 June 2023).

¹²³ Northern Ireland Audit Office, 'Areas of Special Scientific Interest' (2003) <www.niauditoffice.gov.uk/publications/areas-special-scientific-interest> accessed 13 June 2023.

¹²⁴ Environment and Heritage Service, 'A Forward Programme for the Declaration of ASSIs in Northern Ireland' (n 113) 3.6.

Targets to improve the condition of protected sites, published by DAERA's predecessor department in 2006¹²⁵ and set by NIEA internally in 2011,¹²⁶ did not have the same effect, even in the short-term. The condition of assessed ASSI features deteriorated during the period that these targets were in place (2006 to 2020) (Figure 3). In our view, the failure to achieve these targets was due in part to a lack of strategy and costed delivery-planning, and an absence of reporting, evaluation and accountability. We explore these issues later in this chapter.

We also consider that their failure stemmed from a problem with the targets themselves. They lacked the prominence that was needed for them to gain traction within and outside government. They were included as one of many steps or measures of success listed within wide-ranging sustainability and environmental strategies, one of which was not published.¹²⁷ If they had been given greater visibility and status, we consider there would have been greater prospects of success.

Our review of the implementation of protected site laws in England found an example of a target for the condition of protected sites that did lead to action at the necessary pace and scale. Lessons from the effectiveness of this Public Service Agreement target for improving the condition of SSSIs, which was in place between 2000 and 2010, and the relative ineffectiveness of subsequent targets in England, are informative for Northern Ireland (Box 4).

It is welcome that the new EIP includes a target under SEO 3 that, by 2030, 95% of the features underlying the designation of ASSIs are to be in, or approaching, favourable conservation condition.¹²⁸ This is the first time that a published, specific and measurable target for condition, as opposed to extent, of protected sites – which we consider to be a key measure of the effective implementation of protected site laws – has been in place since 2016.¹²⁹

While the inclusion of this in the EIP is a step forward, we are concerned that previous attempts to reach a similar target were unsuccessful. Only 58.1% of all assessed ASSI features are currently in favourable condition (Figure 3).¹³⁰ If this target is to be met this time, there will need to be a significant scaling-up and speeding-up of effort, supported by the other elements of governance that we outline below. We also consider that the prospects of success could be much improved by setting a statutory long-term target and short-term interim targets.

While the EIP contains a target for at least 30% of land and freshwater to be protected, connected and managed for nature by 2030, it is not clear how much of this will be achieved through increasing the extent of ASSIs, SACs and SPAs. There is no specific target in the EIP for increasing the extent of these protected sites. Given the relatively small extent of Northern Ireland's protected sites and the failure to designate previously identified priority sites and to achieve previous targets for designation, we consider that this is a significant gap. We address this in more detail in Chapter 4.

125 Department of the Environment, 'First Steps Towards Sustainability 2006' (2006) 47 <www.daera-ni.gov.uk/publications/first-steps-towards-sustainability-2006> accessed 17 June 2024.

126 NIEA, 'Natural Heritage Vision & Strategic Plan 2020' (n 112) 13.

127 NIEA, 'Natural Heritage Vision & Strategic Plan 2020' (n 112).

128 DAERA, 'Environmental Improvement Plan for Northern Ireland' (n 3) 43.

129 NIEA had an internal, unpublished target for "ASSI and Natura 2000 site selection features will be managed appropriately so that they are in or approaching favourable condition and maintained as such for the future." This expired in 2020. See NIEA, 'Natural Heritage Vision & Strategic Plan 2020' (n 112) 13.

130 DAERA, '2023/24 Summary Feature Condition Status' (n 64).

Box 4. Effectiveness of the Public Service Agreement target in England

Protected site condition in England has deteriorated since 2016,¹³¹ in stark contrast to the significant improvement that was achieved between 2000 and 2010.¹³²

Between 2000 and 2010, the UK Government had a Public Service Agreement (PSA) target for 95% of SSSIs (the equivalent of ASSIs in England) to be in favourable or recovering condition by 2010. This required an increase from 57% in 2003.¹³³

This target was met in 2010. We consider that this was in large part because of the nature of the target. PSA targets were set centrally within government and were linked to government spending reviews. As a prominent measure of central government performance, they had the full backing of the machinery of central government, which in turn led to strong support from delivery bodies.¹³⁴

By contrast, the inclusion of targets for improving the condition of protected sites in England within a subsequent Defra Biodiversity Strategy,¹³⁵ then in the 25 Year Environment Plan for England¹³⁶ (now the EIP 2023),¹³⁷ has not yet had the same effect.

Public Service Agreement targets were abolished in England in 2010.¹³⁸ We consider that the nearest current equivalents are the Environment Act targets in England.

2.5 Strategy

Effective strategy is a vehicle for the timely achievement of targets.¹³⁹ Successful strategy has at least three key elements: a diagnosis of an issue or problem, a guiding policy, and a set of coherent actions.¹⁴⁰ Strategy enables functions to be implemented with a guiding direction and with knowledge of whether actions are at sufficient pace and scale, and whether they stack up to achieve outcomes. We have seen no evidence that there is a written strategy for the implementation of terrestrial and freshwater protected site laws and the delivery of related targets.

We have, for example, not been provided with any strategy to inform the designation of new protected sites. Without any strategy, no protected sites have been designated since 2018, despite there being known gaps in the network.

131 Defra, 'Extent and Condition of Protected Areas' (2024) <www.gov.uk/government/statistics/england-biodiversity-indicators/1-extent-and-condition-of-protected-areas-2> accessed 11 March 2025.

132 Natural England, 'Protecting England's Natural Treasures, Sites of Special Scientific Interest' (2011) 11–15 <<https://publications.naturalengland.org.uk/publication/47003>> accessed 11 June 2024.

133 Defra, 'Select Committee on Environment, Food and Rural Affairs Minutes of Evidence: Memorandum Submitted by the Department for Environment, Food and Rural Affairs.' (2019) N19 <www.publications.parliament.uk/pa/cm200304/cmselect/cmenvfru/475/4042009.htm> accessed 11 June 2024.

134 Institute for Government, 'Public Service Agreements and the Prime Minister's Delivery Unit' (2014) <<https://www.instituteforgovernment.org.uk/sites/default/files/case%20study%20psas.pdf>> accessed 23 September 2024.

135 Defra, 'Biodiversity 2020: A Strategy for England's Wildlife and Ecosystem Services' (2011) <www.gov.uk/government/publications/biodiversity-2020-a-strategy-for-england-s-wildlife-and-ecosystem-services> accessed 11 August 2024.

136 Defra, 'A Green Future: Our 25 Year Plan to Improve the Environment' (2018) <www.gov.uk/government/publications/25-year-environment-plan> accessed 14 March 2025.

137 Defra, 'Environmental Improvement Plan 2023: (2023) <www.gov.uk/government/publications/environmental-improvement-plan> accessed 17 July 2024.

138 Institute for Government (n 134).

139 Office for Environmental Protection, 'Taking Stock: Protecting, Restoring and Improving the Environment in England' (n 89) 32–27.

140 Richard Rumelt, *Good Strategy, Bad Strategy: The Difference and Why It Matters* (Profile Books 2017) 77.

Sites are being monitored based on NIEA expertise and knowledge of site sensitivity and risk, and within available resources. However, we have not been provided with any written strategy, guidance or plan to inform these decisions.

We have not been provided with any strategy setting out how to improve the management of protected sites by their owners and occupiers, including how and when to use tools to improve management, such as advice and advocacy, agri-environment schemes, management agreements and regulatory tools. Neither is there any strategy to underpin the communication and publication of information relating to protected sites.

Strategy to guide the way that protected site laws are implemented would enable more coherent action within government, and lead to greater public understanding of that action. For example, we expect that a published strategy for designating new protected sites would help build greater awareness than the unpublished, internal strategies for designation that were in place in the past.

In 2011, NIEA stated that it was “developing, in partnership with others, a Designated Site Management (DSM) policy which will be underpinned by strategic actions setting out how such sites should best be protected and managed by NIEA and others”.¹⁴¹ The policy was intended to “ensure a more integrated approach, both within government and with other stakeholders, is taken to manage and protect the increasing number of Areas of Special Scientific Interest.” It was to be “the main tool in securing the long-term integrity of designated sites”.¹⁴² It was stated at the time that the additional resources required to develop the policy would be “minimal”, although its “implementation may require additional resources”.¹⁴³ Despite the importance that was attached to developing this policy and the expectation this would not require much new resources, we have not received any evidence that such a strategy was finalised, published or implemented.

We found that where a strategy was in place, progress was made. We observed that strategies were developed to meet previous targets to increase the extent of ASSIs and were associated with progress being made. On the other hand, where a strategy does not appear to have been in place – for example, in relation to the targets set in 2006 and 2011 to improve ASSI condition – progress was not made.

The new EIP does not itself contain a strategy for meeting its target to improve the condition of ASSIs and its other commitments relating to protected sites. Rather, it contains commitments to have produced a Nature Recovery Strategy by the end of 2024, complete a review of terrestrial protected sites, and develop various plans, programmes and frameworks. At the time of writing in March 2025, the Nature Recovery Strategy had not been published, and it is unclear if other actions have been completed. It therefore remains to be established whether these commitments will lead to a strategy being put in place that enables the successful delivery of protected sites targets and functions.

141 NIEA, ‘Natural Heritage Vision & Strategic Plan 2020’ (n 112).

142 Written response to information request from NIEA to the OEP (9 July 2024).

143 *ibid.*

2.6 Delivery

We consider that setting targets for protected sites, and establishing a strategy for how to achieve them, are essential starting points. However, this will be unsuccessful unless there is then effective delivery planning and implementation.

Delivery plans should underpin strategy and provide assurance regarding the deliverability of the commitments and ambitions that the strategy provides. Without delivery plans, decisions about funding allocations are made piecemeal, rather than being based on strategic, long-term priorities.¹⁴⁴ Delivery plans should contain clear, funded actions that government will take. If the actions listed will not be sufficient to reach targets, plans should explain how and when government expects to augment them.¹⁴⁵

Delivery planning for protected sites needs to operate at two scales: at a national scale for all of Northern Ireland's protected sites, and at a local scale covering specific protected sites. National plans should set out the action needed at a national level; for example changes to laws, policies, schemes, governance and resourcing. These are the actions that DAERA/NIEA and other departments and agencies need to take for protected sites as a whole. Site-level plans should then list the specific steps that need to be taken for each site to be maintained at, or restored to, favourable condition. We have found that more progress is needed at both scales.

2.6.1 National delivery planning

We have not been able to find, nor have we been provided with, any delivery plan for implementing protected site laws or for achieving related targets. The EIP contains commitments to develop and implement nature recovery plans and programmes, including for protected areas, by 2026. Given that 2026 leaves four years until the 2030 deadline for achieving the relevant EIP targets, this leaves a small time window in which rapid progress would then have to be made.

We considered whether the content of DAERA and NIEA business plans could constitute a delivery plan for protected sites. DAERA's business plans have not mentioned protected sites in the past three years. NIEA's most recent business plan, for 2024/25, contains one specific, national-scale action for protected sites, which is a commitment to agree and deliver an annual ASSI monitoring programme.

As far as we have been able to discern, no delivery plans were created to reach earlier targets for improving the condition of protected sites, that were published in 2006 and set within NIEA in 2011.¹⁴⁶ We consider it likely that a lack of delivery plans, was a contributing factor to these targets being missed.

2.6.2 Site level planning

Site-level management plans are a key component of effective governance. We differentiate these from management incentives such as agri-environment schemes and management agreements, which are discussed in Chapter 6. Plans should set out clear objectives and the actions needed to reach them for the site, while incentives provide a means for delivering the management that is needed.

144 National Audit Office, 'Achieving Government's Long-Term Environmental Goals' (2020) 32 <www.nao.org.uk/reports/achieving-governments-long-term-environmental-goals/> accessed 9 August 2024.

145 *ibid* 10.

146 Department of the Environment, 'First Steps Towards Sustainability 2006' (n 125) 47; NIEA, 'Natural Heritage Vision & Strategic Plan 2020' (n 112).

Management plans act as tailored delivery plans for individual protected sites. The unique combination of features and environmental conditions of each protected site requires a bespoke plan. This should establish objectives, identify pressures and set out who needs to do what, and by when. These actions should be costed, with reviews of progress and changes to plans where necessary, to ensure that progress remains on track. Individual plans should stack up to show how the national EIP target to improve the condition of protected sites will be met.

Plans are most effective when they are developed in collaboration with owners and occupiers and other relevant stakeholders.¹⁴⁷ They should also be clearly communicated with those who are responsible for delivering them.

In 1994, the Environment Service set out the aim of having site management plans completed for SACs in 1995, SPAs in 1996 and ASSIs in 1997.¹⁴⁸ While the site network has substantially expanded since then, many sites are still lacking a management plan in 2025.

By 2012, sixteen years after it was intended that all SACs and SPAs would have management plans, 94% of these sites had no plan.¹⁴⁹ Progress was accelerated following a formal letter from the European Commission to the UK Government in 2015. This concluded that the UK was in breach of its legal obligations to establish appropriate conservation measures for 53 SACs in Northern Ireland.¹⁵⁰ As a result, in 2017 NIEA began a four-year work programme to develop management plans for Northern Ireland's 58 SACs, and for as many of its 16 SPAs as possible.¹⁵¹¹⁵²

By March 2024, management plans for 40 of 58 SACs were finalised and extracts of them were presented online.¹⁵³ The EIP contains a commitment, by the end of 2024, to have published 40 SAC management plans. It appears to us that this had largely been achieved in March 2024, before the EIP was published in September 2024, although some of the detail of these plans was not published at that time. There is no target or commitment in the EIP, or elsewhere, stating when the remaining 18 plans for SACs will be produced,¹⁵⁴ or how the 40 existing SAC plans will now be implemented.

Our understanding is that no plans for the 16 SPAs have yet been developed.

Several organisations that responded to our call for evidence, from a variety of sectors, stressed the importance of site-level management plans being in place. Ulster Wildlife told us that management plans are needed for all protected sites. They warned that, without this, actions will remain ad hoc and isolated, and the delivery of targeted conservation

147 See Finland case study called "Can top-down be wise?" in Grazia Borrini-Feyerabend and others, 'Governance of Protected Areas: From Understanding to Action' (IUCN 2013) Best Practice Protected Area Guidelines Series No 20 27 <<https://portals.iucn.org/library/sites/library/files/documents/PAG-020.pdf>>.

148 Environment Service Corporate Plan 1994-97, cited in Turner and Morrow (n 81) 342–343.

149 JNCC, 'Format for a Prioritised Action Framework (PAF) for Natura 2000, Northern Ireland' (2012) 19 <<https://data.jncc.gov.uk/data/1b21d5b4-e87a-42db-a3af-894f10d40e4e/paf-northern-ireland.pdf>> accessed 1 August 2024.

150 EC letter to UK Government dated 28.5.2015 re 2015/2030. Provided as part of written response to information request from DAERA to the OEP (7 November 2023).

151 DAERA, 'Conservation Management Plans (CMPs)' <www.daera-ni.gov.uk/articles/conservation-management-plans-cmps> accessed 12 March 2025.

152 DAERA, 'Management of Special Areas of Conservation Frequently Asked Questions' (2019) <www.daera-ni.gov.uk/publications/management-special-areas-conservation-faq> accessed 27 November 2024."plainCitation": "DAERA, 'Management of Special Areas of Conservation Frequently Asked Questions' (2019)

153 DAERA, 'Introduction to Conservation Management Plans (CMPs) for Northern Ireland's Special Areas of Conservation' (15 October 2020) <www.daera-ni.gov.uk/articles/introduction-conservation-management-plans-cmps-northern-irelands-special-areas-conservation> accessed 12 July 2024.

154 NIEA informed us in January 2025 that plans will be completed by March 2025 for five additional SACs. It added that a further seven are at different stages of development. This does not account for the 58 SAC plans that were originally intended to be produced.

actions will be difficult to justify, fund and initiate.¹⁵⁵ The National Trust informed us that the development of management plans for SPAs would be a great resource.¹⁵⁶ The Woodland Trust called for the development and implementation of management plans for all designated woodland in Northern Ireland, with the strategic outcome of bringing these to a favourable condition.¹⁵⁷ The Ulster Farmers' Union (UFU) also told us that NIEA should work with owners and occupiers to develop appropriate site management plans.¹⁵⁸

2.6.3 Engagement in the development of management plans

The development and delivery of management plans requires trusted relationships and a sense of ownership of the actions that an individual or organisation needs to carry out. We found that where plans have been developed, there has been insufficient engagement with owners and occupiers. We consider that the consequences of this could include management plans not being implemented and an erosion of trust among owners and occupiers.

Significant effort was put into developing the 40 SAC management plans. However, levels of engagement appear to vary across these plans. Ulster Wildlife told us that the development of these plans allowed for engagement with landowners and stakeholders on a scale not previously achieved.¹⁵⁹ We were also told by an eNGO that these plans consolidate a wide range of information into a single document, which provides a good basis for improving these sites.

By contrast, we heard concerns from other stakeholders, who own or occupy parts of SACs, that they were given little involvement in the development of these plans.¹⁶⁰ For example, an employee at an organisation that owns land within SACs told us they had been invited to a single development meeting, several years before the plan was published.¹⁶¹ The UFU told us that, as a result, the plans have no buy-in from farmers.¹⁶²

We found a lack of awareness of the plans having been published or what will happen next. In one instance, a farmer who owns an SAC informed us that they had received the plan through the post, with no indication from NIEA of what it meant in practice.¹⁶³

Some stakeholders criticised the versions of plans that they had seen. We were told that the plans are too generic and high-level, and that they do not go far enough in setting out specific recommended future actions.¹⁶⁴ An employee at an organisation that owns protected sites told us that the published plan lacks detail on how some issues need to be addressed, that it does not reflect the full range of work needed, and that the measures listed are not specific enough to influence its management programme (and most or all are already being addressed).¹⁶⁵

155 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

156 Call for evidence response from the National Trust to the OEP (21 April 2023).

157 Call for evidence response from the Woodland Trust to the OEP (20 April 2023).

158 Call for evidence response from the UFU to the OEP (25 April 2023).

159 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

160 Various site visits and discussions with the OEP and owners and occupiers (2024); call for evidence response from UFU to the OEP (19 April 2023).

161 Meeting with an employee at a public sector organisation that manages protected sites in Northern Ireland and the OEP (2024).

162 Call for evidence response from the UFU to the OEP (25 April 2023).

163 Various site visits and discussions with the OEP and owners and occupiers (2024); correspondence following site visit.

164 Meeting with an employee at a public sector organisation that manages protected sites in Northern Ireland and the OEP (2024); call for evidence response from the UFU to the OEP (25 April 2023); correspondence following site visit.

165 Meeting and correspondence with an employee at a public sector organisation that manages protected sites in Northern Ireland and the OEP (2024).

An organisation that led the development of an SAC management plan told us that it doubted whether the plan would lead to improved management. This was because, due to a lack of resource, it was not an actionable delivery plan, particularly with respect to shared grazing trusts, in which mechanisms for engagement with landowners are poorly developed. The organisation added that simply listing the measures that are needed on a site will not prove effective unless NIEA initiates and participates in engagement, monitoring and reporting mechanisms, to ensure that appropriate actions are agreed and are being taken.¹⁶⁶

NIEA provided examples of the full, unpublished plans to us. These are substantially more detailed than what has been published. It may be that some stakeholder concerns would be alleviated by being provided with the full plans and an opportunity to discuss them. This should be in addition to ongoing engagement with owners and occupiers during the delivery of these plans.

We consider that the plans for SACs that have been produced so far provide a good basis for action. What is now needed, above all, is to put in place the governance and programmes to deliver them.

Nevertheless, we also consider that there is scope for improvement in how NIEA communicates with stakeholders to secure the delivery of management plans and to achieve the protected site condition target in the EIP.

Once delivery plans (at national and site level) are finalised, attention should urgently shift to their implementation. This will require a substantial increase in the pace and scale of work by DAERA/NIEA and other relevant government departments and agencies.

We understand that NIEA intended that the development of SAC management plans should “include a database to hold the information to better manage delivery in the future”.¹⁶⁷ This was not achieved. This slow progress in developing a database, and populating it with relevant information, to provide clarity to delivery bodies on what action they need to take, and to allow for oversight and tracking by DAERA/NIEA, will impede delivery of management plans.

2.7 Coherence

The implementation of protected site laws needs to be a shared effort by many organisations and individuals. To ensure that this happens, government needs to have the “ability and capacity to co-ordinate efforts with the principal affected ‘players’ both within and outside government”.¹⁶⁸ There is a need to establish clarity of roles and responsibilities, to coordinate action in an inherently complex system of environmental governance.¹⁶⁹

Currently, we consider that the implementation of protected site laws is not sufficiently well-integrated across the different teams and agencies in DAERA, or across other government departments and agencies. We have found that the successful implementation of these laws is not always a key consideration in other relevant policy areas, and that there has been an absence of coordination and oversight of delivery actions among bodies responsible for them.

166 Various site visits and discussions with the OEP and owners and occupiers (2024).

167 DAERA, ‘Management of Special Areas of Conservation Frequently Asked Questions’ (n 152).

168 Graham, Amos and Plumtre (n 98) 20.

169 Borrini-Feyerabend and others (n 147) 21, 36, 81.

2.7.1 Integration of protected sites policy across government

Achieving outcomes for protected sites requires high levels of collaboration not just within different parts of DAERA, including NEPD, NIEA and teams responsible for agricultural policy, but also with other relevant departments, for example with the Department for Infrastructure (DfI), to improve the condition of sites affected by water supply and treatment operations.

We understand there are no inter-departmental working groups, or other effective forums, to coordinate the development and delivery of policy and practice affecting protected sites.

There is a commitment in the EIP for DAERA to “work in conjunction with other government departments, authorities and stakeholders to align policies and programmes to enhance protection for nature and ecological connectivity, deliver biodiversity gain and support landscape scale ecosystem restoration”. In our view, there are significant opportunities to enhance protected site management by working across policy areas. For example, the development of Northern Ireland’s new agri-environment scheme, Farming with Nature, and work to implement the Climate Change Act (Northern Ireland) 2022. However, concerns about siloed approaches were raised with us by stakeholders.¹⁷⁰

For instance, DAERA’s business plan for 2024/25 contains a commitment to deliver a transition to a more sustainable farming sector, through the Farm Support and Development Programme.¹⁷¹ The plan explains why this is being done, but it makes no specific mention of the need for this programme to support nature’s recovery, or the better management of protected sites.

Greater alignment is much needed and we consider it will require more effective governance structures and greater leadership from DAERA.

2.7.2 An effective network of relationships with key delivery bodies, within and outside government

Neither NEPD nor NIEA have developed good individual relationships with key delivery bodies. For example, an employee at a public sector organisation that owns protected sites told us that it used to have meetings with NIEA every six months that included operational discussions about ASSI condition and monitoring. These meetings were considered useful by their organisation, but they ended several years ago. It now has no regular formal engagement with NIEA on ASSI matters, and when we spoke in June 2024, it had not been informed of an SAC management plan that had been published by NIEA two months earlier for one of its sites.¹⁷²

NI Water told us that it does not currently have a centralised, formal arrangement or protocol with NIEA on designated site management. However, NI Water added that it has worked with NIEA and relevant delivery bodies to develop SAC Conservation Management Plans for two of the larger areas in its ownership. NIEA staff work with NI Water and NI Water Alpha¹⁷³ individual areas and plant managers to manage some sites which sit within protected sites and which warrant guidance on issues such as grounds maintenance.¹⁷⁴

170 For example, call for evidence response from CNCC to the OEP (12 May 2023).

171 DAERA, ‘Sustainable Agriculture Programme: A New Programme of Farm Support’ (2024) <www.daera-ni.gov.uk/topics/farm-support-and-development> accessed 12 March 2025.

172 Meeting with an employee at a public sector organisation that manages protected sites in Northern Ireland and the OEP (2024).

173 NI Water Alpha is a division within NI Water, it has the responsibility for the production and supply of 47% of the total supply of potable water to NI Water for onward supply to c.400k customers in Northern Ireland. See also NI Water, ‘Careers: Jobs - Alpha’ <www.niwater.com/jobs-alpha/> accessed 17 February 2025.

174 Written response to questions from NI Water to the OEP (11 September 2024).

We heard from stakeholders that NIEA lacks the resources (including staff capability and capacity) to build better partnerships with stakeholders.¹⁷⁵ This was confirmed by NIEA. The agency told us that it “carries out little proactive engagement” with owners and occupiers and that it does “not have the resource currently to substantially improve the situation”.¹⁷⁶

There is no forum that brings together the organisations that own or are responsible for managing the largest proportion of protected sites. This contrasts with England, where the SSSI Major Landowners Group has previously made a key contribution to meeting protected site targets (Box 5).

To establish effective coordination and collaboration amongst delivery bodies, it will be necessary to identify who those bodies are. We asked NIEA for a list of the organisations that own or occupy the largest areas of protected sites, similar to information that is available in England and which helped to identify who should be members of the Major Landowners Group. While NIEA will clearly be broadly aware of its major landowners, it could not provide this information as it did not hold these data in a way that readily enabled provision of the detail. We consider that this information should be readily available. This further highlights the need for maintaining an effective and up-to-date database that includes ownership, occupancy, and other relevant information for protected sites (see Chapter 5).

In the absence of easy access to the detail, we identified some of the organisations that are likely to be responsible for the largest area of protected sites. Data published in 2002 show that the two public authorities that owned the most land in Northern Ireland were the Forest Service (an executive agency within DAERA) and NI Water (a Non-Departmental Public Body sponsored, and owned, by DfI).¹⁷⁷ We obtained figures for the area of protected sites owned or occupied by each organisation: the Forest Service owns or occupies 19,381 ha of protected sites (including ASSIs, SACs and SPAs)¹⁷⁸ and NI Water owns or occupies approximately 6,395 ha of ASSIs.¹⁷⁹ NIEA told us that it owns or manages 3,255 ha of ASSIs.¹⁸⁰ The Ministry of Defence told us that it owns 1,089 ha of protected sites.¹⁸¹

Taken together, these four public authorities own or occupy around a quarter of the area of all protected sites in Northern Ireland. The proportion of the area of protected sites that is publicly managed will be higher, as we have not accounted for all public bodies such as local authorities. We understand that several environmental charities also own or manage a significant proportion of protected sites. Together, the members of a group similar to that in England would be responsible for a large area of sites. We consider that there is a strong case that such a group could, and should, be set up to help drive action.

175 Meeting with NIAPA and the OEP (12 October 2024). Meeting with Mourne Heritage Trust and the OEP (8 August 2023).

176 Written response to information request from NIEA to the OEP (9 July 2024).

177 BBC News, ‘21st Century Land Battles’ *BBC News* (8 April 2002) <http://news.bbc.co.uk/1/hi/northern_ireland/1917234.stm> accessed 27 November 2024.

178 We were informed by DAERA, via written response to questions (3 March 2025), that due to some landholdings holding more than one designation, the total area of the Forest Service’s land that falls within these designations exceeds 19,381 ha but this could not be accurately calculated.

179 Written response to questions from Forest Service to the OEP (8 April 2024); written response to questions from NI Water to the OEP (20 May 2024).

180 Written response to questions from DAERA to the OEP (16 January 2025).

181 Written response to questions from Ministry of Defence to the OEP (23 February 2024).

Box 5. Case Study: England's SSSI Major Landowners Group

The SSSI Major Landowners Group in England made a major contribution to improving protected sites between 2000 and 2010. The Group was made up of public bodies such as the Forestry Commission, the Ministry of Defence and the Crown Estate, representatives of the water industry and voluntary bodies such as the National Trust.¹⁸² Defra, English Nature (now Natural England) and the Environment Agency were also members.¹⁸³ Together, members of the group were responsible for 71% of land covered by SSSIs.¹⁸⁴

Group members achieved rapid progress in establishing agreements and plans to improve the condition of protected sites. Within the first five years of the Group's operation up to 2008, the proportion of the Group's land in favourable or recovering condition increased from 56% to 85%.¹⁸⁵

We heard from stakeholders in England that the Group is widely considered to have played a key role in meeting the UK Government's Public Service Agreement target for 95% of SSSIs to be in favourable or recovering condition by 2010. It did so by enabling collaboration and the pooling of resources between Group members, informing government of practical challenges to achieving targets, and allowing government to scrutinise progress and hold members accountable for delivery.

We also heard that Defra played a highly effective role in convening and chairing the Group. Defra fostered high levels of engagement and enthusiasm amongst members of the Group, which was reflected, for example, in the senior-level attendance at meetings and the large volume of work that was undertaken.

The Major Landowners Group continues to operate in England. However, it has drawn criticism due to reduced engagement and leadership from Defra. This lack of support has raised concerns about the Group's ongoing ability to coordinate conservation efforts effectively and to improve the ecological integrity of these important sites.

2.7.3 Oversight of public authority delivery for protected sites

We have seen no evidence that there is an effective system for overseeing and coordinating public authorities' delivery of action for protected sites, in line with their legal responsibilities to conserve and enhance ASSIs and biodiversity and similar duties in respect of SACs and SPAs under the Habitats Regulations.¹⁸⁶ It is not clear whether DAERA is responsible for this, or whether it is considered necessary.

We are concerned by this apparent lack of oversight. Given the large area of protected sites that are in public ownership, and the role that public authorities need to play to address widespread environmental pressures that are causing poor site condition, it is essential that there is effective oversight of their contribution towards protected site objectives. It may be that this has contributed to what appear to be low levels of prioritisation of protected sites by the Forest Service and NI Water (Box 6).

182 Natural England, 'Protecting England's Natural Treasures, Sites of Special Scientific Interest' (n 129); Defra, 'Select Committee on Environment, Food and Rural Affairs Minutes of Evidence: Memorandum Submitted by the Department for Environment, Food and Rural Affairs.' (n 130).

183 Defra, 'Select Committee on Environment, Food and Rural Affairs Minutes of Evidence: Memorandum Submitted by the Department for Environment, Food and Rural Affairs.' (n 130).

184 National Audit Office, 'Natural England's Role in Improving Sites of Special Scientific Interest' (2008) HC 1051 18 <www.nao.org.uk/reports/natural-englands-role-in-improving-sites-of-special-scientific-interest/> accessed 22 August 2024.

185 National Audit Office, 'Natural England's Role in Improving Sites of Special Scientific Interest' (n 179).

186 Art 38, Environment Order 2002; s. 1, Wildlife and Natural Environment Act (Northern Ireland) 2011.

Box 6. The duty to further the conservation and enhancement of ASSI features and its implementation

The duty

Article 38 of the Environment Order gives a public body a duty in exercising its functions so far as this is likely to affect the ASSI features. This duty is to take reasonable steps, consistent with the proper exercise of the body's functions, to further the conservation and enhancement of ASSI features.

Forest Service

As the body that is likely to own or manage the largest area of protected sites, we scrutinised Forest Service's Corporate Plan from April 2021¹⁸⁷ and its business plans for the last four years (from 2021-22 to 2024-25).¹⁸⁸ We found that these plans made mention of protected sites, in reference to the proportion of the agency's estate that is "designated for nature conservation" in its Corporate Plan. We found that they do not contain any statement setting out Forest Service's Article 38 duty or any targets for improving the condition of the protected sites on its estate.

We asked Forest Service for documents that set out its strategy or plan for improving the condition of its protected sites and addressing its impacts on other protected sites. Whilst no such strategy or plan was shared with us, we were provided with information about how the agency complies with regulatory requirements to avoid harming sites. We were also told that forest management plans are published, which include commitments to protect and enhance biodiversity across the agency's estate, including protected sites, for example to restore peatland.¹⁸⁹ We were not provided with information about how it seeks to further the conservation and enhancement of the condition of its sites' features, beyond this.

We were informed by an environmental organisation that oversees conservation action across a large protected site that, given the extent and nature of its land holdings, Forest Service has the potential to play a much greater role in contributing to improving the area's biodiversity.

The role and activity of Forest Service are in contrast with those of the Forestry Commission in England, which reports annually on the percentage of woodland SSSIs in desired condition. It also reports on a range of other key performance indicators, for example the ecological condition of woodland and the number and variety of species that live in woodland.¹⁹⁰ It is also clear from these reports that significant work has been carried out to understand and improve the ecological condition of woodland. Similarly, Forestry England, which manages publicly owned forests as an executive agency of the Forestry Commission, has set a target for improving the condition of its SSSIs in its Biodiversity Plan 2022-26. This target aligns with the UK Government's SSSI target in England.¹⁹¹

187 Forest Service, 'Forest Service Corporate Plan from April 2021' (n 115).

188 Forest Service, 'Forest Service Business Plans' (n 115).

189 Forest Service's Corporate Plan and business plans contain commitments relating to peatland restoration. For example, its Corporate Plan states that "We will invest in support of the NI Peatland Restoration Strategy by restoring areas of priority peatland to safeguard the storage of carbon in soil and enable the recovery of biodiversity associated with bog habitats." See Forest Service, 'Forest Service Corporate Plan from April 2021' (n 115) 38.

190 Forestry Commission, 'Forestry Commission Key Performance Indicators Report for 2023-24' (2024) <www.gov.uk/government/statistics/forestry-commission-key-performance-indicators-report-for-2023-24> accessed 24 July 2024.

191 Forestry England, 'Biodiversity Plan 2022-26' (2022) 6 <www.forestryengland.uk/sites/default/files/documents/Forestry%20England_Biodiversity%20Plan%202022-26_0.pdf> accessed 23 September 2024.

NI Water

There are several aspects of NI Water’s work that can impact on the condition of protected sites. They are responsible for managing the sites they own or occupy and they seek to ensure the good management of other sites within the catchments that supply water to their treatment works to improve water quality. They are also responsible for ensuring that their operations do not harm protected sites.

While “Nature - protecting and enhancing the natural environment” is one of NI Water’s strategic priorities,¹⁹² we have found no published targets for improving the condition of NI Water’s protected sites. NI Water’s Business Plan for the price control period 2021 to 2027 does not mention protected sites.¹⁹³ Their Environmental Statement includes a recognition of “the importance of encouraging biodiversity, managing our landholdings responsibly and protecting designated areas.”¹⁹⁴ It does not provide an explanation of the steps which will be taken to deliver on this.

In contrast, we understand that several water companies in England have set targets for improving the condition of their protected sites. For example, United Utilities has published a target for 100% of its SSSIs to be in favourable or recovering status by 2030.¹⁹⁵ United Utilities’ landholding includes 22,435 hectares of SSSIs,¹⁹⁶ a much larger area of sites than NI Water.

The DfI does recognise that much of the land that NI Water owns is in or around protected sites. It stated in 2015 that “measures need to be put in place to address the decline of biodiversity particularly in relation to designated sites,” that “NI Water has developed a Biodiversity Action Plan that sets out its biodiversity objectives” and that this plan “should be regularly reviewed to meet new or existing biodiversity requirements.”¹⁹⁷ In 2021, DfI stated in its annual report on ‘Sustainable Water – A Long-term Water Strategy for Northern Ireland (2015-2040)’, that “NI Water has commenced a review of its Biodiversity Action Plan.”¹⁹⁸ We asked NI Water to provide this plan but it was not provided. They told us that their Biodiversity Action Plan will be completed as part of a forthcoming Biodiversity Strategy which is still in development as of September 2024.¹⁹⁹

Nevertheless, NI Water is carrying out a range of work that will contribute to conserving and enhancing protected sites, especially through its Sustainable Catchment Area Management Practice. We also heard that NI Water has been a positive partner in projects to restore protected sites, such as in the Eastern Mourne SAC²⁰⁰ and in the Garron Plateau Bog Restoration Project.²⁰¹ However, the absence of a published target and strategy for improving the condition of protected sites suggests that this is not currently a strategic priority for the company.

192 NI Water, ‘Our Strategy 2021 – 2046’ <<https://www.niwater.com/siteFiles/resources/HaveYourSay/strategy-2020.pdf>>.

193 NI Water, ‘PC21 Business Plan’ (n 116).

194 NI Water, ‘About Your Water: Our Environment - Environmental Statement’ <www.niwater.com/our-environment/> accessed 13 June 2024.

195 United Utilities, ‘Better Rivers Report 2023’ (2023) 17 <www.unitedutilities.com/globalassets/documents/corporate-documents/united-utilities-better-rivers-report-2023.pdf> accessed 13 June 2024.

196 United Utilities, ‘UUW35 Environmental Strategy’ (2023) 5 <www.unitedutilities.com/globalassets/z_corporate-site/pr24/supplementary-documents/uuw35.pdf> accessed 13 June 2024.

197 Department for Infrastructure, ‘Sustainable Water - A Long-Term Water Strategy for Northern Ireland (2015-2040)’ (2016) 128,164 <www.infrastructure-ni.gov.uk/publications/sustainable-water-long-term-water-strategy-northern-ireland-2015-2040> accessed 13 June 2024.

198 Department for Infrastructure, ‘Sustainable Water – A Long-Term Water Strategy for Northern Ireland (2015-2040) – Fifth Annual Strategy Progress Report’ (2021) 31 <https://causewaycoastandglens.gov.uk/uploads/general/211124_PC_Item_7.9_LTWS_Letter_to_Stakeholders_re_Fifth_Annual_Report_-_Nov_21.pdf> accessed 13 June 2024.

199 Written response to questions from NI Water to the OEP (11 September 2024).

200 Various site visits and discussions with the OEP and owners and occupiers (2024).

201 NI Water, ‘Co-Operation Across Borders for Biodiversity (CABB): Restoration of the Blanket Bog in Dungonnell Catchment.’ (2019) <www.niwater.com/sitefiles/resources/sustainability/cabbinfooklet.pdf> accessed 13 June 2024.

2.8 Review

Protected sites strategy and delivery plans will only be effective if they are regularly and transparently reviewed to ensure that progress is on track and that appropriate action can be taken where progress is not as expected. This requires sufficiently frequent monitoring of the condition of protected sites (Chapter 5), and the effective use of this information to identify and address the causes of poor condition.

There is currently no programme for evaluating and then reviewing progress in implementing protected site laws. Several reviews of progress towards targets for designating new ASSIs were carried out, and progress reports were sent to the CNCC, a statutory advisor to DAERA.²⁰² The last such review and report that we have seen was from 2016, by which time progress in designating sites had significantly slowed. We assume that reports were sent to the CNCC because legislation requires it to be consulted on the declaration of ASSIs.²⁰³

We have seen no evidence to indicate that this process of review and reporting was replicated for the targets to improve the condition of Northern Ireland's protected sites, that were published by the Department of the Environment (DoE) in 2006²⁰⁴ and set internally by NIEA in 2011.²⁰⁵ NIEA told us that, on the expiry of these targets, no assessment was carried out of whether they were achieved, the lessons that should be learned or the actions that would be taken.²⁰⁶

Undertaking periodic evaluation would have allowed DAERA and NIEA to identify whether progress was on track and, if not, what should change. This could then have informed a review of strategy and delivery plans, and allowed for course-corrective measures to be put in place.

When progress towards meeting ASSI designation targets was reviewed and reported to the CNCC, we found no evidence that the issues identified were acted upon. Progress reports frequently raised concerns that insufficient progress was being made due to a lack of resources.²⁰⁷ However, it does not appear that resources were subsequently increased to allow progress to be brought back on track. Instead, the ambition of targets was revised downwards, and eventually targets were allowed to expire without being reached and without being replaced by new targets.²⁰⁸

202 Call for evidence response from NIEA to the OEP (14 June 2023).

203 Art 38, Environment Order.

204 Department of the Environment, 'First Steps Towards Sustainability 2006' (n 125).

205 NIEA, 'Natural Heritage Vision & Strategic Plan 2020' (n 112).

206 Written response to information request from NIEA to the OEP (20 March 2024).

207 Environment and Heritage Service, 'A Forward Programme for the Declaration of ASSIs in Northern Ireland' (n 113); Environment and Heritage Service, 'ASSI Review: Developing a Priority List of ASSIs' (n 113); NIEA, 'ASSI Programme - Priority List Update' (2016).

208 Environment and Heritage Service, 'ASSI Review: Developing a Priority List of ASSIs' (n 113); NIEA, 'ASSI Programme - Priority List Update' (n 207).

2.9 Transparency and accountability

2.9.1 Transparency of information

Transparency of information is an important element of effective governance.²⁰⁹ It supports the development and delivery of adaptive management, allows for public scrutiny and accountability, and enhances public understanding and trust.

The importance of transparency in relation to environmental information is reflected in the Environmental Information Regulations 2004. These place a duty on public authorities to publish environmental information by easily accessible electronic means, and to organise records in such a way that environmental information can be routinely published.²¹⁰ This includes information such as policies, plans and programmes relating to the environment, progress reports on their implementation, reports on the state of the environment, and data taken from environmental monitoring activities.²¹¹

The need for transparency is also reflected in the UK's general duties regarding access to environmental information under the Aarhus Convention.²¹² This is because making environmental information available helps the public to participate in environmental decision-making.

We found a lack of transparency across DAERA's protected site work, and that of other public authorities. Information relating to protected sites is often not published or communicated with relevant stakeholders. This is preventing delivery bodies from having or using information that they need to conserve and enhance protected sites, is preventing scrutiny from outside the department, and has reduced stakeholder trust in NIEA. For many of the stakeholders we heard from, this lack of transparency is one of the greatest obstacles to improving outcomes for protected sites.

We identified several examples of information related to protected sites not being published or communicated to stakeholders. In this chapter, we have already observed that some strategies, plans, programmes and progress reports have not been published or widely communicated. We comment on the lack of public information about the funding of protected site work in Chapter 3. In Chapter 6 we find that an assessment of the effectiveness of the Management of Sensitive Sites (MOSS) scheme was not published. In Chapter 7 we note that information about the enforcement action taken by NIEA is not published. Much of this information is routinely published in England.²¹³

209 For example Borrini-Feyerabend and others (n 147); Graham, Amos and Plumtre (n 98).

210 Reg 4(1), Environmental Information Regulations 2004; Information Commissioner's Office, 'What Environmental Information Do We Need to Publish?' <www.ico.org.uk/for-organisations/eir-and-access-to-information/guide-to-the-environmental-information-regulations/publication-schemes/> accessed 21 November 2024.

211 Reg 4(4), Environmental Information Regulations 2004; Art 7(2), Council Directive 2003/4/EC on public access to environmental information.

212 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

213 For example, Defra, 'Impact of Agri-Environment Schemes on Sites of Special Scientific Interest (SSSIs)' (2019) LM0481 <<https://eprints.glos.ac.uk/8828/7/8828-Short-%282020%29-LM0841-Assessment-of-the-impact-of-agri-environment-schemes.pdf>> accessed 18 June 2024; Natural England, 'Register of Enforcement Action Taken by Natural England' <www.gov.uk/government/publications/register-of-enforcement-action-taken-by-natural-england> accessed 19 June 2024.

The example that was most frequently highlighted by stakeholders was data from NIEA's monitoring of the condition of individual ASSIs. We were told that this information was not proactively communicated to owners or occupiers but that NIEA provided data on request, which is a time-consuming and inefficient process for all parties.²¹⁴ By contrast, information on the condition of individual sites is made publicly available elsewhere in the UK.²¹⁵

In September 2024 NIEA published – to our knowledge, for the first time – summarised information about the condition of each protected site's features.²¹⁶ NIEA stated that “This summary information will be updated on an annual basis in line with Environmental Statistics Reporting.”²¹⁷ While this is a significant addition to transparency, this summary is lacking information that is essential for delivery bodies, such as the reasons for the assessment of condition and the actions that need to be taken, when and by whom.

There has been a lack of transparency across many aspects of the implementation of protected site laws, and there are lower levels of transparency in Northern Ireland than elsewhere in the UK. This has frustrated key delivery partners. On three of our visits to protected sites, the landowners we spoke to expressed strong dissatisfaction with the lack of information provided to them about their protected sites. For their sites, the causes of site condition, whether favourable or unfavourable, were unknown, and landowners did not know when monitoring had been carried out. We consider this matter further in Chapter 5.

In our view, regularly publishing and communicating information about the implementation of protected site laws would enhance the development and delivery of appropriate management action, improve relationships and increase stakeholder buy-in.

We understand that NIEA is in the early stages of developing a public-facing database for protected site information, which should include site data and reports.²¹⁸ NIEA told us in March 2024 that the database is currently available internally and that “further development will be subject to business case approval and to capital funding being secured”.²¹⁹

In our view, such a database is long overdue. The Environment Service aimed to complete the software design for an ASSI database for site-specific monitoring by March 1995.²²⁰ Most recently, it was intended to be developed alongside SAC management plans.²²¹

The database should be a user-friendly resource that communicates information about the condition of protected sites, along with other information that would be useful for delivery bodies, such as causes of poor condition and the actions that should be taken, when and by whom.

214 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

215 Natural England, 'Designated Sites View' <www.designatedsites.naturalengland.org.uk/> accessed 2 July 2024; NatureScot, 'SiteLink' <<https://sitelink.nature.scot/home>>; Natural Resources Wales, 'Protected Sites Baseline Assessment 2020' (2023) <www.naturalresources.wales/evidence-and-data/research-and-reports/protected-sites-baseline-assessment-2020/?lang=en> accessed 12 March 2025.

216 DAERA, '2023/24 Summary Feature Condition Status' (n 64).

217 DAERA, 'Protected Areas Monitoring Results' (2024) <www.daera-ni.gov.uk/articles/protected-areas-protected-areas-monitoring-results> accessed 16 January 2025.

218 Written response to information request from NIEA to the OEP (20 March 2024).

219 *ibid.*

220 Turner and Morrow (n 81) 343.

221 DAERA, 'Management of Special Areas of Conservation Frequently Asked Questions' (n 152).

2.9.2 Impact on accountability

Accountability requires transparency.²²² When the information we outline above is not readily available, it is difficult for the Northern Ireland Assembly, relevant oversight bodies and the public to hold government or others to account. Such scrutiny is fundamental to ensuring that government is effectively delivering against their responsibilities.

While NIEA regularly reported to CNCC, there appears to have been little public interest in or awareness of missed targets for site designation, due to the targets and progress reports not being published. It appears that when targets were not met, DAERA was not held to account for failing to meet them.

We have been unable to find any external review of performance since Northern Ireland Audit Office's (NIAO) report on ASSIs in 2003 (see Box 7).²²³

To our knowledge the Northern Ireland Assembly's Committee for Agriculture, Environment and Rural Affairs, and its predecessor, the Committee for the Environment, have not, thus far, carried out any inquiry or published any reports scrutinising performance on protected sites.

²²² Graham, Amos and Plumptre (n 98); Solton, Shadie and Dudley (n 17).

²²³ Northern Ireland Audit Office (n 123).

Box 7. The Northern Ireland Audit Office 2003 report on Areas of Special Scientific Interest

In 2003, the NIAO examined EHS's arrangements for establishing and protecting ASSIs. Many of the findings and recommendations apply in 2025.


Key findings of the NIAO 2003 report:

- A formal programme to survey and protect ASSIs by 2001, which began in 1993, was not completed due to resource constraints.
- There was no revised long-term strategy or timeline for completing the ASSI network.
- There was a lack of data on potential ASSI candidates and extent of environmental damage from delays to designation.
- There were concerns about inadequate monitoring, a lack of comprehensive reporting on site condition, and delayed enforcement.
- A commitment to formalise enforcement policies by 1996 was unmet, with a new deadline of March 2003.
- There was a need for greater collaboration between EHS and the Department of Agriculture and Rural Development (DARD) due to overlapping responsibilities.

The NIAO made recommendations to:

- **Develop a Revised Long-Term Strategy:** EHS should produce a revised long-term strategy and timeline for completing the designation of the ASSI network to ensure compliance with EU Directives.
- **Enhance Data Management:** Consolidate all ASSI data into a single database and provide online access to relevant staff. This would help in better monitoring and management of ASSIs.
- **Improve Monitoring Programmes:** Implement comprehensive monitoring programmes to provide up-to-date condition reports for ASSIs.
- **Strengthen Enforcement Policies:** Establish formal enforcement policies and procedures to ensure timely and effective enforcement actions.
- **Collaborate with Other Agencies:** Establish Service Level Agreements (SLAs) with the DARD and renew the SLA with the Planning Service to improve coordination and efficiency.
- **Consider DARD for Conservation Payments:** Explore the possibility of having conservation payments administered by DARD to streamline the process and ensure better management of funds.
- **Increase Awareness and Training:** Provide training and raise awareness among staff and stakeholders about the importance of ASSIs and the need for their protection.

Chapter 3. Funding and resourcing

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Chapter 3. Funding and resourcing

3.1 Overview

Funding and resourcing are essential for the effective implementation of protected site laws and associated targets and commitments. This includes having and retaining sufficient staff, who possess the required expertise and experience, to successfully implement protected site laws. Here, we focus on the funding and resourcing of NIEA, which leads on the implementation of these laws as an executive agency within DAERA.

We found that:

- The funding and resourcing of NIEA's protected sites work constrains the delivery of its responsibilities. For example, work stopped for several years on designating new protected sites or entering into management agreements due to insufficient resources. This resulted in numerous sites lacking the protections that are provided through designation, as well as the implementation of suitable management. The Northern Ireland Audit Office raised similar concerns in 2003.
- When NIEA's work has continued or been started, levels of funding and resourcing have not always allowed it to progress at the pace and scale intended. For example, many protected sites are not being monitored with the frequency originally planned or required for effective management. Work to develop management plans has taken much longer than intended and remains incomplete.
- NIEA has faced reductions in resources and staff numbers. It informed us that it has insufficient resources and capacity to fully implement the legislative requirements and that it has skills gaps.
- DAERA has not made an assessment of what is needed to implement protected site laws well enough to achieve targets for designating new sites and improving site condition.
- NIEA has faced difficulties securing sufficient funding to plan and deliver work that needs to take place over several years. It has used multiple funding sources to progress single programmes. This has made it difficult to deliver work at the pace and scale required to meet intended outcomes.

These difficulties have arisen despite economic evidence that not only does investing in protected sites contribute to environmental and climate goals, it also delivers significant economic benefits.²²⁴

Funding and resource allocations remain obstacles to the effective implementation of protected site laws in Northern Ireland. Resource allocation should be planned, sufficient and sustained. Long-term provision of resources should be based on a sound assessment of what is needed to deliver desired outcomes, fulfil obligations and meet targets.

224 For example, Natural Capital Solutions and others (n 14).

We therefore recommend that:

Recommendation 4: DAERA should assess the resourcing requirements and the adequacy of current resourcing within the Department and other public authorities to implement protected site laws and achieve targets. DAERA should publish this assessment.

This assessment should address how responsibilities, targets and commitments, such as those within the EIP, will be acted upon. It should identify and address activities that have been paused, have not been completed, are progressing too slowly, or have not yet commenced. In making this recommendation, we are mindful that conducting an assessment should not distract or divert from the delivery of actions that are already known to be needed.

3.2 Resourcing the implementation of protected site laws

To implement protected site laws in Northern Ireland effectively, public authorities and responsible agencies require sufficient funding and resources. This includes access to the funding that is needed to support the delivery of complex and multi-year activities, such as designation, monitoring and reporting, and to attract and retain staff with the necessary expertise and experience in protected site activities.

Evidence demonstrates that improving the condition of protected sites contributes to Northern Ireland's economy. For example, an evaluation of blanket bog restoration on the Garron Plateau within the Antrim Hills SPA and SAC resulted in improved site condition and economic benefits of £50.1 million, far exceeding the £12.8 million cost of the work. Carbon sequestration accounted for 92% of these benefits, and site restoration improved flood mitigation by an estimated 27%.²²⁵

Research from England has found that the economic benefits that follow investment in SSSIs exceed the cost.²²⁶ The value of these benefits were “estimated at £956 million annually, almost 9 times the £111 million annual public cost of the policy”.²²⁷ These benefits are sensitive to funding levels; increased and long-term funding supports site conservation benefits and ecosystem services, while reductions in funding can lead to site condition degradation and loss of wider benefits.²²⁸

In this chapter, we focus on the resourcing of NIEA as the executive agency that has been given responsibility within DAERA to implement protected site functions. It also considers resourcing for NEPD, which is the most directly relevant policy team within DAERA.

NIEA and an eNGO raised questions about whether other agencies within DAERA and other departments and public bodies have sufficient resources, skills, capacity and awareness to fulfil their duties to conserve and enhance ASSIs under article 38(2) of the Environment Order and their duties under the Habitats Regulations.²²⁹ We have not

225 Natural Capital Solutions and others (n 14).

226 Matt Rayment, Mike Christie and Rick Minter, 'Benefits of Sites of Special Scientific Interest' (Defra 2011) 6 <www.researchgate.net/publication/280494508_Benefits_of_Sites_of_Special_Scientific_Interest> accessed 28 November 2024.

227 *ibid* 8.

228 *ibid* 8–9.

229 Call for evidence response from NIEA to the OEP (14 June 2023); call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

subjected the resourcing of these bodies to a detailed assessment in this report. However, our conclusions relating to the need to better understand the resources that are required to successfully deliver protected site laws and targets apply equally to the resourcing requirements of all public sector bodies.

3.3 Historic patterns of funding and resourcing

The current extent and condition of protected sites in Northern Ireland reflects prior decisions on funding and resourcing. This includes decisions relating to NIEA's predecessors, the Countryside and Wildlife Branch of the DoE, the Environment Service and the Environment and Heritage Service (EHS),²³⁰ and to DAERA's predecessor, DoE.²³¹

The challenges associated with funding and resourcing for nature conservation, including protected sites in Northern Ireland, have been highlighted on numerous occasions.

In 1984, the Balfour Report²³² recognised the need for more funding and skilled staff within DoE to deliver on proposals for the designation and management of ASSIs, as set out within the (then draft) Nature Conservation and Amenity Land Order.²³³

In 1990, the House of Lords "Environmental Issues in Northern Ireland" report²³⁴ emphasised that under-resourcing of DoE impacts transposing legislation, designating conservation areas (including ASSIs) and reporting on the environment.

In 2003, the NIAO highlighted EHS evidence submissions that the continuing absence of sufficient staff resources was impeding the designation process for ASSIs.²³⁵

EHS in 2003 and NIEA in 2012 highlighted resourcing issues as an obstacle to the delivery of the site designation programme from 1993 to 2018 (Box 8).

230 NIEA was established on 1 July 2008, with the majority of the remit of the EHS moving to NIEA. It was originally part of the DoE and later became an agency within DAERA in May 2016.

231 DAERA was formed in 2016 when the DoE (with responsibility for protected sites) merged with the Department for Agriculture and Rural Development (DARD).

232 Jean Balfour, 'A New Look at the Northern Ireland Countryside' (1984) <<https://library2.nics.gov.uk/pdf/dof/2023/PDF230134.pdf>> accessed 23 September 2024.

233 The draft Nature Conservation and Amenity Land Order became the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985.

234 House of Commons Select Committee, 'Environmental Issues in Northern Ireland' (1990) viii-x <<https://archive.org/details/b32226937/page/2/mode/2up>> accessed 3 June 2024.

235 Northern Ireland Audit Office (n 123).

Box 8. Resource constraints and targets for protected sites designation.

Coordinated by the Environment Service and initiated in 1993, ‘Target 2001’ aimed to more than double the area covered by ASSIs, from almost 48,000 ha in 1993 to around 110,000 ha by 2001.²³⁶

Progress was made but the target was not achieved²³⁷ and further designation programmes continued after 2001. Their aim was to “establish a network of sites that together guarantee the survival of Northern Ireland’s wildlife and geological features by representing (and protecting) an adequate²³⁸ sample of the diversity of plants, animals and earth science features that are present.”²³⁹

In 2003, EHS noted:²⁴⁰

“Target 2001 was not achieved for a variety of reasons. There were inadequate resources to both continue with a rapid rate of site declarations, and to undertake the required site management and monitoring.”

The timeline for completing the designation process was pushed back from 2001 to 2015.²⁴¹

In 2012, NIEA stated in a report to the CNCC that resourcing levels during this period had been insufficient to achieve the target by 2015, leading to a delay of a further three years:²⁴²

“It is difficult to predict future resource levels for survey and monitoring. What we can say is that we have now fallen below the annual level of declarations necessary to reach the target. Resource cuts in the survey team and in other units have had a major impact on progress. With current resources, it is likely that only around 15 new sites per year are possible. We propose to retain the target, but – unless additional resources are forthcoming – it is likely that the completion date will be closer to 2018.”

This work was not completed and no protected sites have been designated since March 2018.²⁴³

In 2015, an infraction case was brought by the European Commission against the UK concerning the failure to establish conservation objectives and measures for SACs.²⁴⁴ The resulting re-focusing and redeployment of staff working on designation, towards the development of the required Conservation Management Plans,²⁴⁵ is evident in the 2018 ‘Northern Ireland Environmental Statistics Report’, which emphasised the completion of designations and the subsequent move towards improving condition through these plans.²⁴⁶

236 Environment Service (n 122).

237 Environment and Heritage Service, ‘A Forward Programme for the Declaration of ASSIs in Northern Ireland’ (n 113) 3.

238 EHS state that to represent an ‘adequate’ amount, the ASSI series should “i. give protection to a sufficient *proportion* of the total resource, as judged by its rarity and fragility, and ii. ensure that the *full range of variation* present in NI is represented.” See *ibid* 7–8.

239 *ibid* 7.

240 *ibid* 6.

241 Environment and Heritage Service, ‘A Forward Programme for the Declaration of ASSIs in Northern Ireland’ (n 113).

242 NIEA, ‘Priority List of ASSIs – Review of Progress after the First Five Years.’ (2012) 2. Provided as part of the call for evidence response from NIEA to the OEP (14 June 2023).

243 Call for evidence response from NIEA to the OEP (14 June 2023).

244 EC Infringement No 2015/2030.

245 Written response to information request from NIEA to the OEP (17 September 2024).

246 DAERA, ‘Northern Ireland Environmental Statistics Report 2018’ (2018) <www.daera-ni.gov.uk/publications/northern-ireland-environmental-statistics-report-2018> accessed 31 October 2024.

NIEA stated to us that no resources have been allocated to designation of new sites since 2019, across the four relevant branches of the Agency (Conservation Designations and Protection; Conservation Science; Biodiversity and Wildlife Unit; and Regional Operations).²⁴⁷ This meant that NIEA focused on monitoring, reporting under Article 17 of the Habitats Directive, and management activity following infraction proceedings brought by the European Commission in 2015 on the adequacy of management measures within SACs (as described in Section 2.6.2).

3.3.1 Staff reduction programmes

Tracking past changes in funding and staffing (and assessing their consequences) is a challenge, given limited available information. However, the evidence we have assessed indicates that NIEA, the wider department and their predecessors have been particularly affected by public funding cuts. We have found that in implementing cuts, roles have been removed or combined, the size of teams has been reduced and departing staff have not been replaced, all of which have led to loss of expertise and institutional knowledge and ongoing challenges in staff recruitment and retention.

The Stormont House Agreement of 2014 outlined measures aimed at improving public sector efficiency, including reducing administrative costs, restructuring the public sector, and reducing the public sector. DoE experienced the greatest proportional reduction and the Department of Agriculture and Rural Development (DARD), which later merged with the DoE, also experienced cuts (Figure 5).

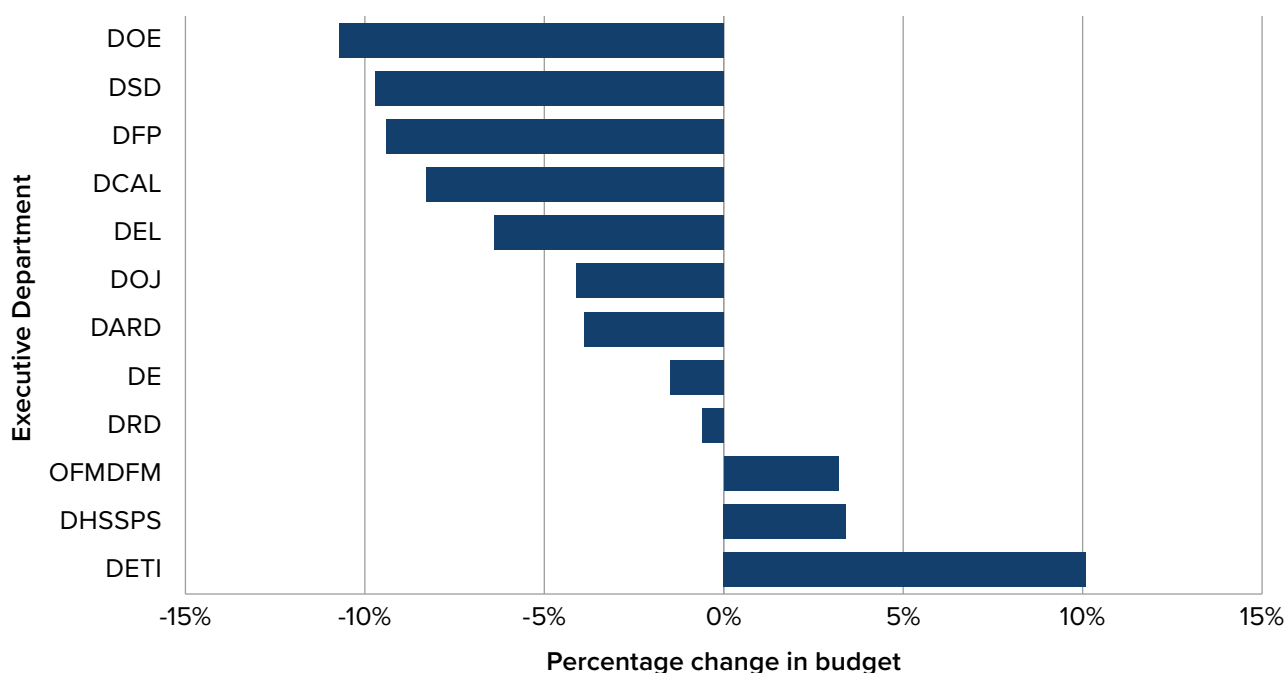


Figure 5. Percentage change in the final departmental budgets (non-ringfenced resource departmental expenditure limits) from baselines, 2015-2016. DOE is Department of the Environment. DARD is Department of Agriculture and Rural Development. For other departmental abbreviations, see source.²⁴⁸

247 Written response to questions from DAERA to the OEP (16 January 2025).

248 Northern Ireland Audit Office, 'Northern Ireland Public Sector Voluntary Exit Schemes' (2016) <www.niauditoffice.gov.uk/publications/northern-ireland-public-sector-voluntary-exit-schemes> accessed 21 June 2024. List of acronyms: DSD: Department for Social Development; DFP: Department of Finance and Personnel; DCAL: Department of Culture, Arts and Leisure; DEL: Department for Employment and Learning; DOJ: Department of Justice; DE: Department of Education; DRD: Department for Regional Development; OFMDFM: Office of First Minister and deputy First Minister; DHSSPS: Department of Health, Social Services and Public Safety; DETI: Department of Enterprise, Trade and Investment.

In response to the Stormont House Agreement, a voluntary exit scheme was implemented between 2015 and 2016, quickly impacting NIEA. Board minutes from October 2015 recorded the requirements outlined by the DoE Permanent Secretary to “redesign existing [staffing] structures,” which “would also require the reprioritisation of current activities to ensure that the range of activities undertaken aligned with the staff available”.²⁴⁹

NIEA Board minutes reveal the organisational challenges created by the exit scheme.^{250,251} Delivered in three tranches, by December 2015 103 staff had left under the exit scheme. Funding was not available to fund positions to fill the ‘gaps’ left in the organisation.²⁵² NIEA’s 2015/16 Business Plan states that the agency has approximately 530 full-time equivalent staff. Whilst the business plan does not say whether these figures are for before or after the voluntary exit scheme, a reduction in staff numbers of 103 represents a significant loss of capacity.²⁵³

From the start of the voluntary exit scheme, it was recognised that staff movement should be organised to support delivery in the four key priority areas outlined in the 2015/16 Business Plan. The Plan added that the “department will not be able to do everything it has done in the past”.²⁵⁴ This suggests that even during the first tranche of the scheme it was recognised that NIEA would be placed in a difficult position to deliver against a complex and varied remit.

A review of the exit scheme by the NIAO concluded that it was implemented under challenging conditions, with abrupt staff reductions and budget constraints. This approach contrasted with the preferred method of strategic workforce planning, with voluntary exits based on assessing the critical skills needed within the organisation.²⁵⁵

NIEA Board minutes also reveal challenges around recruitment and retention in the public sector, and the impact of staff movement and redeployment. Specifically, minutes cite the need to adopt a strategic approach to career path development, particularly in technical posts.²⁵⁶

The loss of staff and expertise due to the exit scheme is likely to have impacted NIEA’s implementation of protected site laws, including its work to designate and monitor sites. This work requires staff with high levels of (sometimes specialist) expertise, which when lost takes time to replace.

3.4 Current funding and resourcing

DAERA business plans do not consistently include information on or analysis of budget allocation for specific responsibilities and functions. Information on NIEA’s budget is

249 NIEA, ‘Summary of the 77th Meeting of the NIEA Board’ (2015) <www.daera-ni.gov.uk/publications/northern-ireland-environment-agency-board-meetings-2015-minutes> accessed 21 June 2024.

250 NIEA, ‘Summary of the 74th Meeting of the NIEA Board’ (2015) <www.daera-ni.gov.uk/publications/northern-ireland-environment-agency-board-meetings-2015-minutes> accessed 21 June 2024.

251 NIEA, ‘Summary of the 78th Meeting of the NIEA Board’ (2015) <www.daera-ni.gov.uk/publications/northern-ireland-environment-agency-board-meetings-2015-minutes> accessed 21 June 2024.

252 *ibid.*

253 NIEA, ‘NIEA Business Plan 2015-16 (Draft for Minister)’ (2015) 6. Provided as part of written response from NIEA to the OEP (17 September 2024)

254 NIEA, ‘Summary of the 74th Meeting of the NIEA Board’ (n 250).

255 Northern Ireland Audit Office (n 248) 14–15.

256 NIEA, ‘NIEA Board Meeting 4 October 2022 - Minutes’ (2022) <www.daera-ni.gov.uk/sites/default/files/publications/daera/DAERA%20Website%20-%20NIEA%20Board%20Meeting%204%20October%202022%20-%20Minutes%20%28Final%20Web%20Version%29.DOCX> accessed 21 June 2024.

included within DAERA's 2021/22 business plan. This shows that 6% of DAERA's overall budget was allocated to NIEA (Figure 6).²⁵⁷ DAERA's NEPD sits within the Environment, Marine and Fisheries Group (EMFG), which accounted for 4% of DAERA's overall budget in 2021/ 2022 (Figure 6). In practice, DAERA's discretion to allocate funds is much less than this figure suggests, given the magnitude of its non-discretionary spend on costs associated with EU exit. Hence the proportion of discretionary funding allocated to NIEA and EMFG is greater.

NIEA and DAERA accounting reports do not provide breakdowns of funding allocations for protected site activities, and do not offer any analysis or commentary on whether the resources allocated for these or other activities are sufficient.²⁵⁸

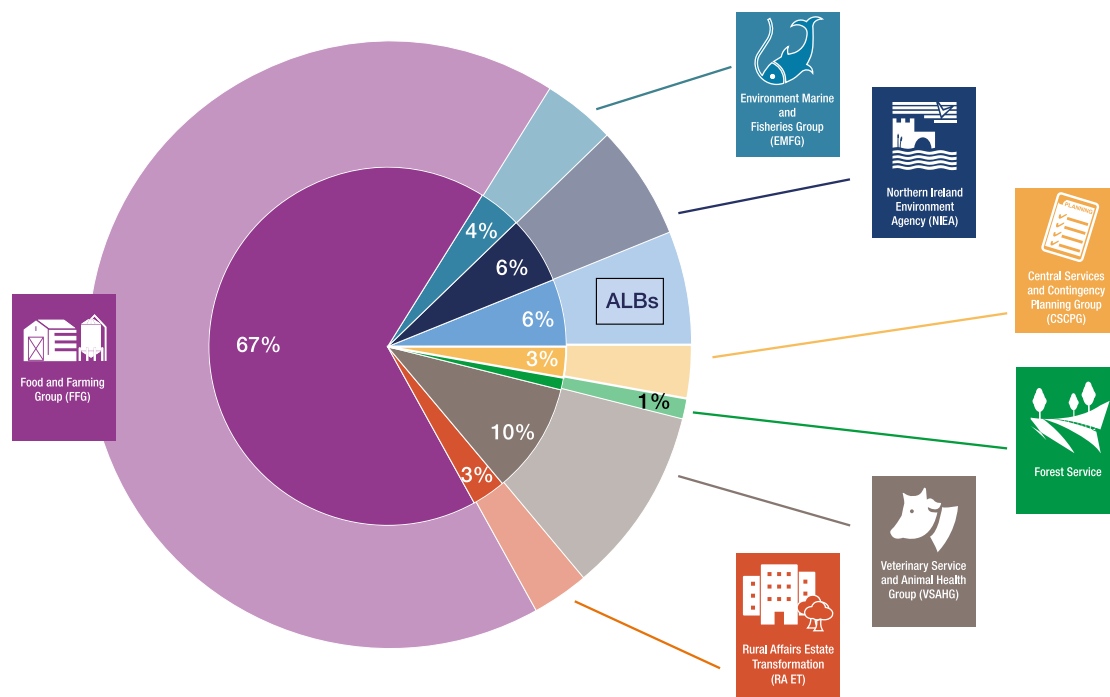


Figure 6. DAERA's 2021-22 Opening resource departmental expenditure limit (RDEL) budget allocation, by key function area (reproduced from the DAERA 2021/ 2022 Business Plan Annex A). The budget comprises discretionary and non-discretionary expenditure, including funding associated with EU exit, hence the allocation to NIEA, will form a larger component of the discretionary budget.

3.4.1 Funding and resourcing challenges in implementing protected site laws

The 2023/2024 DAERA Business Plan states that due to a “very significant funding gap” in the department’s resource budget, vacancies cannot be filled, and functions and services cannot be progressed within original timeframes.²⁵⁹ DAERA further clarified that the Department has “prioritised for delivery those functions and services that the law requires us to deliver”.²⁶⁰

257 For high-level details of the budget allocations see DAERA, ‘DAERA Business Plan 2021-22’ (n 114) 29. Please note that there are no breakdowns of funding allocations in the DAERA Business Plan for 2023-24 (n 114) and there is no published DAERA Business Plan for 2022-2023.

258 DAERA, ‘DAERA Annual Reports and Accounts 2016-17 to 2023-24’ (2024) <www.daera-ni.gov.uk/publications/daera-annual-reports-and-accounts> accessed 12 March 2025.

259 DAERA, ‘DAERA Interim Business Plan 2023-24’ (n 114) 4–5.

260 *ibid.*

Notwithstanding the absence of a published budgetary assessment, our engagement with NIEA and other stakeholders indicates that funding and resourcing challenges are obstacles to the implementation of protected site laws and related activities. In response to our call for evidence, NIEA stated:

“This work area has suffered from long term resource constraints which has made it challenging to take forward designation, protection, management functions as well as building the necessary support and understanding amongst landowners. Currently, there is insufficient resources and capacity within NIEA to fully implement the legislative requirements to protect and restore protected sites, with some specialist ecology and analytical skills gaps”.²⁶¹

Such shortfalls in funding and resourcing were frequently cited by stakeholders, including landowners and occupiers, as a significant challenge to the implementation of protected site laws.²⁶² This includes Ulster Wildlife, which stated that, in their view, there is a lack of established and experienced officers “capable of making confident and informed decisions” on consenting activities.²⁶³ We consider this further in Chapter 7.

The Northern Ireland Agricultural Producers Association (NIAPA) stated that “NIEA and DAERA are under-resourced in both skills and capacity [...]. NIEA also appear to be understaffed and under-equipped to deliver what is required”.²⁶⁴ NIAPA reflected that, in their view, NIEA did not have resource to spend time going to farms and developing relationships with farmers, and that it did not understand the perspectives of farmers. NIAPA reflected that, as a result, this gives farmers little opportunity to engage with NIEA and develop shared understanding.²⁶⁵

We also received evidence that resource levels impact the administration of land management incentives. For example, applicants to the Environmental Farming Scheme (EFS) Higher Level received notification that NIEA did not have sufficient administrative capacity to process applications.²⁶⁶ This obstacle to entry restricts the spatial extent of agreements and hinders the effectiveness of schemes. We discuss the resource challenges around land management incentives further in Chapter 6.

Stakeholders have reflected that resourcing limitations create obstacles to meaningful engagement between NIEA and owners and occupiers.²⁶⁷ A clear example of the impact of resource loss is the role of Land Liaison Officers employed by bodies that were predecessors to NIEA (Box 9).

261 Call for evidence response from NIEA to the OEP (14 June 2023).

262 Various site visits and discussions with the OEP and owners and occupiers (2024); call for evidence response from CNCC to the OEP (12 May 2023).

263 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

264 Call for evidence response from the NIAPA to the OEP (2 May 2023).

265 *ibid.*

266 Personal communications with NIEL (2024).

267 Call for evidence response from the UFU to the OEP (25 April 2023).

Box 9. The Land Liaison Officer team.

The Land Liaison Officer team comprised three full-time equivalent staff with agricultural expertise. From around 1987 to 2000, they worked across Northern Ireland to engage with owners and occupiers throughout the process for designating protected sites. The officers also coordinated access to protected sites for monitoring purposes, and assisted with applications for management incentives such as agri-environment schemes or consent for operations.

We understand that the officers were effective in fostering and managing positive relationships with owners and occupiers.²⁶⁸ However, by around 2000 following staff departures the team ceased to function. The role of engagement then moved to NIEA's Regional Operations branch.²⁶⁹ An individual familiar with the work of this team told us that the loss of these officers had a detrimental effect on the implementation of protected site laws, as well as wider NIEA and landowner and manager relations.

NIEA's view is that communication and liaison with owners and occupiers is a priority but this needs to be resourced. It added that "much greater on the ground liaison with landowners by NIEA would bring benefits to how sites are being managed and conserved. NIEA do not have the resource currently to substantially improve the situation."²⁷⁰

3.4.2 The impact of unstable funding and resourcing

NIEA faces a challenging operating environment in which resource allocations fluctuate based on government budgets and yearly funding cycles. This makes it difficult for the agency to plan and deliver work, which may need to be on a long-term or ongoing basis for it to produce the desired results. For example, NIEA told us that "Due to the lack of multiyear budget settlements, there have been ongoing challenges developing and facilitating multiyear management agreements."²⁷¹

A related challenge is the retention of staff and related technical expertise. NIEA Board minutes reveal challenges around recruitment and retention in the public sector.²⁷² They emphasise the importance of implementing a strategic approach to career path development, particularly in technical posts.²⁷³

NIEA informed us that, due to budgetary constraints, there have been limited opportunities in recent years to bid for additional staff for business-as-usual work. Despite utilising recent funding opportunities, such as the Green Growth programme, and a budget exercise aimed at delivering priorities, NIEA informed us that these bids had either been unsuccessful or had not yet been determined.²⁷⁴

268 Meeting with former NIEA staff member (March 2024).

269 Written response to questions from DAERA to the OEP (16 January 2025).

270 Written response to information request from NIEA to the OEP (9 July 2024).

271 *ibid.*

272 NIEA, 'NIEA Board Meeting 4 October 2022 - Minutes' (n 256).

273 *ibid.*

274 Written response to information request from NIEA to the OEP (20 March 2024).

Reliance on inconsistent funding opportunities represents a recurring administrative cost and overhead, necessitating the allocation of already limited resources to submit applications. The reliance on short-term funding cycles, including bidding rounds, can divert resources from protected sites activities towards developing bids (and bidding for funding does not guarantee success). This is a time-consuming process that can lead to delays in delivering work.

An example of where NIEA has needed to secure several funding sources and mechanisms to progress work was in the production of SAC conservation management plans. This included outsourcing the development of most plans to a variety of bodies.²⁷⁵ This approach did not lead to the programme being delivered on time. The four-year programme for developing these plans began in 2017. At the time of writing this report in 2025, the programme is incomplete.

3.5 Future funding and resourcing

To implement protected site laws and targets effectively, it is important to understand the resources and funding that are currently being provided to the responsible public authorities and the resources and funding that will be needed meet their obligations. Activities such as designation, monitoring and securing appropriate management take time, and are largely multi-year undertakings. This requires sufficient staff to be in place, with specialist and technical knowledge, and resourcing to support delivery.

We understand there has been no recent detailed assessment of the staffing resource required to implement protected site laws.²⁷⁶

²⁷⁵ Written response to questions from DAERA to the OEP (16 January 2025).

²⁷⁶ Written response to information request from NIEA to the OEP (20 March 2024).

Chapter 4. Designation



Chapter 4. Designation

4.1 Overview

A key aspect of protecting and enhancing Northern Ireland's habitats and species is the designation of important areas for nature. DAERA is under a duty to designate ASSIs once it has formed the opinion that the land is of special scientific interest and to designate SACs where the relevant criteria are met. Designation is important for meeting domestic and international commitments such as 30 by 30. Regular reviews are needed to ensure that the protected site network remains fit for purpose.

Once designated, the land is protected by legislation that controls activities that could damage the site or its features. The condition of each site depends on positive action by its owners and occupiers. The designation process must, therefore, initiate work to ensure that these stakeholders understand their role and how they will be supported in fulfilling it.

We have assessed the designation of protected sites, and NIEA's engagement with owners and occupiers during this process. We have excluded the designation of SPAs from this assessment, as this is subject to our ongoing investigation.²⁷⁷

We found that there has been insufficient progress in designating new sites, and identified areas where improvement is needed in engagement with owners and occupiers during the designation process. Specifically:

- NIEA has not met the targets it has previously set itself to designate new sites. No new sites have been designated since 2018. While there appear to be important areas for habitats and species that have not been designated, there are currently no NIEA staff working on this task.
- The EIP includes a commitment to having “at least 30% of land and freshwater protected, connected and managed for nature” by 2030 and another to “develop measures to support delivery of 30x30”.²⁷⁸ However, there are currently no targets specifying outcomes for increasing the number or extent of ASSIs or SACs, and there is not yet a designation strategy or other published information setting out what needs to be achieved and by when. This hinders any Assembly or public scrutiny and reduces accountability around the designation of protected sites.
- NIEA's engagement with owners and occupiers during the designation process, when it happened in the past, does not appear always to have been successful. This risked a lack of understanding of the reasons for designating a particular site, with potential negative implications for subsequent management.

When successful, the designation of protected sites, including the necessary stakeholder engagement, should create an ecologically effective, well connected, and resilient network of protected sites, which is regularly reviewed and adapted. The purpose and process of designation should be understood by, and undertaken collaboratively with, owners and occupiers.

²⁷⁷ Office for Environmental Protection, 'OEP Launches Investigations into Special Protection Areas for Wild Birds' (n 8).

²⁷⁸ DAERA, 'Environmental Improvement Plan for Northern Ireland' (n 3).

To achieve this, we recommend that:

Recommendation 5: DAERA should restart the designation of protected sites. It should designate sites it has previously identified as meeting the relevant criteria. DAERA should keep the protected site network under regular review, promptly publishing the results of reviews and filling any identified gaps.

Recommendation 6: DAERA should engage with landowners and occupiers during the designation process with the aim of building effective and sustainable working relationships. DAERA should discuss the importance of the land, future management expectations, and the financial incentives that are available to achieve them.

Making improvements to landowner and occupier engagement, ahead of designation, will help ensure that owners and occupiers are able to contribute to the appropriate management of the site as soon as it is designated. It should also lead to better working relationships between NIEA and site owners and occupiers. Recommendation 6 aims to achieve these improvements by ensuring that NIEA can:

- (a) Provide and support the reasons for the designation in an appropriate format so that landowners and occupiers can effectively engage with it.
- (b) Provide regular updates on the designation process.
- (c) Listen to and understand the key concerns of landowners and occupiers and discuss how these can be resolved.
- (d) Provide a clear explanation of any changes to management practices that will be needed to conserve or restore the site. This should include details of options for accessing financial incentives for putting in place the appropriate management. It should also clarify that, following designation, a collaborative effort will be made to develop tailored prescriptions for the site (see also Chapter 6 recommendations).
- (e) Set out the process by which regular advice and feedback will be provided to the landowner or occupier, post-designation, on the site, its condition, and its management.
- (f) Commit sufficient time to engaging with landowners and occupiers with the aim of listening to and, where possible, allaying their concerns around the designation.

4.2 The purpose and process of designation

The process of designating sites is important both in delivering duties in law,²⁷⁹ and in serving as the likely initial point of contact with owners and occupiers.

This chapter summarises our assessment of site designation undertaken by NIEA as an executive agency of DAERA. Before assessing the delivery of designation activities, including reviews of sufficiency and stakeholder engagement, we summarise the legislative framework, including why and how the different designations are notified.

²⁷⁹ Once certain criteria are met, DAERA have duties to designate under Article 28 of the Environment Order 2002, and Regulation 6 of the Habitats Regulations.

Areas of Special Scientific Interest

The purpose of ASSI designation is to safeguard the diversity and geographic range of habitats and species, thereby forming an important part of Northern Ireland's biodiversity conservation activities. ASSIs are described as "the fundamental units of our network of protected areas for nature conservation." The most important areas for habitats and species conservation are found within them, and they make the major contribution towards the establishment of an ecologically coherent network of protected sites.²⁸⁰

The ability to designate land as being of special scientific interest began with the Amenity Lands Act (Northern Ireland) 1965 and is now enabled through the Environment Order. Following consultation with the CNCC, if DAERA is satisfied that an area of land is of special interest by reason of any of its flora, fauna, geological, physiographical or other features, and that accordingly it needs to be protected, the department must declare the area an ASSI.²⁸¹ The criteria make no provision for consideration of socio-economic factors and, once DAERA has confirmed that the criteria are met, it is under a duty to designate.

The Environment Order requires that relevant stakeholders are informed of the intention to designate. The department must give notice to the relevant district council and to every owner and occupier of land within the area of special interest. The notice must include the reasons for the designation and specify the period of time (not less than three months from the date of giving notification) and the manner by which representations or objections can be made. Notice must also be given in newspapers. The department is required to consider any submissions received.²⁸²

From the point of notification, the site is protected as an ASSI. Within three months of the end of the period of notification, the department must either confirm or rescind the designation.²⁸³ Its decision must be communicated to the stakeholders previously notified.²⁸⁴

The Environment Order gives DAERA broad scope to consider land for designation. Further guidance is provided by JNCC's SSSI selection guidelines, which contain two fundamental guiding principles for site selection. These are: consideration of the best examples in defined geographical areas, and consideration of all examples above a defined threshold.²⁸⁵ The individual habitats and species chapters state which principle should be used.²⁸⁶ Therefore, whilst ASSIs contribute towards an ecologically coherent network, there is no requirement for the ASSI series to be ecologically coherent itself.

The JNCC selection guidelines explain that they are not a 'rulebook.' They enable assessments to be made of the site's special interest, and assist decision-making for or against selection, based on expert judgement and underpinned by a firm evidence base. The guidelines state:

280 See JNCC, 'Guidelines for Selection of Biological SSSIs' (2024) <www.jncc.gov.uk/our-work/guidelines-for-selection-of-sssis/> accessed 4 June 2024. Additional guidance on selection is provided in DAERA, 'ASSI Scientific Survey Selection Criteria' (2009) <www.daera-ni.gov.uk/publications/assi-scientific-survey-selection-criteria> accessed 15 November 2024.

281 Art 28, Environment Order.

282 Art 28(3-6), Environment Order.

283 The Environment Order 2002 does not explain the circumstances under which the designation can be rescinded.

284 Art 28(6), Environment Order.

285 JNCC, 'Guidelines for Selection of Biological SSSIs' (n 280).

286 See for example JNCC, 'Sites of Special Scientific Interest Guidelines. Chapter 1c: Saline Lagoons' (2022) <<https://hub.jncc.gov.uk/assets/b0c3d93f-5c1d-4101-9973-0830742ca9d6>> accessed 6 June 2024.

“The decision to select (or not) a site for [ASSI] notification must be transparent, objective and explicable. This must be based on the rationale in this document, and an explanation of how evaluation decisions are reached must be available.”²⁸⁷

Although the legislation provides for the denotification of an ASSI when part or all of it ceases to be of special scientific interest, we have not assessed this provision.²⁸⁸ This is because DAERA has not undertaken a denotification process, and NIEA informed us that no formal request to do so has been submitted to them.²⁸⁹

Special Areas of Conservation and Special Protection Areas

As noted, the designation of SPAs for rare, threatened or vulnerable, or regularly occurring migratory species is not covered in this report, due to our ongoing investigation.²⁹⁰

SACs are designated to protect certain habitats and species (excluding birds) that are considered to be in greatest need of conservation at a European level. Of these habitats and species, 78 habitats occur in the UK and 43 species are native to, and normally resident in, the UK. Under the Habitats Directive, the UK is required to establish a network of high-quality protected sites that will make a significant contribution to conserving these special habitats and species.²⁹¹

The duty to designate SACs is set out in the Habitats Regulations. Regulation 6(1) requires that DAERA shall designate, as an SAC, sites that it considers to be of national importance. Such sites are identified as those that contribute significantly to:

- the maintenance or restoration, at favourable conservation status,²⁹² of certain habitat types (listed in Annex I of the Habitats Directive),
- the maintenance or restoration, at favourable conservation status, of certain species (listed in Annex II of the Habitats Directive), or
- the maintenance of biological diversity within the Atlantic bio-geographic region.²⁹³

DAERA must have regard to the priorities for designating SACs identified in regulation 7. These include the importance of the site for the coherence of the national site network, and threats of degradation or destruction to which the sites are exposed.²⁹⁴

As discussed in Chapter 1, DAERA has a policy of concurrently designating SPAs and SACs as ASSIs.

287 JNCC, ‘Guidelines for Selection of Biological SSSIs’ (n 280) 18.

288 Art 31, Environment Order.

289 Written response to information request from NIEA to the OEP (20 March 2024).

290 Office for Environmental Protection, ‘OEP Launches Investigations into Special Protection Areas for Wild Birds’ (n 8).

291 JNCC, ‘Special Areas of Conservation’ (2024) <www.jncc.gov.uk/our-work/special-areas-of-conservation/> accessed 11 July 2024.

292 ‘Favourable Conservation Status’ means that the habitat or species is healthy and is able to maintain itself, in this state, in the long term. Definition drawn from JNCC, ‘Favourable Conservation Status: UK Statutory Nature Conservation Bodies Common Statement’ (2018) <<https://hub.jncc.gov.uk/assets/b9c7f55f-ed9d-4d3c-b484-c21758cec4fe>> accessed 12 July 2024. See also DAERA, ‘Introduction to Conservation Management Plans (CMPs) for Northern Ireland’s Special Areas of Conservation’ (n 153).

293 Reg 6, Habitats Regulations.

294 Reg 7, Habitats Regulations.

4.3 Ensuring that there are sufficient protected sites to achieve an ecologically effective, well connected and resilient network

The protected sites network (ASSIs, SACs and SPAs) requires regular reviews to assess whether it is playing its full part in the protection and enhancement of important habitats and species.²⁹⁵ For the network to conserve nature effectively in the context of a warming world, it should be resilient²⁹⁶ and fit for purpose.²⁹⁷ The subsequent implementation of these reviews is crucial for the effective implementation of the relevant legislation,²⁹⁸ the recovery of the natural environment, and building resilient connected landscapes. Such reviews can also support business planning for public authorities, namely DAERA and NIEA.

The reviews should occur regularly, be published and communicated clearly, and result in actionable steps. Our research has found that these three aspects are currently lacking in Northern Ireland. We have assessed historic reviews, including targets to designate, and current activity to review the protected site network.

4.3.1 Reviews of protected sites and the resulting actions

Periodic reviews have been carried out of protected sites in Northern Ireland, beginning in 1990, with several targets being established to direct action in designating more sites (see Table 1). Each review has concluded that there is more to do, leading to a period of action soon thereafter. That action has not then been sustained, ending before targets are met.

Historic reviews of Area of Special Scientific Interest designations: 1990 to 2020

A 1990 House of Commons Environment Committee Report on ‘Environmental Issues in Northern Ireland’ highlighted the need to make greater progress in the designation of ASSIs. It observed that 24 ASSIs have been declared since the first in 1986, adding that Northern Ireland “was many years behind Great Britain in nature conservation”.²⁹⁹ The Committee recommended that “sufficient resources be allocated to ensure that the process of ASSI designation can be completed within eight years”, which would have been by 1998. This was two years sooner than the intention of the Minister.³⁰⁰

A designation programme (‘Target 2001’) was established in 1993, to create an ASSI series covering around 8% of the land area (approximately 110,000 ha) by 2001. At the time of setting this target (October 1993), there were 40 ASSIs, the area of which was less than 48,000 ha,³⁰¹ covering 3% of the land area of Northern Ireland. This was in contrast with Great Britain, where about 8% of the land had been designated as SSSIs.³⁰²

In 2003, EHS concluded that although progress had been made, ‘Target 2001’ had not been met. Two years after the target had expired, ASSIs covered 6% of the land area

295 Reg 8 C(1), Habitats Regulations.

296 We understand that resilience means that the protected sites network is able to withstand, adapt to, and recover from disturbances and damage caused by natural events and human activities, including climate change. See John Lawton, ‘Making Space for Nature: A Review of England’s Wildlife Sites and Ecological Network’ (DEFRA 2010) <<https://castor-pc.gov.uk/wp-content/uploads/2020/07/Making-Space-for-Nature-A-review-of-Englands-Wildlife-Sites-and-Ecological-Network-DEFRA-2010.pdf>> accessed 12 March 2025.

297 *ibid.*

298 Reg 8 C(1), Habitats Regulations.

299 House of Commons Select Committee (n 234).

300 *ibid.*

301 Environment Service (n 122).

302 *ibid.*

(approximately 92,000 ha). EHS re-emphasised the importance of ASSI designation and established a new programme to designate 10% of the land.³⁰³ This recognised new evidence that additional areas merited inclusion and that habitats were continuing to decline in extent and quality, therefore increasing the value of those that remained.

EHS added that it was “acutely aware of the urgent need to provide statutory protection for the best sites for nature conservation in NI.” It also highlighted the fact that “the ASSI series should [...] be regarded as a dynamic entity and the extent [...] needs to be kept under constant review.” EHS aimed that, by 2015, the ASSI series would be substantively complete, with future designations only required where new scientific evidence was found or to reflect future conservation needs.³⁰⁴

Despite the “urgent need” identified three years earlier, EHS’s 2006 review of its designation programme recognised that slow progress had been made. It therefore took a new approach and produced a “priority risk-based list of 200...ASSIs for declaration over the next ten years”.³⁰⁵ The main criteria for prioritising sites were based on the ‘SSSI selection guidelines’ and an assessment of risk to the site. The ability of a site to fill geographical gaps or to act as important corridors or connections between sites was also considered in the ranking process.³⁰⁶ It is assumed that this was intended to help create an ecologically coherent network.³⁰⁷

Designation of the priority list of ASSIs would bring the total number to 440 by December 2016. Whilst the goal was not met, during the period 2006/07 to 2014/15 significant progress was made. By April 2016, 144 new sites had been designated, taking the total coverage of ASSIs to just under 8% of the land area (over 100,000ha).³⁰⁸

During this period, NIEA produced an internal, unpublished document titled ‘Natural Heritage Vision & Strategic Plan 2020’. The plan had the same aim that had been set by EHS in 2003 but with a later deadline. It aimed for the ASSI designation programme to be substantially completed by 2020.³⁰⁹

At the time of writing, these targets have not been met. In 2024, ASSIs cover 7.7%, not 10%, of the land area. The less ambitious 2006 target to designate 200 priority sites has not been met.³¹⁰ We understand that 46 of the 200 prioritised sites of special interest identified by NIEA, and consulted on with CNCC, have not yet been designated.³¹¹ As set out in Chapter 3, NIEA and its predecessors stated that work to deliver ASSI designation targets was hampered by resource constraints.³¹²

303 Environment and Heritage Service, ‘A Forward Programme for the Declaration of ASSIs in Northern Ireland’ (n 113).

304 *ibid.*

305 Environment and Heritage Service, ‘ASSI Review: Developing a Priority List of ASSIs’ (n 113) 1,2.

306 Environment and Heritage Service, ‘ASSI Review: Developing a Priority List of ASSIs’ (n 113).

307 This assumption is supported by a 2012 paper to the CNCC from NIEA, ‘Priority List of ASSIs – Review of Progress after the First Five Years.’ (n 242). The paper states “the priority list aims to achieve as complete a functioning network of sites as is possible.” (p.4).

308 NIEA, ‘The ASSI Programme’ (2016). Provided as part of the call for evidence response from NIEA to the OEP (14 June 2023).

309 NIEA, ‘Natural Heritage Vision & Strategic Plan 2020’ (n 112).

310 There are currently 394 ASSIs. DAERA, ‘Northern Ireland Environmental Statistics Report 2024’ (2024) <www.daera-ni.gov.uk/publications/northern-ireland-environmental-statistics-report-2024> accessed 5 June 2024.

311 NIEA, ‘The ASSI Programme’ (308) 4. This paper states that by designating the priority list, the total number of ASSIs will be ‘around 440’. There are currently 394 ASSIs.

312 See Box 8. Resource constraints and targets for protected sites designation. See also for example Environment and Heritage Service, ‘A Forward Programme for the Declaration of ASSIs in Northern Ireland’ (n 113) 3.

Current review: the ‘Islands to Network’ project

NIEA is currently undertaking a review of protected sites, named the ‘Islands to Network’ project.³¹³ NIEA’s 2022/23 ‘Balanced Scorecard’, which set out its key activities for the year, stated that NIEA would commission a review of terrestrial protected sites by March 2023. It described this as an “initial review with recommendations and vision for delivering new protected areas targets”.³¹⁴

Further information was provided to us by NIEA regarding this review. NIEA will rapidly review ASSI designations to date, identify gaps, and propose areas for designation to complete the network and provide a key contribution to 30 by 30. We note that this project is expected to create a one- to three-year programme of designation “for consideration”.³¹⁵ The aim is that ASSIs will form an “ecologically functioning network”.³¹⁶ This is a welcome aim, first introduced in 2006 and again in 2012, yet it is still to be achieved.

The EIP includes the commitment to, by March 2025, complete the first stage of ‘Islands to Networks’, which we understand will involve producing the recommendations and vision first mentioned in the 2022/23 Balanced Scorecard.³¹⁷ We understand these will consider the role of protected sites in the context of climate change, the role of nature recovery networks, and the relationship between protected areas and other effective area-based conservation measures (OECMs).³¹⁸

At the time of writing, more than two years after this “rapid review” was initiated, no recommendations or vision have been published, and there is no publicly available information on the review’s progress. Neither the review nor its implementation were mentioned in NIEA’s subsequent two business plans for 2023/24³¹⁹ and 2024/25.³²⁰

The delay is concerning given that it should be straightforward to ascertain which of the priority sites that were identified in 2006 have not yet been designated as ASSIs. In our view, work to designate these sites could have progressed in parallel with carrying out this review, rather than wait for the review to be completed.

313 NIEA, ‘Written Briefing on Islands to Networks Review (17 August 2023)’. Provided via personal communication from NIEA to the OEP (17 August 2023).

314 NIEA Balanced Scorecard 2022-23’ (DAERA, 9 January 2024) 9 <<https://www.daera-ni.gov.uk/publications/niea-balanced-scorecard-2022-23>> accessed 11 June 2024.

315 NIEA, ‘Written Briefing on Islands to Networks Review (17 August 2023)’ (n 313).

316 *ibid.*

317 DAERA, ‘Environmental Improvement Plan for Northern Ireland’ (n 3) 43; ‘NIEA Balanced Scorecard 2022-23’ (n 314).

318 NIEA, ‘Written Briefing on Islands to Networks Review (17 August 2023)’ (n 313).

319 DAERA, ‘DAERA Interim Business Plan 2023-24’ (n 114).

320 NIEA, ‘NIEA Business Plan 2024-25’ (2024) <www.daera-ni.gov.uk/publications/niea-business-plan-2024-25> accessed 31 October 2024.

Table 1. Summary of targets and goals set between 1993 – 2011 for designating Areas of Special Scientific Interest.³²¹

Year target was set	Target	Starting position	Year to be achieved	Ending position	Target met?
Target 2001³²²					
1993	110,000 ha 8%	41 ASSIs 48,000 ha 3.4%	2001	141 new ASSIs 181 ASSIs total 6.3%	No
A Forward Programme for the Declaration of ASSIs in Northern Ireland³²³					
2003	140,000 ha 10%	196 ASSIs 91,601 ha 6.4%	2015	Due to slow progress this was superseded by new goal.	No
ASSI Review: Developing a Priority List of ASSIs³²⁴					
2006	Priority list of 200 new ASSIs (resulting in 440 ASSIs total)	226 ASSIs 93,537 ha 6.6%	2016	144 new ASSIs 385 ASSIs total >100,000 ha Just under 8% ³²⁵	No
Natural Heritage Vision and Strategic Plan 2020 - Site Safeguard³²⁶					
2011	ASSI designation “substantially completed”	330 ASSIs 101,927 ha 7.2%	2020	9 new ASSIs between 2016 and 2020 ³²⁷ 394 ASSIs total 110,438 ha 7.7% ³²⁸	No

321 Data for the table were sourced from reports provided by NIEA (see footnotes 323-326). Figures for percentage (%) coverage were calculated on basis of land area of 1,425,481 ha; this includes inter-tidal areas above MLW and lakes as calculated by NIEA. Data provided in written response to questions from DAERA to the OEP (3 March 2025). Calculations of designation delivered is based on confirmed number and extent of ASSIs by year as provided by NIEA through written response to information request from NIEA to the OEP (17 September 2024).

322 Environment Service (n 308).

323 Environment and Heritage Service, ‘A Forward Programme for the Declaration of ASSIs in Northern Ireland’ (n 113).

324 Environment and Heritage Service, ‘ASSI Review: Developing a Priority List of ASSIs’ (n 113).

325 NIEA, ‘The ASSI Programme’ (n 305).

326 NIEA, ‘Natural Heritage Vision & Strategic Plan 2020’ (n 112).

327 Note that the dates for the goal in the ‘Vision and Strategic Plan’ overlap with the previous goal. We have, therefore, included the figures here from 2016.

328 Written response to questions from DAERA to the OEP (3 March 2025).

Even though targets have not been met, we recognise that much has been achieved. In 1990, there were 24 ASSIs, covering 0.5% of land.³²⁹ There are now 394 ASSIs, covering 7.7% of land. This progress has been made possible due to significant effort from NIEA staff who have been faced with ever-present resource challenges and competing priorities. Up until 2016, NIEA and its predecessors kept the ASSI network under active review to determine what more needs to be done, and by when, to complete the series. This included consideration of the connectivity of protected sites. In the case of the current Islands to Networks review, NIEA has embedded a forward-looking approach to considering how the site network can be ecologically coherent and achieve the 30 by 30 target. There is much to welcome here.

However, progress has plainly been insufficient and the ASSI network remains incomplete. We conclude that more ASSIs need to be designated to fill gaps and to ensure that, in combination with SACs and SPAs, Northern Ireland's protected sites create an ecologically effective, well connected and resilient network. This will make a major contribution to achieving DAERA's "thriving, resilient and connected nature and wildlife" outcome and its target for, by 2030, "at least 30% of land and freshwater protected, connected and managed for nature" in the EIP. The ASSI network should also be kept under a process of ongoing and transparent review to ensure that gaps can be identified and quickly filled.

Reviews of Special Area of Conservation designations

The Habitats Regulations state that "the Department shall [...] manage, and where necessary adapt, the national site network [...] with a view to contributing to the achievement of the management objectives of the national site network".³³⁰ The management objectives include the maintenance at or, where appropriate, restoration to favourable conservation status of listed habitats and species.³³¹ Given that habitats and species populations and distributions will change over time, for example in response to climate change and other environmental pressures, it is implicit in this regulation that DAERA should regularly review the SAC network to ensure that it continues to meet the management objectives. DAERA also has an ongoing legal duty to designate sites as SACs that it considers to be of national importance under these Regulations.³³²

Guidance published by DAERA recognises that "DAERA must adapt the network where necessary, given that the abundance and distribution of habitats and species within the network might evolve over time. DAERA may need to designate new SACs or SPAs to achieve the network objectives. DAERA may also need to amend existing SACs or SPAs."³³³ It provides examples of where amendments may be needed, including where "the protected features have changed over time, including re-introduced species or a new or increasing population of birds on an existing site has reached internationally important numbers."³³⁴

There is limited information available on reviews that have considered the sufficiency of the SAC network, or targets that have been set to designate more SACs. 'Target 2001' referred

329 House of Commons Select Committee (n 234).

330 Reg 8C(1), Habitats Regulations.

331 Reg 8C(2)(a), Habitats Regulations.

332 Reg 6(1), Habitats Regulations.

333 DAERA, 'Guidance on The Conservation (Natural Habitats, Etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019' (2020) 6 <www.daera-ni.gov.uk/publications/guidance-conservation-natural-habitats-etc-amendment-northern-ireland-eu-exit-regulations-2019> accessed 12 July 2024.

334 *ibid.*

to the need to submit a list of prospective sites to the European Commission by June 1995 and identified 10 sites that are already ASSIs and that are also likely to qualify for SAC designation. It states that designating these sites as SACs must take priority for the UK to meet the requirements of the Habitats Directive. ‘Target 2001’ acknowledged “that there are substantially more [areas] which will qualify” for SAC designation.³³⁵

NIEA told us that the first SACs were designated in 1994/95. The adequacy of these sites was determined by JNCC and the European Commission in the early 2000s. This determination showed that Northern Ireland required more sites to protect bogs, marsh fritillary butterfly and Atlantic salmon. NIEA said that this led to an SAC designation process between 2000/01 and 2005/06 to address these deficiencies. During this time, NIEA designated 10 new SACs, bringing the total to 53.³³⁶

The ‘Valuing Nature: A Biodiversity Strategy for Northern Ireland to 2020,’ report states that DoE had a goal to complete the SAC designation programme by December 2016.³³⁷ At the time the strategy was produced in 2015, there were 57 SACs. This number stayed the same until 2018/19, when one further site, in the marine environment, was designated.³³⁸ The last terrestrial SAC was declared in 2011.³³⁹

The European Commission’s last report on the UK’s implementation of EU environmental policy and law before the UK’s departure from the EU stated that “[o]n the basis of the latest update on the assessment of the Birds and Habitats directives, the UK’s terrestrial Natura 2000 network under the Birds and Habitats Directives is now considered to be complete”.³⁴⁰ This update was based on data that were submitted to the Commission by the UK in 2014. As far as we have been able to determine, this is the last time that the sufficiency of the UK’s SAC network has been reviewed. We are not aware of any reviews specifically of Northern Ireland’s SAC network.

The Commission also noted that the UK’s terrestrial SAC and SPA network is “limited” and that it “has the second lowest percentage of land designated under Natura 2000 in the EU”.³⁴¹ The network is particularly limited in Northern Ireland (Figure 2).

We have seen no evidence to indicate that DAERA is keeping the SAC network under review to ensure it is contributing to the favourable conservation status of the relevant habitats and species. Such a process of review would allow DAERA to adapt the network where necessary, for example through the designation of new sites, the extension of existing sites or the amendment of existing sites’ listed features. This could include ensuring that the SAC network, when combined with ASSIs and SPAs, is a resilient ecological network. JNCC explained to us that there was still work to be done to determine whether the SAC network and broader protected areas network is well-connected. It highlighted this was particularly important for species movement, given the scale and pace of climate change.³⁴²

335 Environment Service (n 122) 7.

336 Written response to information request from NIEA to the OEP (17 September 2024).

337 Department of the Environment, ‘Valuing Nature: A Biodiversity Strategy for Northern Ireland to 2020’ (n 112).

338 NIEA told us, through written response to information request (17 September 2024), that protected sites go through a process of declaration followed by confirmation at a later date. It uses the declaration date in its annual ‘Environmental Statistics Reports’.

339 Written response to information request from NIEA to the OEP (17 September 2024).

340 European Commission, ‘The EU Environmental Implementation Review 2019 Country Report - United Kingdom’ (2019) 11 <<https://op.europa.eu/en/publication-detail/-/publication/68940c6f-06ed-11ea-8c1f-01aa75ed71a1/language-en>> accessed 14 June 2024. However, the Commission considered the UK’s Natura 2000 designation process for marine sites was incomplete and set a priority action for its completion.

341 *ibid.*

342 Meeting with JNCC and the OEP (14 June 2023).

4.4 Engagement with landowners and occupiers

Designation alone does not guarantee positive management for a site, nor does it contribute to meeting targets to improve the condition of protected sites as set out within the EIP. It is simply the first step. Achieving the objectives of protected site laws and policy³⁴³ relies on positive action by owners and occupiers, and trust between them and NIEA that appropriate management is being implemented.

The designation process is likely to be the first occasion on which landowners become aware of the legal requirements associated with protected sites.³⁴⁴ It is crucial, therefore, that their initial engagement with NIEA starts well. NIEA's engagement should address landowners and occupiers' key concerns, and form the start of a trusted relationship. If the initial communication is not carried out well, the designation is likely to be perceived negatively from the outset and will likely make developing positive longer-term relationships (between government and landowners or occupiers) more difficult.

Given that DAERA, and in practice NIEA, have broad scope to consider land for designation (see Section 4.2), sites can be designated even if they and their features are in unfavourable condition. Prior to designation, NIEA undertakes baseline assessments which provide the evidence to determine the scientific interest of the site, the key features for protection and their condition.³⁴⁵ If a site is designated while in unfavourable condition, it is likely that significant changes will need to be made. For example, onsite management will need to change to restore the site, or offsite pressures will need to be addressed. We therefore consider it fundamental that NIEA engages early and builds relationships to help landowners and occupiers understand the reasons for designation, the support available to them, and their responsibilities. This will ensure they know what needs to be achieved on the site and how to deliver it once the land is designated.

4.4.1 Perspectives on the current designation process

While there have not been any new designations since 2018, stakeholders shared with us their perspectives from before this date. Proposals to designate land are not always well received. The designation of the Western Mourne as an ASSI in 2014 appears to have been particularly contentious and was the subject of a protest held at Stormont.

The UFU told us that it “totally oppose(s) further designation of agricultural land”³⁴⁶ Northern Ireland Agricultural Producers Association (NIAPA) holds similar views.³⁴⁷ The UFU told us that sites are designated without any consultation with landowners, that NIEA fails to understand how the land is currently being farmed, and that there is no recognition of the impact that the designation will have on farmers.³⁴⁸ NIAPA told us that “historic interactions [on designation] have been disastrous, created real tension, and feeling that farmers no longer own their own land.” NIAPA believes that the current designation process still fails to engage landowners sufficiently.³⁴⁹ It is worth noting that around three quarters of land

343 As set out within the 'Conservation Objectives' for sites (see Box 12), and DAERA, 'Environmental Improvement Plan for Northern Ireland' (n 3).

344 For example, the regulatory tools in the Environment Order and the Habitats Regulations that control activities that could harm the site. See more information in Chapter 7.

345 NIEA, 'ASSI Declaration Process Chart'. Provided through written response to information request from NIEA to the OEP (12 December 2023).

346 Call for evidence response from the UFU to the OEP (25 April 2023).

347 Call for evidence response from NIAPA to the OEP (2 May 2023).

348 Meeting with UFU and the OEP (5 June 2023).

349 Meeting with NIAPA and the OEP (12 October 2023).

in Northern Ireland is in agricultural use, which makes farmers a key stakeholder in the success of delivering appropriate management of protected sites. We explore this matter further in Section 6.3.

We have seen other evidence that shows a more positive attitude towards ASSI designation. NIEA provided a short summary of a ‘customer survey report’ discussing the results of a survey sent to 1,000 ASSI owners and occupiers in 2013. 60% of the respondents agreed that they were “happy to have an ASSI on their land,” and 78% did not view the ASSI as “a very big problem or as a problem at all”.³⁵⁰ Whilst this survey is now over 10 years old, it suggests that the designation process did not lead to lasting negative opinions amongst most owners and occupiers about having an ASSI on their land. Instead, it suggests that owners and occupiers were mostly happy that their land had been designated. We understand that this survey has not been repeated since.

We understand that NIEA does engage with landowners and occupiers prior to designation. Indeed, the Environment Order requires DAERA to give notice to every owner and occupier of land within the area of special interest.³⁵¹ NIEA provided us with its ASSI ‘declarations process chart’ which sets out several steps for making owner and occupier visits, so that advice can be provided on the forthcoming designation. The flowchart also makes allowance for repeated visits to resolve issues.³⁵²

4.4.2 Stakeholder views on improving engagement

While NIEA does liaise with landowners and occupiers, our research found that stakeholders value face-to-face engagement and would like more, especially in the early stages of the designation process. Ulster Wildlife noted that this initial engagement is critical in building owner and occupier understanding of the importance of a site. This knowledge will then continue with future generations of owners and occupiers who come to manage the same land. Ulster Wildlife told us that the designation process is most likely to be effective with an ethos of partnership.³⁵³ This view was echoed by other stakeholders, who noted that owners and occupiers want to feel involved from the outset. They stated that the current process lacks transparency and is disengaging.³⁵⁴ A changed approach could result in a change in mindset, with designation being viewed as a ‘badge of honour.’³⁵⁵

Stakeholders told us that they not only desire increased engagement with NIEA, but that the engagement needs to be effective. A lack of understanding, on both sides, was frequently mentioned in the evidence. Landowners and occupiers need to understand why their land is being designated, what condition it is in, and how they will be expected to manage it post-designation. Equally, NIEA needs to understand current management practices, and recognise landowners’ and occupiers’ knowledge and experience of their land.

One aspect that generated strong feelings was NIEA’s inability to consider socio-economic factors during the designation process. The Environment Order makes no provision for taking factors other than scientific interest into account in site selection. Nevertheless, we

350 Written response to information request from NIEA to the OEP (20 March 2024). The Customer Survey Management Report states that surveys were sent to 1,000 randomly selected owners and occupiers. 183 questionnaires were returned; 176 were determined to be valid. These results are indicative rather than representative of the 11,066 landowner records across protected sites.

351 Art 28(3), Environment Order.

352 NIEA, ‘ASSI Declaration Process Chart’ (n 345).

353 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

354 Various site visits and discussions with the OEP and owners and occupiers (2024).

355 Call for evidence response from the National Trust to the OEP (21 April 2023); various site visits and discussions with the OEP and owners and occupiers (2024).

can see that the current approach – whereby the land is designated first and thereafter NIEA works with the owner or occupier to determine management and funding options – leads to uncertainty prior to designation. It can also lead to discontent after designation if funding is not available or if existing management practices need to be altered.

This approach fails to address the key concerns of many landowners and occupiers, and the designation process continues without these concerns being allayed. We believe that this contributes significantly to stakeholders' perceptions of the designation process being done 'to them' rather than 'with them'.

The stakeholders, such as the UFU, NIAPA and the owners and occupiers we met during our site visits, are dissatisfied with the current designation process. NIEA considers things can be improved. In April 2017, it agreed a Memorandum of Understanding (MOU) with the UFU to “build a stronger, more effective working arrangement between [...] NIEA and the [...] UFU to deliver improved environmental outcomes in ways that reduce conflict and support improved farm sustainability”.³⁵⁶

The MOU specifically addresses the process of designating sites. It lists actions for NIEA, such as reviewing the process, as well as reviewing the levels of landowner engagement and provision of advice and guidance. It states that the UFU will input into landowner engagement, with the outcome that “landowners are an integral part of the site designation process”.

356 DAERA, 'Memorandum of Understanding Farming for a Healthier Environment' (2017) 1 <<https://www.daera-ni.gov.uk/publications/ulster-farmers-union-niea-memorandum-understanding>> accessed 15 July 2024.

Chapter 5. Monitoring, evaluation and reporting



Chapter 5. Monitoring, evaluation and reporting

5.1 Overview

The value of monitoring protected sites comes from evaluating the data gathered, the conclusions reached, and the effective communication of this information so that it informs action on the ground, or adjustments to policy as needed. To do this, monitoring needs to be carried out with sufficient frequency to support those subsequent actions at the scale needed, and to be publicly available. Condition assessment monitoring should inform action that ultimately leads to sites achieving favourable condition, which is the intended outcome of the legislation.

NIEA conducts a programme of monitoring, primarily to assess the condition of protected sites. To understand the effectiveness of this monitoring programme we assessed monitoring frequency, and the use and communication of the results. We found that:

- Monitoring is often infrequent, and some site features have not been assessed within the last 20 years. Monitoring may be too infrequent to detect change, to identify the factors causing that change and to inform the adaptive management of the site and surrounding land. This appears largely to be the result of long-term resource constraints.
- Data collected during monitoring are mainly used for reporting purposes rather than being put to effective practical use. Data, evaluations and conclusions are not proactively or routinely shared by NIEA with owners, occupiers and others who need to act on them. This means that the information is not used to inform management measures or to address threats to and pressures upon the site.
- Data, evaluations and conclusions for individual protected sites had not been published prior to September 2024. This meant that it had not been possible for interested parties to scrutinise an individual site's progress towards achieving favourable condition. While summaries of the condition of protected site features have now been published, there is no published explanation of the reasons for that condition or what action needs to be taken.

A well-functioning system would be characterised by comprehensive and timely monitoring and reporting. This would provide, for example, a detailed understanding of the condition of protected sites, the pressures affecting them and the action that needs to be taken. Evidence would be published, discussed with owners and occupiers, and regularly reviewed to support and track progress towards achieving outcomes for individual sites and the network as a whole.

To achieve this, we make three recommendations:

Recommendation 7. DAERA should bring up to date and publish condition assessments for all protected sites and their features.

We consider that the following information should, as a minimum, be included in the published data for each protected site:

- The area (ha) of the protected site.
- The condition assessment monitoring date.

- The condition of each qualifying feature.
- The condition of the site as a whole.
- The reason/s for adverse condition (where appropriate).
- The pressures acting upon the site.
- The necessary actions, who is responsible for delivering them,³⁵⁷ whether they are underway, and the date they started.

Recommendation 8. DAERA should consider proposing legislation to the Assembly that would, if adopted, establish a duty on DAERA to monitor and publicly report on the condition of protected sites. We suggest that such a duty should also require DAERA to publish guidance explaining how frequently it will monitor different types of protected site features.

Currently there is no statutory duty to monitor or report on the condition of ASSIs or their qualifying features. When resources are limited or budgets are cut, a reduction in monitoring usually follows. This likely results from the prioritisation of areas that are statutory duties. Given that accurate information about site condition is indispensable for effectively implementing protected site laws and achieving the EIP site condition target, there is a strong case for the creation of a new legal duty.

Recommendation 9: DAERA should discuss the results of its condition assessments with protected site owners and occupiers in a timely way. Where action is required, DAERA should clearly explain what should be done, by whom, and by when. DAERA should then work with the owner or occupier to ensure and support the effective delivery of necessary actions. This should include regularly reviewing progress where features are determined to be in unfavourable condition.

To be able to have these conversations, we consider that NIEA needs to:

- (a) Clearly define the required outcomes for the site's features.
- (b) Have a baseline that subsequent monitoring data can be assessed against.
- (c) Identify the drivers and pressures affecting the condition of the site's features.
- (d) Understand how current management measures are affecting condition.
- (e) Understand any new actions that need to be implemented, and who will undertake them, and clarify opportunities for support (for example funding).
- (f) Provide milestones to assess progress over time.

³⁵⁷ Public landowners should be identified but private owners and occupiers should not.

5.2 The purpose and process of monitoring

Monitoring provides the means of determining whether the laws protecting sites are being effectively implemented and enforced, and so plays a crucial role in delivery of the law.³⁵⁸ Simply put, monitoring is fundamental to understanding whether protected sites are conserving the habitats and species for which they were designated.

Monitoring of sites is needed to determine the condition of designated features and to understand the reasons for their condition. This should include, for example, an up-to-date statement of the condition of the feature, diagnosis of the reasons for that conclusion, and any threats to condition. Actions should then be assigned to owners and occupiers to address on-site pressures and, where appropriate, actions assigned to others to address off-site pressures. Progress should be regularly reviewed and amendments made to actions as needed.

The evidence base that this creates serves multiple purposes. It can be used to track progress at the level of individual sites (for example towards conservation objectives including condition of features) and at a network scale (for example towards domestic and international targets). It should also be used to inform decision making (for example within the environmental assessment regimes), develop and adapt site management, support communication with owners and occupiers, provide for accountability and transparency, and provide insights into the state of and changes in the broader natural environment. Furthermore, it is vital for detecting instances of damage to sites and non-compliance.

An effective and comprehensive monitoring and communications programme requires access to sufficient people with appropriate expertise, experience and capacity, first to establish a baseline condition, then to carry out regular monitoring (to identify changes over time and the reasons for those changes), and then to evaluate and communicate the results.

While monitoring comes at a cost, it is essential. Without it, implementing protected site laws and meeting objectives becomes extremely difficult. For example, there is reduced certainty in the appropriateness of management activities, or a site's trajectory towards favourable condition. Government will be unable to determine whether it is effectively delivering its legal functions and making sufficient progress towards its commitments and targets.

While there is no explicit statutory duty to monitor ASSIs in the Environment Order, a duty is placed on DAERA under Regulation 9A of the Habitats Regulations to “make arrangements [...] for the surveillance of the conservation status” of certain habitats and species. This includes ensuring that the “necessary surveillance is carried out on an ongoing basis.”³⁵⁹

This Habitats Regulations duty applies wherever those habitats and species are found, both inside and outside SACs and SPAs, and was intended to inform the previous six-yearly reporting to the European Commission. These reports were the responsibility of JNCC (amalgamating UK-wide data),³⁶⁰ and were scrutinised by the European Commission and the European Environment Agency. This information was used to create reports such as ‘The state of nature in the European Union’.³⁶¹ Previous reports to the European Commission are available online.³⁶²

358 The importance of monitoring was recognised by the Northern Ireland Audit Office in its 2003 report. See Northern Ireland Audit Office (n 123).

359 Reg 9A, Habitats Regulations.

360 JNCC, ‘Article 12 and 17 Reports’ (2019) 12 <www.jncc.gov.uk/our-work/article-12-and-17-reports/#habitats-directive-reporting> accessed 15 July 2024

361 EIONET, ‘Reporting under the Birds and the Habitats Directives’ (Eionet Portal) <www.eionet.europa.eu/etcs/etc-be/activities/reporting> accessed 15 July 2024.

362 JNCC, ‘Article 12 and 17 Reports’ (n 360).

Now that the UK has left the EU, it is no longer required to report to the European Commission. The amended Habitats Regulations now require DAERA to publish reports every six years.³⁶³ The next report is required by 31 January 2026. Amalgamation of data is also retained within the Conservation of Habitats and Species Regulations 2017, in order to inform a UK-wide evaluation of the contribution of the national site network to achieving favourable conservation status.³⁶⁴

In this chapter, we focus on understanding how effectively NIEA conducts and utilises monitoring in order to support the assessment of site condition, and the development and delivery of site management. Because of our SPA investigation, we do not address compliance with SPA data collection requirements here.

5.2.1 Methods of protected site monitoring

NIEA undertakes two types of protected site monitoring, assessing the condition and integrity of sites. These are undertaken by the Habitat Survey Team along with a variety of other departmental teams and delivery partners.³⁶⁵

NIEA aims to monitor the condition of protected sites on a rolling six-year basis, evaluating the condition of the qualifying features in each protected site within this period.³⁶⁶ This reflects the six-year reporting requirements in the Habitats Regulations.³⁶⁷ NIEA uses Common Standards Monitoring guidance, supplemented by a monitoring handbook produced by NIEA's Habitat Survey Team.³⁶⁸

We summarise Common Standards Monitoring in Box 10.³⁶⁹ Due to the broad scope of this report, we have not assessed monitoring methodologies in detail. For example, we have not considered in depth whether it would be more appropriate to assess the condition of protected site features at the level of the whole site, at the level of individual landholdings within the site or at both scales. However, we recognise that landholdings in Northern Ireland are often small, resulting in there often being multiple owners and occupiers within a single protected site. Our view is that monitoring should be conducted at a scale that enables the provision of high-quality information, advice and feedback to owners and occupiers about the management that is needed to conserve or restore their site's features. The scale of monitoring should also enable the effective use of incentives and, where necessary, regulatory tools and enforcement to achieve favourable condition.

NIEA also monitors what it calls the integrity of sites. This aims to identify any potential failures to comply with protected site laws.³⁷⁰ Further information, including our assessment of this type of monitoring, is provided in Chapter 7.

363 Reg 3ZA, Habitats Regulations.

364 Reg 9A(3) and (4), Conservation of Habitats and Species Regulations 2017. Favourable conservation status is explained in footnote 292.

365 Written response to questions from DAERA to the OEP (16 January 2025).

366 Call for evidence response from NIEA to the OEP (14 June 2023).

367 Reg 17, Conservation of Habitats and Species Regulations 2017. JNCC, 'Common Standards Monitoring: Introduction to the Guidance Manual' (2004) <<https://hub.jncc.gov.uk/assets/f6fef832-93f0-4733-bf1d-535d28e5007e>> accessed 16 June 2024; NIEA, 'Monitoring Handbook for Terrestrial Habitats Condition Assessment Methodology' (2022). NIEA's Handbook was provided as part of the call for evidence response from NIEA to the OEP (14 June 2023).

368 JNCC, 'Common Standards Monitoring: Introduction to the Guidance Manual' (2004) <<https://hub.jncc.gov.uk/assets/f6fef832-93f0-4733-bf1d-535d28e5007e>> accessed 16 June 2024; NIEA, 'Monitoring Handbook for Terrestrial Habitats Condition Assessment Methodology' (2022). NIEA's Handbook was provided as part of the call for evidence response from NIEA to the OEP (14 June 2023).

369 JNCC, 'Common Standards Monitoring: Introduction to the Guidance Manual' (n 368).

370 Written response to information request from NIEA to the OEP (17 September 2024).

Box 10. Common Standards Monitoring

JNCC has a statutory function to establish “common standards throughout the UK for the monitoring of nature conservation”.³⁷¹ These standards enable “assessments made by different people at different times to be compared.” They also enable staff “to identify changes taking place on their sites,” and make it possible for assessments from the four UK nations to be aggregated for reporting purposes.³⁷² Common Standards Monitoring was designed for ASSIs, SACs and SPAs,³⁷³ and consists of an introduction document, guidance for each habitat and species feature, and a statement that defines common standards, which can change over time.³⁷⁴

The current standards for monitoring include qualifying features (what the site is designated for), attributes (what will be monitored, such as extent or population size) and condition categories.³⁷⁵

The original JNCC Common Standards Monitoring statement included the standard that the features of all designated sites were to be “monitored at least once within six years”. Whilst this was aligned with the reporting requirements of European Directives and international commitments, reflected in domestic legislation, it also took account of the scale of monitoring required and the likely rate of change to features. According to the statement it will also “be useful” to form a view on the overall condition of features within a specific site more frequently.³⁷⁶ At the time (1998), it noted that this approach ensures that minimum requirements for monitoring are defined and that they “are able to be delivered within the resources available”.³⁷⁷

The introduction and feature guidance documents have not been updated for some time. JNCC states that some of the content remains relevant but that “it is essential” that the current statement on common standards is referred to and understood before the other documents are used.³⁷⁸ The updated statement (2022) highlights the experience gained by implementing this approach to monitoring over the last 20 years, and notes that the conservation of nature is now considered at different spatial scales, along with the dynamic nature of ecosystems. It states that the guidance should now be considered an “interpretative framework” rather than a methodology.³⁷⁹

371 Section 34(2)(c), Natural Environment and Rural Communities Act 2006.

372 JNCC, ‘Common Standards Monitoring: Introduction to the Guidance Manual’ (n 368). For example, monitoring is aggregated for the ‘composite reports’ required under Regulation 9A(3) of the Conservation of Habitats and Species Regulations 2017.

373 The term ‘ASSI’ is used here instead of ‘SSSI’ as this is the name used in Northern Ireland. Common Standards Monitoring was also designed for Ramsar sites, but these are not covered in this report.

374 JNCC, ‘Common Standards Monitoring: Introduction to the Guidance Manual’ (n 368); JNCC, ‘A Statement on Common Standards for Monitoring Protected Sites 2019’ (2019) <www.web.archive.org/web/20220507144012/https://data.jncc.gov.uk/data/0450edfd-a56b-4f65-aff6-3ef66187dc81/CSM-Statement-2019-FINAL.pdf> accessed 21 June 2024. JNCC, ‘A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)’ (2022) <<https://hub.jncc.gov.uk/assets/0450edfd-a56b-4f65-aff6-3ef66187dc81>> accessed 16 June 2024. The 2019 statement was provided via personal communications from JNCC to the OEP (17 September 2024).

375 JNCC, ‘A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)’ (n 374).

376 JNCC, ‘Statement on Common Standards Monitoring (CSM)’ (1998) <<https://webarchive.nationalarchives.gov.uk/ukgwa/20180804202036/http://jncc.defra.gov.uk/page-2198>> accessed 20 June 2024.

377 *ibid.*

378 CC, ‘Common Standards Monitoring: Introduction to the Guidance Manual’ (n 368); JNCC, ‘A Statement on Common Standards for Monitoring Protected Sites 2019’ (n 374).

379 JNCC, ‘A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)’ (n 374) 1.

Common Standards has four condition categories:³⁸⁰

Favourable condition: used when the feature is meeting its objectives.

Unfavourable condition: used when the feature is not meeting its objectives.

Partially destroyed: used when part of the feature, or the habitat or processes essential to support part of the feature, have been removed or irretrievably altered.

Destroyed: used when the entire feature has been affected to such an extent that there is no hope of recovery.

Previously, the Common Standards included trend qualifiers to the condition categories. For example, 'unfavourable recovering' shows that a feature in unfavourable condition has begun to show a trend towards favourable condition. Conversely, 'unfavourable declining' shows that the feature's unfavourable condition is getting worse. These trend qualifiers are no longer part of the Common Standards, but can still be used.³⁸¹ NIEA continues to use trend qualifiers in its public reporting on protected site condition.³⁸²

We understand that there is also a programme of monitoring undertaken for agri-environment schemes, including for example the update to the Northern Ireland Countryside Survey.³⁸³ We consider the use of site monitoring to inform land management schemes in Chapter 6.

5.3 Monitoring frequency

Monitoring should occur with sufficient frequency to provide up-to-date evidence on the condition of features and sites, to detect changes and to ensure that the reasons for conditions and changes are understood. Such monitoring will provide evidence to inform site-based decision-making, including interventions such as management activities, and to inform wider planning and development.

The appropriate frequency is dependent on the designated features. Certain species and habitats will need more frequent monitoring than others, while geological features typically require less frequent monitoring.

5.3.1 Frequency of monitoring between 2002 and 2024

NIEA aims to monitor the condition of each protected site feature within a six-year cycle. However, as the number of protected sites has increased so too has the number of features. This has made it more difficult to monitor all features within six years.³⁸⁴ In practice, it appears that features are on average being assessed around every 10 years.³⁸⁵ NIEA acknowledged to us that "for terrestrial habitats and species the Department is not achieving a six-year rolling monitoring programme".³⁸⁶

380 JNCC, 'A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)' (n 374) 3.

381 JNCC, 'A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)' (n 374) 3-4.

382 DAERA, '2023/24 Summary Feature Condition Status' (n 64).

383 Written response to information request from NIEA to the OEP (17 September 2024).

384 See evidence from Northern Ireland Government within UK Parliament, 'Protected Areas - Written Evidence - Committees - UK Parliament' (25 April 2023) <https://committees.parliament.uk/writtenevidence/120619/pdf/> accessed 15 July 2024.

385 Alongside this monitoring cycle, there is ongoing annual data collection for ornithological features, which is typically analysed at the end of the cycle. Written response to questions from DAERA to the OEP (16 January 2025).

386 II for evidence response from NIEA to the OEP (14 June 2023).

To date, there have been three six-year cycles completed and a fourth is underway. The aim of monitoring each feature within six-year cycles has not been achieved in the three completed cycles and the proportion of features being assessed has reduced in each of the three cycles (Figure 7).³⁸⁷

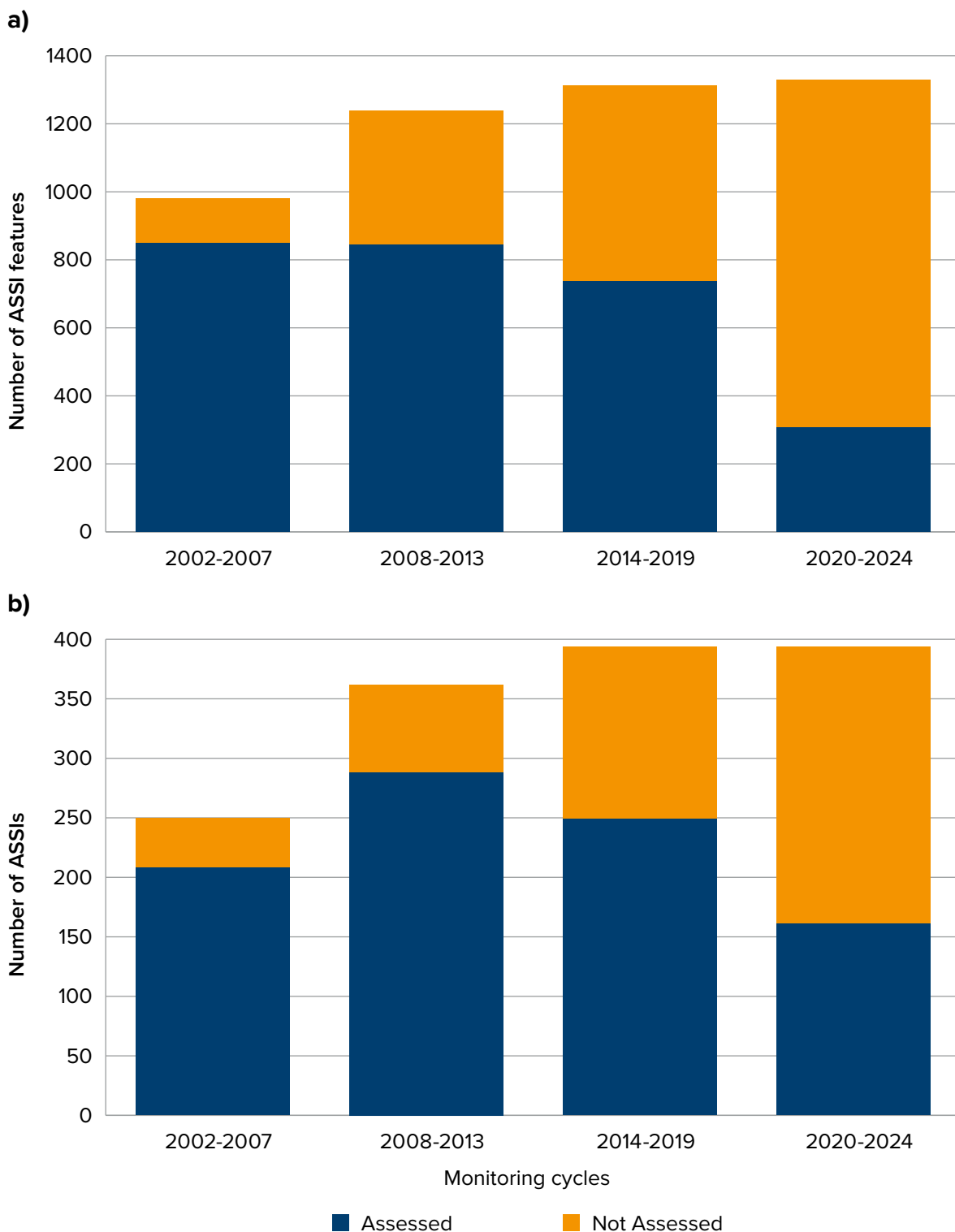


Figure 7. Summary of the numbers of Area of Special Scientific Interest a) features and b) sites assessed during monitoring undertaken by NIEA in each of three six-year cycles from 2002 to 2019. Half of the 2020-2026 cycle was complete at the time of data collation.

387 DAERA, 'Northern Ireland Environmental Statistics Report 2024' (n 310).

NIEA's business plan for 2023/24 recognised the importance of monitoring, stating that completing condition assessments for "150 species, habitat and/or earth science ASSI features" was one of six Key Performance Targets.³⁸⁸ However, to achieve the aim of monitoring every feature at least once every six years, NIEA would need to monitor, on average, 227 features each year.³⁸⁹ While having a key performance target for condition assessments is welcome, that target as specified is likely to lead to NIEA falling short of its stated aims.

NIEA did not meet this Key Performance Target. It reported that "145 field assessments were completed, of which only 98 were written up within the required timeframe". The main reason cited for not achieving the target was the "late award of a substantial contract" that "reduced the number of features [it was] possible to assess".³⁹⁰

NIEA's current business plan contains a target to agree and deliver an ASSI monitoring programme for 2024/25 but, unlike for the previous year, it does not say how many features will be monitored.³⁹¹ This is not a specific or measurable target that will assist with the allocation of sufficient resources or against which it will be possible to hold NIEA to account.

We analysed summaries of monitoring data, to illustrate variation in the most recent assessment of ASSI features, prior to 2024 (Figure 8).³⁹² Approximately 25% (388) of features have not been assessed for 10 years. This includes many invertebrate features (blue bars) which have not been monitored on some ASSIs since 2007/08.³⁹³ 72 features, which is 5% of the current total number of features, have not been assessed since 2002.³⁹⁴ For example, the non-vascular plant features (including mosses and liverworts) in the Cliffs of Mago ASSI³⁹⁵ in Fermanagh have not been assessed.

388 DAERA, 'DAERA Interim Business Plan 2023-24' (n 114).

389 This does not take into account that there is ongoing annual data collection for ornithological features that is usually analysed at the end of the cycle. This is calculated on basis of 1362 ASSI features as listed in DAERA, '2023/24 Summary Feature Condition Status' (n 64).

390 DAERA, 'NIEA Annual Report & Accounts 2023-24' (2024) 13 <www.daera-ni.gov.uk/publications/niea-annual-report-accounts-2023-24> accessed 13 November 2024.

391 NIEA, 'NIEA Business Plan 2024-25' (n 320).

392 DAERA, '2023/24 Summary Feature Condition Status' (n 64). No data have been provided for 2024 monitoring efforts.

393 The same feature may have been monitored more recently on another ASSI.

394 DAERA, '2023/24 Summary Feature Condition Status' (n 64).

395 DAERA, 'The Cliffs of Magho ASSI Site Citation Documents and Map' (2015) <www.daera-ni.gov.uk/publications/cliffs-magho-assi> accessed 17 January 2025.

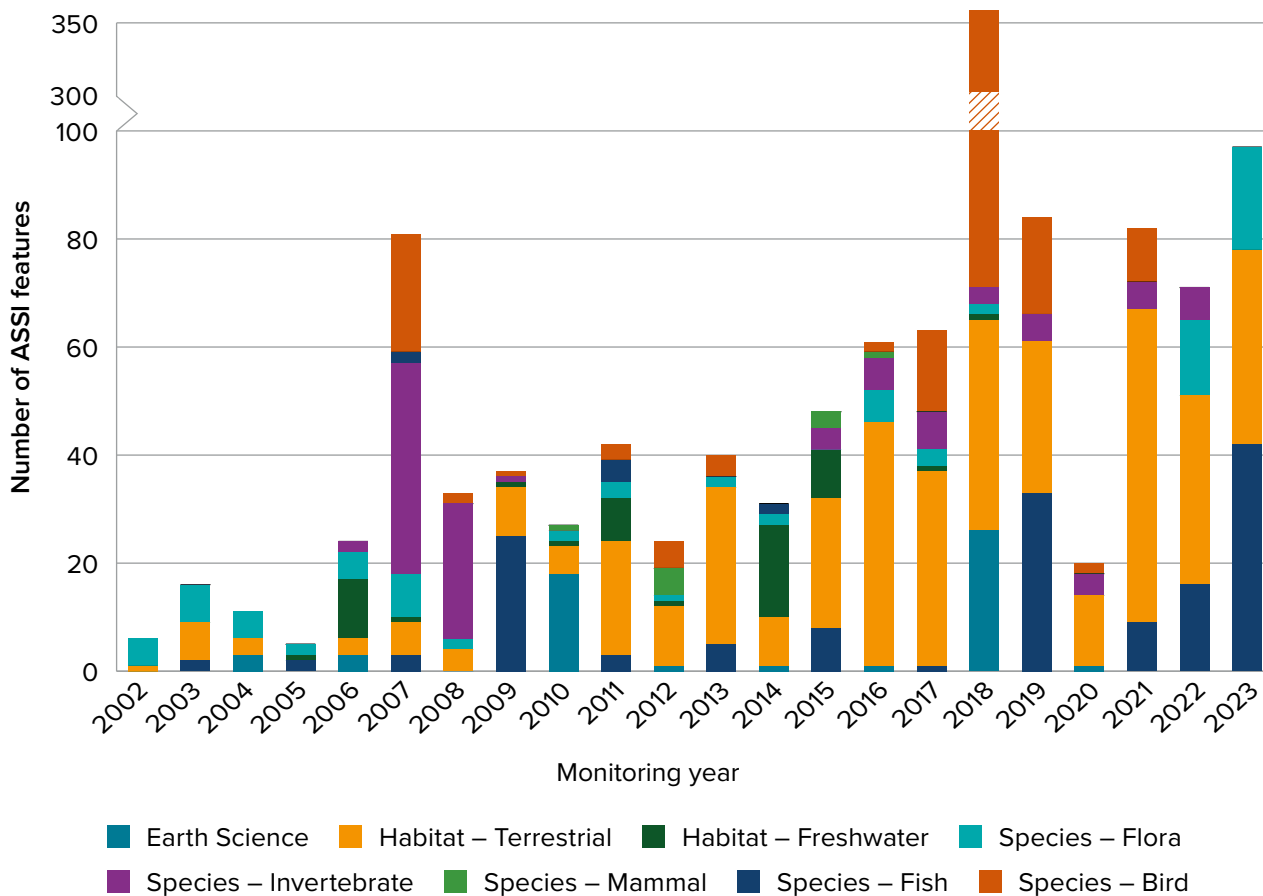


Figure 8. Summary of the year in which the most recent condition assessment has been made of Area of Special Scientific Interest features.

5.3.2 The impact of infrequent monitoring

Infrequent monitoring of ASSIs hinders implementation of protected site laws and the pursuit of DAERA’s EIP target to improve site condition.

The lack of recent information on site condition makes it difficult to develop new, or evaluate existing, action to maintain or improve condition. Infrequent assessments limit opportunities for discussion with owners and occupiers, and for formulation and adaptation of agreements, to help ensure their management is contributing towards favourable condition. An evaluation commissioned by DAERA identified the fact that the timing of assessments does not align with the development or duration of management agreements (see Chapter 6).³⁹⁶ The resulting lack of up-to-date evidence will also make it harder for NIEA to use management notices to mandate appropriate management or to address non-compliance with laws where necessary.

A lack of up-to-date information can have wider implications, as demonstrated in a public inquiry into the A5 Western Transport Corridor (Box 11). Such examples, illustrate the risk that if a feature is assumed to be in favourable condition on the basis of information that is no longer reliable, then the use of this information in an Environmental Impact Assessment or a Habitats Regulations Assessment is likely to lead to inaccuracies in these assessments.

³⁹⁶ Bill Bealey, Lisa Norton and Marcus Wagner, ‘Evaluation of NIEA’s Management of Sensitive Sites (MoSS) Synthesis Report’ (UK Centre for Ecology & Hydrology 2018). Provided as part of written response to information request from NIEA to the OEP (20 March 2024).

This could result in a proposed development having impacts that differ from those predicted, or it could leave planning decisions open to legal challenge.

Box 11. Case study: public inquiry into the A5 Western Transport Corridor

One of the public inquiries into the A5 Western Transport Corridor considered impacts on the two ASSIs at McKean's Moss.³⁹⁷ The 'interim report' produced by the Planning Appeals Commission discussed the effects of the proposed scheme on the environment and set out its recommendations. It stated that, given the potential for impacts on the ASSIs, the Department for Infrastructure (Dfi) should put in place measures to "protect, restore and therefore maintain the special interest features of the McKean's Moss ASSIs".³⁹⁸

Dfi's consultants contacted NIEA in October 2021 to seek its advice and input into the design and implementation of the recommended habitat management plan.

While the two ASSIs at McKean's Moss were stated to be in favourable condition, in its response, NIEA explained that it had not carried out a condition assessment of the sites' features since 2009 and that, therefore, it was unable to advise. NIEA recommended that the consultants undertake their own "rapid habitat condition assessment" to provide baseline information which will help NIEA provide future advice.³⁹⁹ This appears to have caused a delay in the inquiry.⁴⁰⁰

The lack of information about the site's features in this case was particularly surprising given that correspondence showed that the site had been under a Management of Sensitive Sites (MOSS) agreement, between NIEA and the owners, which had ended in 2017.⁴⁰¹ We would have expected that site condition monitoring would have been carried out to evaluate the agreement's effectiveness.

5.3.3 Causes of infrequent monitoring

Several developments have occurred since JNCC's original statement defined common standards in 1998.⁴⁰² As noted in the 2019 statement, "foremost of these [developments] is a reduction in resources available for protected area monitoring".⁴⁰³ Consequently, the current standards statement notes that monitoring resources need to be used responsibly, and that a risk-based approach enables the most vulnerable features to receive the greatest focus.⁴⁰⁴ The common standard that features "will be monitored at least once within six years"⁴⁰⁵ has been removed. It is apparent that, whilst the statutory nature conservation

397 DAERA, 'McKean's Moss ASSI' <www.daera-ni.gov.uk/protected-areas/mckeans-moss-assi> accessed 13 November 2024; DAERA, 'McKean's Moss Part 2 ASSI' <www.daera-ni.gov.uk/protected-areas/mckeans-moss-part-2-assi> accessed 13 November 2024.

398 Planning Appeals Commission, 'Public Inquiry 2020 A5WTC PAC Public Local Inquiry Interim Report' (2020) para 3.129 <<https://www.a5wtc.com/documents/f147a9c7377946d9a724007cf4791d92/about>> accessed 21 June 2024.

399 Planning Appeals Commission (n 397). See email correspondence dated 23 November 2021.

400 *ibid.* See O2: Correspondence relating to conservation action plan for the McKean's Moss. Original email from consultants dated 5 October 2021, response from NIEA explaining there is no current condition assessment for the site dated 14 January 2022, email from consultant stating it has carried out a 'rapid habitat assessment' dated 14 April 2022.

401 Planning Appeals Commission, 'A5 Inquiry' (*Planning Appeals Commission*, 7 June 2023) <www.pacni.gov.uk/a5-inquiry> accessed 21 June 2024. See O2: Correspondence relating to conservation action plan for the McKean's Moss.

402 JNCC, 'Statement on Common Standards Monitoring (CSM)' (n 378).

403 JNCC, 'A Statement on Common Standards for Monitoring Protected Sites 2019' (n 374) s 1.3.

404 JNCC, 'A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)' (n 374).

405 JNCC, 'Statement on Common Standards Monitoring (CSM)' (n 378) s 4.6.

bodies determined the six-year monitoring cycle to be deliverable within the resources available in 1998, this is no longer the case.

NIEA still aims to deliver the six-year monitoring cycle, to align with the Habitats Regulations reporting cycles.⁴⁰⁶

NIEA informed us that its protected sites work has “suffered from long term resource constraints”.⁴⁰⁷ This appears to apply to its monitoring work. As designation programmes resulted in an increase in the number of ASSIs, the task of monitoring all features within a six-year period became more challenging. We also heard that sites designated in later years tended to have more features, adding to the monitoring requirement.⁴⁰⁸ The increasing number of sites and features appears not to have been matched by a corresponding increase in resources for monitoring.

NIEA told us that Common Standards Monitoring is resource-intensive.⁴⁰⁹ For example, we understand that the field assessment of some of the largest sites, such as Garron Plateau ASSI take approximately 30 person days, with additional days required for planning, data analysis and write up.⁴¹⁰ This is delivered by a limited terrestrial habitat survey team consisting of 12 staff, with a further two staff in the freshwater monitoring team.⁴¹¹

We understand that all ASSI condition assessments are made following a visit to the site. There are many aspects of feature condition that can only be reliably assessed by carrying out field surveys. Other methods using technology such as earth observation⁴¹² and environmental DNA surveys⁴¹³ bring efficiencies and improvements in data collection, but limited use has been made of such methods. It takes time to consider how to diversify monitoring approaches, to test them and to roll them out. Although we are aware that NIEA have made efforts to trial some new methods, it has been unable to do so more widely while trying to deliver existing survey work. NIEA informed us that a new evidence product employing earth observation and site condition data is under development (Living Map of Northern Ireland). This will be used to support, but not replace, field-based monitoring programmes.⁴¹⁴

Piloting of earth observation methods in England suggests that these may not always reduce the time required to monitor a site because these methods need to be supplemented by on the ground surveys.⁴¹⁵ Research suggests that the key benefit to earth observation may be the potential to provide more accurate and reliable condition assessments and more precise and complete information about pressures.⁴¹⁶ This shows

406 Art 17, Habitats Regulations; written response to questions from DAERA to the OEP (16 January 2025).

407 Call for evidence response from NIEA to the OEP (14 June 2023).

408 Written response to information request from NIEA to the OEP (9 July 2024).

409 Call for evidence response from NIEA to the OEP (14 June 2023).

410 Written response to questions from DAERA to the OEP (16 January 2025).

411 *ibid.*

412 Earth observation refers to the collection, analysis and interpretation of information about the Earth’s surface, atmosphere and oceans using technologies such as satellites, aircraft (including drones) and ground-based sensors. Definition taken from European Space Agency, ‘Earth Observation Glossary’ <www.esa.int/Applications/Observing_the_Earth/Earth_observation_glossary#E> accessed 14 June 2024.

413 Environmental DNA is “the genetic material left by organisms in the environment. eDNA is increasingly being used to detect the presence of species and assess biodiversity.” It can be collected and detected in various sample types such as water and soil. Analysing eDNA offers a “highly sensitive, rapid, and cost-effective method to detect the presence of species and assess wildlife communities and biodiversity.” See IUCN, ‘Environmental DNA’ (2024) <<https://iucn.org/resources/issues-brief/environmental-dna>> accessed 26 February 2025.

414 Written response to questions from DAERA to the OEP (16 January 2025).

415 Natural England, ‘Whole Feature Assessment Pilot Evaluation Report: SSSI Monitoring and Evaluation – 2021 Pilots’ (2022) NERR122 <<https://publications.naturalengland.org.uk/publication/6362814355865600>>.

416 *ibid.*

that the more widespread use of such methods in Northern Ireland, whether or not they reduce resourcing requirements, have the potential to improve and expand data.

We found that the resources available for site monitoring has changed over time in response to changing priorities. This makes it hard to deliver long-term monitoring programmes. NIEA informed us that monitoring effort was reduced on existing sites to make staff available to support the delivery of designation targets.⁴¹⁷ When designation work ceased, more resources were available again for monitoring.⁴¹⁸ If work to designate new ASSIs restarts, as we recommend, it is likely that, without additional resourcing, monitoring existing sites will once again diminish.

5.4 Use and communication of monitoring data and evaluations

Monitoring, in isolation, does not have inherent value. Rather, the value comes from analysing the collected data, drawing meaningful conclusions from them, and effectively using and communicating this information to drive actionable steps on the ground.

A significant amount of ecological data on the condition of the qualifying features of protected sites has been collected by NIEA and its predecessors. NIEA refers to “an impressive long-term ecological data set on the condition of site features”.⁴¹⁹ Unfortunately, whilst NIEA has these data for each protected site, and for the qualifying features in each protected site, this information is not effectively communicated to owners and occupiers.

We found that NIEA primarily uses monitoring data for reporting purposes, rather than driving management actions. We understand this is primarily because monitoring is not undertaken at a landholding level and so it may be difficult to make it relevant to individuals. In addition, the length of time between site visits, analysis and reporting would delay the provision of information to owners and occupiers, potentially making this less valuable to them. Taking the additional step of communicating results and responding to subsequent questions and follow-ups would also place further strain on already limited resources.

Stakeholders have voiced considerable frustration with this situation.

Owners and occupiers expressed a lack of understanding regarding how monitoring is carried out and how condition is determined.⁴²⁰ We understand that before monitoring is undertaken, a letter is sent to owners and occupiers explaining what will happen, the approximate dates the monitoring will take place, and that the information collected will enable NIEA to check that the features are “still present and thriving. The letter also states, “[i]f it is felt that there is potential for changes in the management of the land, we can arrange for a member of staff to contact you to discuss appropriate changes”.⁴²¹

We consider that where monitoring shows that changes are needed to the management of the land, NIEA should always proactively contact the relevant site owners and occupiers to discuss those changes. The current wording of the letter suggests that this discussion may not always happen or may need to be requested by the owner or occupier.

417 Call for evidence response from NIEA to the OEP (14 June 2023).

418 Written response to information request from NIEA to the OEP (17 September 2024).

419 Call for Evidence response from NIEA to the OEP (June 2023).

420 Various site visits and discussions with the OEP and owners and occupiers (2024).

421 Written response to information request from NIEA to the OEP (20 March 2024); Letter from NIEA to ASSI owner / occupier of protected site (March 2023).

We heard from a farmer in one ASSI who had received such a letter. The farmer did not receive any further information until he encountered NIEA staff carrying out the monitoring. The farmer expressed disappointment, explaining that he would have liked to accompany NIEA to understand the monitoring process and any findings related to his land.⁴²² It is not clear in NIEA's letter to owners and occupiers whether there will be any opportunities during the visit for discussion with NIEA. We consider that NIEA should use the visit as an opportunity to establish or renew contact with protected site owners and occupiers, and to explain the monitoring process.

We heard that when condition assessments are carried out, owners and occupiers often do not receive the results.⁴²³ On one of our site visits, we were told that, despite the site's condition being assessed as unfavourable in 2015, the landowner was unaware of this and did not recall being contacted by NIEA either at that time or since.⁴²⁴

Information on site condition can be requested by the owner or occupier but doing so requires significant time and effort from both the requester and from NIEA as provider. This is a time consuming and inefficient process for all parties.⁴²⁵ This is despite Environmental Information Regulations 2004 requiring that data taken from environmental monitoring activities are made publicly available by electronic and easily accessible means.⁴²⁶

The situation appears to be similar for publicly owned land. We understand that public bodies do not routinely receive condition assessment information from NIEA. However, NI Water noted that it was confident it could obtain the information if it asked NIEA.⁴²⁷

Condition assessment results should be published so that information about progress towards individual site objectives,⁴²⁸ and nation-wide commitments⁴²⁹ is clear and transparent, and can be scrutinised. This transparency is crucial to holding DAERA and other public authorities to account, including for their duties relating to ASSIs.⁴³⁰

Prior to the publication in September 2024 by NIEA of a summary of condition assessment results, the only evidence publicly available to understand site condition was the yearly 'Northern Ireland Environmental Statistics Report'.⁴³¹ The first of these reports was published in 2009.⁴³² While there have been some changes to the data being reported over time, in general these reports have provided annual updates on the proportion of all ASSI features in the different categories of condition.

Improvements have been made to the data in recent years. In 2022, the annual reports began to provide a breakdown of condition for different protected site features, revealing considerable differences. For example, the 2024 report shows that 93% of earth science

422 Various site visits and discussions with the OEP and owners and occupiers (2024).

423 *ibid.*

424 Various site visits and discussions with the OEP and owners and occupiers (2024). Condition data were provided for all monitored sites as part of the call for evidence response from NIEA to the OEP (14 June 2023). An updated copy of this condition data was published by DAERA (see '2023/24 Summary Feature Condition Status' (n 211)).

425 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

426 Reg 4, Environmental Information Regulations 2004.

427 Written response to information request from NI Water to the OEP (20 May 2024).

428 See also Chapter 6 and 7.

429 For example, as contained within DAERA, 'Environmental Improvement Plan for Northern Ireland' (n 3).

430 Art 38, Environment Order.

431 For example, see DAERA, 'Northern Ireland Environmental Statistics Report 2024' (n 310).

432 DAERA, 'Northern Ireland Environmental Statistics Report 2009' <www.daera-ni.gov.uk/publications/northern-ireland-environmental-statistics-report-2009> accessed 31 October 2024.


features are in favourable condition, compared to only 14% of heathland features and 6% of woodland features.⁴³³

We welcome the recent publication of a summary of ASSI condition data by NIEA, and the commitment to update these data on an annual basis in line with the Northern Ireland Environmental Statistics reporting.⁴³⁴ This represents an important milestone, offering for the first time a published evidence base setting out the condition of most ASSI features at the level of individual sites and the date of the most recent assessment.

Providing additional information and raising awareness of its existence would increase the value of this information to site owners, occupiers and delivery bodies. For example, we consider that published information should also explain why features are unfavourable and what action needs to be taken, where, when and by whom to improve their condition.

433 *ibid.*

434 DAERA, 'Protected Areas Monitoring Results' (n 217); DAERA, '2023/24 Summary Feature Condition Status' (n 64).



Chapter 6.
Land management
incentives, advice
and support

Chapter 6. Land management incentives, advice and support

6.1 Overview

To conserve or restore designated features, it is usually necessary to have some level of intervention to start positive, or stop negative, activities. DAERA uses agri-environment schemes, under the Rural Development Programme Regulations (Northern Ireland) 2015, to incentivise the activities of private landowners and occupiers towards similar objectives for protected sites. Under the Environment Order and the Habitats Regulations, DAERA can also enter into management agreements with owners and occupiers of protected sites and adjacent land to secure appropriate management of the site.

In this chapter, we assess the effectiveness of incentives used by DAERA and NIEA in delivering protected site objectives. These include the relevant agri-environment schemes, namely the Environmental Farming Scheme (EFS) Higher and Group Levels. We also assess the use by NIEA of management agreements under its Management of Sensitive Sites (MOSS) programme and, in the past, the use of In-Perpetuity Agreements (IPAs).

We have found that initiatives such as MOSS and the EFS Group Level have been effective in supporting farmers to deliver environmental outcomes for protected sites individually and collectively. Elements of EFS Wider implementation are also likely to have brought benefits to protected sites, including by addressing off-site pressures.⁴³⁵

We consider, however, that existing incentives and the current level of guidance and advice provided to owners and occupiers fall short of what is necessary to be truly effective, both in terms of the quality and availability of incentives and the extent of land covered:

- No assessment has been made of the eligibility of protected sites for agri-environment schemes or of the sites that will require a management agreement.
- There is a lack of proactive, ongoing advice and support provided by government (or an agreed intermediary) to owners and occupiers, that is tailored to the obligations attached to protected sites, and options for incentives to achieve site objectives.
- EFS is, by area, the primary funding mechanism for protected sites management. Approximately half of ASSIs eligible for support are currently included (either partially or entirely) in EFS agreements.
- Actions prescribed through EFS agreements, although tailored for specific sites, may not fully address the needs and objectives of protected features.
- The MOSS programme was scaled-up rapidly between 2003 and 2007. However, the number of MOSS agreements that were in place peaked at 106 in 2007 and subsequently fell to zero by 2023. We understand that a small number of MOSS agreements have been entered into since then but these are only one-year in duration and will be unable to deliver sustained management over time.

⁴³⁵ Alison Scott and others, 'Quantifying Nutrient and Sediment Erosion at Riverbank Cattle Access Points Using Fine-Scale Geo-Spatial Data' (2023) 155 *Ecological Indicators* 111067.seasonal, and annual erosion rates at nine unmitigated cattle access points in Northern Ireland. Total, fine sediment and total phosphorus exports were determined through bulk density and deep soil core sampling campaigns of exposed bank faces. Accumulated erosion was estimated using method 1

- Management agreements have not been used on land outside protected sites to address pressures that are arising from outside site boundaries. More consideration should be given in the targeting, development and monitoring of agri-environment agreements to the need to address offsite pressures on protected sites.
- At least some IPAs, which were designed under previous legislation to restrict harmful activities, are now preventing access to other incentives.

An effective land management regime – including agreements, incentives, advice, support, and (as covered in Chapter 7) regulation and enforcement – is essential for delivering the necessary improvements to protected sites in Northern Ireland. Landowners and occupiers should not be (or feel) discouraged from doing the right thing. Rather, private owners and occupiers should take advantage of public schemes to encourage positive management. Public authorities should effectively utilise their budget allocations to manage and maintain the protected sites they own, and be supported in doing so.

Collaboratively developing, and properly incentivising positive actions and appropriate management of protected sites (and, where necessary, the surrounding landscape) requires sufficient and stable resources and funding. Moreover, it requires trusted relationships, and a sense of genuine partnership rooted in relevant and enduring expertise and experience. This relies on the transparency and appropriateness of communicating what is needed to achieve better outcomes for the site.

To deliver this we make three recommendations:

Recommendation 10: DAERA should ensure that tailored and ongoing advice and support are available to all owners and occupiers of protected sites, and other relevant stakeholders, to secure the appropriate management of sites. Each protected site should have a specified point of contact who should be supported by the expertise of a multi-agency and disciplinary team.

Recommendation 11: DAERA should ensure that achieving its protected site condition target is a key consideration in the development and implementation of its future agri-environment scheme, Farming with Nature. DAERA should build on the successes of EFS, notably the Group Level schemes, while improving its areas of weakness. This should include:

- a) achieving the level of uptake that will be needed to achieve the condition target by providing for agreements that are sufficiently long-term and well-funded to make them attractive to protected site owners and occupiers;
- b) ensuring agreements are tailored to the specific features and condition of each protected site, are informed by site condition monitoring data and conservation management plans and (in the case of agreements in the areas surrounding sites) explicitly consider how to address offsite pressures.

Recommendation 12: DAERA should significantly increase the scale of the MOSS programme and ensure long term agreements are possible. MOSS should be used to ensure that protected site owners and occupiers not eligible for EFS or, in future Farming with Nature, receive the funding and advice they need to appropriately manage their site.

6.2 Securing appropriate management

Most protected sites require some level of intervention to safeguard or enhance the features for which they were designated.⁴³⁶ Encouraging private owners and occupiers through incentives is a commonly used approach to achieve positive outcomes for protected sites.⁴³⁷ These incentives typically consist of agreements between the department and the owner or occupier that specify management practices and the financial support that will be provided to implement them.

These incentives will be crucial to meeting commitments made by DAERA to protect and effectively manage 30% of land, and improve the condition of the features of protected sites by 2030.⁴³⁸ They can also encourage actions that benefit ecosystem services, such as food provision, clean water, flood prevention, and climate change mitigation through carbon sequestration and improved soil health.⁴³⁹ Incentives and advice play a wider role in support of social and cultural values, and improving relationships between owners, occupiers and government.⁴⁴⁰

This chapter assesses the effectiveness of advice to protected site owners and occupiers, agri-environment schemes such as the EFS Higher Level, management agreements delivered through NIEA's MOSS programme and the previous use of in-perpetuity agreements. Our focus is on whether advice and these incentives have been able to secure the positive management of protected sites by private individuals, who make up the majority (numerically) of protected site owners and occupiers. We address the important roles of public bodies in Chapters 2 and 3.

We recognise that there are other sources of funding that have supported protected site management, which fall outside this assessment. For example, we understand that funding from the EU, for example through the Life, Interreg and Peace Plus programmes, have been secured by DAERA to help restore protected sites. The Shared Island Fund and Northern Ireland's Environment Fund have also been used to fund protected site work. DAERA deserves credit for accessing and utilising a wide range of funding to support protected site management.

The incentives we have assessed in this chapter vary in their eligibility, purpose and extent. For example, as of 2024 approximately 22,000 ha of protected sites are under an EFS Higher agreement, making it, by area, the primary mechanism through which appropriate management is being supported. Where land is not eligible for EFS, protected site management agreements⁴⁴¹ have been utilised under NIEA's MOSS Programme. In the past, In-Perpetuity Agreements were used to compensate landowners for stopping damaging activities and managing land appropriately as an ASSI.

436 'A Joint Statement on Improving the Approach to Protected Areas in the UK' <<https://hub.jncc.gov.uk/assets/2f79ed3b-a46c-4084-9df1-ef03c91f6a87>> accessed 10 September 2024.

437 Charlotte Hawkins and others, 'Evaluation of Biodiversity 2020. Evaluation Report' (Centre for Ecology and Hydrology 2019) C07111 <<https://nora.nerc.ac.uk/id/eprint/527921/1/N527921CR.pdf>> accessed 14 June 2024.

438 DAERA, 'Environmental Improvement Plan for Northern Ireland' (n 3).

439 Jonathan R Mosedale and others, 'A Think Piece on the Effectiveness of Protected Areas in England.' (Natural England 2022) NECR41 <<https://publications.naturalengland.org.uk/publication/5801032570634240>> accessed 14 June 2024.

440 Various site visits and discussions with the OEP and owners and occupiers (2024).

441 Art 34, Environment Order; and Reg 13, Habitats Regulations.

6.3 Advice and support for protected site owners and occupiers

Regardless of whether an owner or occupier of a protected site is managing their land under an EFS or MOSS agreement, an IPA, or none of these, it is important that they receive proactive support and advice on their management of the land. This includes encouraging and assisting them, where appropriate, to enter EFS and MOSS agreements, as well as helping them to implement successfully such agreements, to the benefit of their farm business and other land uses, and the protected sites' features.

We have found it challenging to identify what advice and support are currently being provided, to whom, using what methods and in what circumstances. There are several ways in which a protected site owner or occupier may receive advice and support about the management of their land. For example, through the College of Agriculture, Food and Rural Enterprise (CAFRE)⁴⁴² Knowledge Advisory Service, or through liaison with NIEA following protected site condition monitoring visits, entry into a MOSS agreement, or on an ASSI consent application. Some owners and occupiers may also benefit from advice from other organisations, such as an eNGO, for example if their land is being managed within a EFS Group agreement. While we expect that there is good practice in all these situations, this is a confusing picture for owners and occupiers and there is considerable dissatisfaction about the advice and support currently being provided.

We understand there are options for engagement with owners and occupiers of sites situated on agricultural land that are under an EFS agreement. This can be provided by CAFRE. DAERA informed us that "CAFRE have hosted farm walks and webinars covering a range of topics. These training sessions were intended to inform the EFS Higher and Wider participants of the scheme controls and requirement, and how they should complete the option to meet the scheme specification and be compliant to the scheme rules."⁴⁴³ We understand that entrants to the Higher scheme are required to undergo specific online training.⁴⁴⁴ DAERA also told us that "farmers working with a CAFRE Adviser through previous Knowledge Transfer Schemes will have had access to business, technical and environmental support through their Adviser. CAFRE Advisers are further supported by a team of CAFRE Technologists. Technologists are organised in teams under the titles of Air Quality, Biodiversity, Carbon, Soil Health, Water Quality and Livestock."⁴⁴⁵

We have not been able to determine how widespread this support is, within protected sites being managed under EFS agreements. For example, we do not know how many owners and occupiers within these sites took part in farm walks and webinars, and how many are currently working with a CAFRE advisor. We also do not know whether the advice they received was tailored to the specific requirements of the protected site as reflected in its objectives and the latest condition monitoring information. During site visits, for example, we were told that CAFRE mostly provided business advice rather than ecological advice related to the protected sites' features and the relevant legal obligations.⁴⁴⁶

442 CAFRE is a public tertiary level land-based college offering training in agriculture, food technology, horticulture, equine and agri-business operating at three sites in Northern Ireland. They offer a range of courses in agriculture, food, equine, horticulture, and land-based engineering, utilizing their extensive practical facilities across three campuses. CAFRE is a division within DAERA. In a written response to questions from DAERA to the OEP (3 March 2025), DAERA stated that CAFRE is "responsible for the competence development of those entering and those already working in the agri-food industry and achieves this through a range of education and technology transfer and innovation programmes".

443 Written response to questions from DAERA to the OEP (16 January 2025).

444 See EFS Instructions Video on DAERA, 'Environmental Farming Scheme (EFS) General Information and Guidance' <www.daera-ni.gov.uk/articles/environmental-farming-scheme-efs-general-information-and-guidance> accessed 14 June 2024.

445 Written response to questions from DAERA to the OEP (16 January 2025).

446 Various site visits and discussions with the OEP owners and occupiers (2024).

During site visits we were informed by site owners and occupiers that the previous Agri-environment Advisor posts within CAFRE had, at times, been vacant for some time. Owners and occupiers indicated that the vacancy of these posts, and the subsequent lack of advice, was a barrier to delivering appropriate management. In response, DAERA told us that vacancies are filled with permanent and agency staff as they arise, with priority given to frontline delivery advisers.⁴⁴⁷

NIEA told us that except for “written correspondence with owners associated with monitoring visits, [and] engagement in relation to MOSS, there is little proactive engagement”.⁴⁴⁸ This is despite communication and liaison with owners and occupiers being acknowledged as a priority for NIEA.⁴⁴⁹ It recognises that “much greater on the ground liaison with landowners by NIEA would bring benefits to how sites are being managed and conserved. NIEA do not have the resource currently to substantially improve the situation”.⁴⁵⁰

NIEA has made attempts in the past to establish a means of communicating with the very large number of site owners and occupiers. It previously used a newsletter⁴⁵¹ but this ended in 2014⁴⁵² due to resourcing issues.^{453,454} NIEA told us that its communication with owners and occupiers has also been hampered by difficulties accessing up-to-date information about who is the current owner or occupier. NIEA told us that “ownership is determined by the information held by Land Registry. This is often historic, not up-to-date and we try to allocate/determine the owner.”⁴⁵⁵ NIEA told us that it would help them to communicate with owners and occupiers if the ASSI boundary was a layer on DAERA’s digital Land Parcel Identification System farm field maps.⁴⁵⁶

When multi-year MOSS agreements were possible, NIEA visited sites twice a year to provide assessment and feedback to the landowner on their management.⁴⁵⁷ We also understand that with current, in-year MOSS agreements NIEA officers engage with the landowner throughout and that this will include advice.⁴⁵⁸

We were told by owners and occupiers that the lack of advice and guidance from CAFRE or NIEA has been an obstacle to effectively managing land under EFS as it leaves individuals feeling unsupported and unclear about the purpose of their activities.⁴⁵⁹ Where NIEA does engage with owners and occupiers, these groups told us that the agency lacks agricultural knowledge and local knowledge of particular protected sites.⁴⁶⁰ We understand that prior to the early 2000s, EHS’s Land Liaison Officers (see Box 9) would have had this knowledge and good working relationships with owners and occupiers, which allowed them to provide valued advice on agri-environment schemes.

447 Written response to questions from DAERA to the OEP (3 March 2025).

448 Written response to information request from NIEA to the OEP (20 March 2024).

449 *ibid.*

450 *ibid.*

451 See, for example, DAERA, ‘Natural Views Newsletter Issue 13 - Spring 2014’ (16 November 2014) <www.daera-ni.gov.uk/publications/natural-views-newsletter-issue-13-spring-2014> accessed 12 March 2025.

452 Written response to questions from DAERA to the OEP (16 January 2025).

453 Written response to information request from NIEA to the OEP (17 September 2024).

454 The DoE/NIEA NISRA customer survey report in 2013 revealed that only 7% of respondents prefer this communication material. 56% of respondents prefer letters as communication material, with 44% stating a wish to be contacted yearly. A copy was provided as part of written response to information request from NIEA to the OEP (20 March 2024).

455 Written response to information request from NIEA to the OEP (9 July 2024).

456 *ibid.*

457 Written response to questions from DAERA to the OEP (16 January 2025).

458 *ibid.*

459 Various site visits and discussions with the OEP and owners and occupiers (2024).

460 Call for evidence response from UFU to the OEP (25 April 2023); meeting with NIAPA and the OEP (12 October 2023).

Environmental NGOs provide a significant amount of advice and support to some owners and occupiers. This includes assisting owners and occupiers with applications, implementing management activities, and solving problems.⁴⁶¹ Environmental NGOs and scheme planners also deliver advice and support supported by EFS Group Level agreements, funded by DAERA.⁴⁶² This was viewed positively by owners and occupiers as a trusted source of advice. For example, the UFU highlighted the partnership with Ulster Wildlife in the Carn and Glenshane area delivering advice on peatland management.⁴⁶³ We also understand that, in the Fermanagh area, Ulster Wildlife also translated EFS agreements into a focused advice package, complete with maps. This package outlined the specific actions that owners and occupiers needed to take in different areas.⁴⁶⁴ This helped demonstrate what ‘success’ looks like.

There are, however, limitations to advice from eNGOs. It was recognised that the provision by eNGOs is limited to a small number of locations across the protected site network and cannot be guaranteed in the long-term.⁴⁶⁵ Although we could not obtain a comprehensive map of all the areas where eNGOs serve as primary advisors, our interactions with organisations providing this advice indicate that it is only offered in a handful of specific places. For example, the Royal Society for the Protection of Birds Northern Ireland (RSPB NI) provides DAERA-funded advice to farmers in an EFS Group scheme for breeding waders in the Antrim Hills, which has delivered significant benefits, in particular for curlew.⁴⁶⁶ This piecemeal method of offering advice, while effective where it has been put in place, seems inadequate in securing long-term, network-wide benefits.

Additional time-bound funding sources, including the Co-operation Across Borders for Biodiversity⁴⁶⁷ and Collaborative Action for the Natural Network ⁴⁶⁸ projects, have had a positive impact. However, their time constraints can mean that the longevity of advice and support is limited and uncertain.⁴⁶⁹

Where advice is provided, we heard from owners and occupiers that face-to-face communication, on an ongoing basis, is the preferred method.⁴⁷⁰ NIEA is aware of this. It told us that monitoring assessments of EFS and previous agri-environment schemes have shown that “agreement holders need face-to-face support for the best outcomes”.⁴⁷¹

6.4 Agri-environment schemes

Under the Rural Development Programme Regulations (Northern Ireland) 2015, DAERA can enter into agri-environment schemes with landowners and occupiers. These Regulations provide that these schemes are for the purpose of competitiveness, sustainable

461 Call for evidence responses from the RSPB NI to the OEP (21 April 2023); call for evidence responses from Ulster Wildlife to the OEP (19 April 2023).

462 Written response to questions from DAERA to the OEP (3 March 2025).

463 Various site visits and discussions with the OEP and owners and occupiers (2024).

464 *ibid.*

465 Call for evidence responses from the Ulster Wildlife to the OEP (19 April 2023).

466 Call for evidence responses from RSPB NI to the OEP (21 April 2023). We understand, through response to written questions (3 March 2025) that this is advice function is funded by DAERA.

467 RSPB Northern Ireland, ‘Co-Operation Across Borders for Biodiversity (CABB)’ <www.rspb.org.uk/helping-nature/what-we-do/protecting-species-and-habitats/projects/co-operation-across-borders-for-biodiversity> accessed 14 June 2024.

468 Ulster Wildlife, ‘Collaborative Action for the Natura Network (CANN)’ (2023) <www.ulsterwildlife.org/sites/default/files/2023-11/CANN-Booklet.pdf> accessed 15 June 2024.

469 Call for evidence responses from the Ulster Wildlife to the OEP (19 April 2023).

470 Various site visits and discussions with the OEP and owners and occupiers (2024).

471 Written response to information request from NIEA to the OEP (20 March 2024).

management and balancing development.⁴⁷² They can be entered in respect of any farmland that is eligible, whether that is inside or outside a protected site.

There have been four agri-environment schemes in Northern Ireland since 1988, including the Environmentally Sensitive Areas Scheme (1988–2016), the Countryside Management Scheme (2001–2019), the NI Countryside Management Scheme (2009–2019) and the Environmental Farming Scheme (EFS) (2017–present).

A new agri-environment scheme to replace EFS, called Farming with Nature, is under development. As this scheme has not yet been developed and there is little information available about it, we have not subjected it to detailed assessment.

6.4.1 Environmental Farming Scheme

EFS seeks to address specific environmental needs, primarily related to biodiversity, climate change and water quality.⁴⁷³

This voluntary scheme offers participants a five-year agreement to implement a range of environmental actions (including management options, and capital works),⁴⁷⁴ at different levels.⁴⁷⁵ The Higher Level ('EFS Higher') applies to protected sites, and includes three tiers: tier 1 for SPAs and SACs, tier 2 for biological ASSIs⁴⁷⁶ and tier 3 for priority habitats.⁴⁷⁷ EFS Higher aims to introduce management that will allow the site to move towards favourable condition.⁴⁷⁸ There is also a Wider Level for benefits across the countryside⁴⁷⁹ and a Group Level for cooperative action.⁴⁸⁰

Eligibility for EFS is based on whether the owner or occupier holds a Category 1 or 2 DAERA Farm Business Identification Number, has a minimum of 3 ha of eligible land and has management control of the land for the duration of the agreement.⁴⁸¹ Non-farmed land (for example quarries) is not eligible.⁴⁸²

Of a total 394 ASSIs, there are 297 biological ASSIs that are eligible for EFS Higher.⁴⁸³ The remaining 97 ASSIs are ineligible because they have only earth science (geological or geomorphological) features.

Entry to EFS Higher requires that a qualified and experienced environmental planner ('an EFS planner'), who must be external to DAERA, is nominated by the owner or occupier to

472 As per article 4 of the Rural Development Programme Directive, support provided under such schemes, including agri-environment schemes, is for the purpose of (a) fostering the competitiveness of agriculture, (b) ensuring the sustainable management of natural resources and climate action, and (c) achieving a balanced territorial development of rural economies and communities, including the creation and maintenance of employment.

473 DAERA, 'Northern Ireland Environmental Statistics Report 2024' (n 310) 50.

474 See, for example, DAERA, 'Guide to the Environmental Farming Scheme for Agreements Commencing 01 Jan 2024' <www.daera-ni.gov.uk/publications/guide-environmental-farming-scheme-agreements-commencing-01-jan-2024> accessed 15 June 2024.

475 DAERA, 'Environmental Farming Scheme (EFS)' <www.daera-ni.gov.uk/topics/rural-development/environmental-farming-scheme-efs> accessed 11 June 2024.

476 NIEA told us, through a response to an information request that EFS Higher focused on biological sites (sites designation for their flora or fauna). Sites with earth science only features were not included. Written response to information request from NIEA to the OEP (20 March 2024).

477 DAERA, 'Environmental Farming Scheme (EFS) - Higher Level' (2022) <www.daera-ni.gov.uk/articles/environmental-farming-scheme-efs-higher-level> accessed 16 June 2024.

478 Written response to questions from DAERA to the OEP (16 January 2025).

479 There is no wider option for tranche 8, see DAERA, 'Environmental Farming Scheme (EFS) - Higher Level' (n 477).

480 DAERA, 'Environmental Farming Scheme (EFS)' (n 475).

481 DAERA, 'EFS Planner Instructions' (2024) <www.daera-ni.gov.uk/publications/efs-planner-instructions> accessed 14 June 2024; written response to information request from NIEA to the OEP (9 July 2024).

482 Written response to information request from NIEA to the OEP (20 March 2024).

483 *ibid.*

create a site-specific Remedial Management Plan (ssRMP) (section 6.4.3).⁴⁸⁴ Entry to EFS Higher also requires the completion of relevant training courses.⁴⁸⁵

EFS Higher agreements cover a larger area of protected sites than any other tool for securing appropriate management.⁴⁸⁶ They are described by DAERA as a key delivery mechanism for protected sites.⁴⁸⁷ While much has been achieved to enter into agreements on protected sites and this will have had a positive impact on site condition, we have found areas where improvement is needed. These relate to the spatial extent and distribution of agreements across Northern Ireland (section 6.4.2), their design and the advice and support provided to scheme participants (section 6.4.3 – 6.4.7).

6.4.2 Extent and distribution of EFS Higher

There have been 8 phases ('tranches') of EFS between 2017 and 2025.⁴⁸⁸ Tranches 4-8 are live as of January 2025. We did not obtain information relating to Tranche 8, our assessment is based on Tranches 1-7 (Figure 9).

Approximately 93,000 ha has been managed under an EFS agreement, including Higher, Wider and Group Levels (Tranches 1–7).⁴⁸⁹ There are currently 1,089 EFS Higher agreements in place, covering 48,235 ha (Tranches 4–7),⁴⁹⁰ of which approximately 22,000 ha are within ASSIs, SPAs and SACs (Tier 1 or 2, see Figure 10).⁴⁹¹ This represents 15.7% of the total area of protected sites.⁴⁹²

NIEA told us that, in 2024, there were 153 of the 297 (52%) biological ASSIs, that intersect with agreements under EFS management.⁴⁹³

Data reported in the Northern Ireland Environmental Statistics Report for 2024 indicate that there has been a reduction in the total land covered by agri-environment schemes.⁴⁹⁴ At its peak, in 2010, 463,000 ha were being managed under an agri-environment scheme, including under the Environmentally Sensitive Areas or Countryside Management Scheme. The extent of schemes has since reduced, with a marked decline between 2015-2016. Although these were full farm schemes, and so a comparison of agreement content cannot be made, the reduction in extent highlights a decrease in participation in environmentally-focused initiatives. We have not been able to test whether the extent of schemes within protected sites differed from this overall pattern.

484 Criteria to be a Planner are defined within DAERA, 'EFS Planner Instructions' (n 481) 4.

485 DAERA, 'EFS (H) Terms and Conditions 2024 Commencing 1 Jan 2024' (2024) <www.daera-ni.gov.uk/sites/default/files/publications/daera/EFS%20%28H%29%20Terms%20and%20Conditions%202024%20commencing%201%20Jan%202024.DOCX> accessed 15 June 2024.

486 Written response to information request from NIEA to the OEP (20 March 2024).

487 DAERA, 'Northern Ireland Environmental Statistics Report 2024' (n 310) 45.

488 Tranches run for five years. They start on 1 January and end on 31 December, with applications made in the preceding year. Tranche 1 started in 2018 and concluded in 2022. Tranche 8 started in 2025 and will end in 2029.

489 Written response to information request from NIEA to the OEP (9 July 2024).

490 DAERA told us that by 2023 (Tranches 2 – 6) EFS Higher agreements covered approximately 60,000 ha. Information Request response from NIEA to the OEP (9 July 2024); written response to questions from DAERA to the OEP (16 January 2025).

491 Figure calculated using data extracted from Open Data NI Portal and analysed in QGIS using dissolve and intersection geo-processing tools, and field calculator tool (24 January 2025). See Open Data NI, 'Portal: EFS Agreements' <www.opendatani.gov.uk/@department-of-agriculture-environment-and-rural-affairs/efs-agreements> accessed 17 January 2025.

492 Calculated using 140,374 ha as total protected site area (ASSI, SPA & SAC combined) as calculated by NIEA, provided through written response to questions from NIEA to the OEP (3 March 2025).

493 Written response to information request from NIEA to the OEP (20 March 2024).

494 DAERA, 'Northern Ireland Environmental Statistics Report 2024' (n 310).

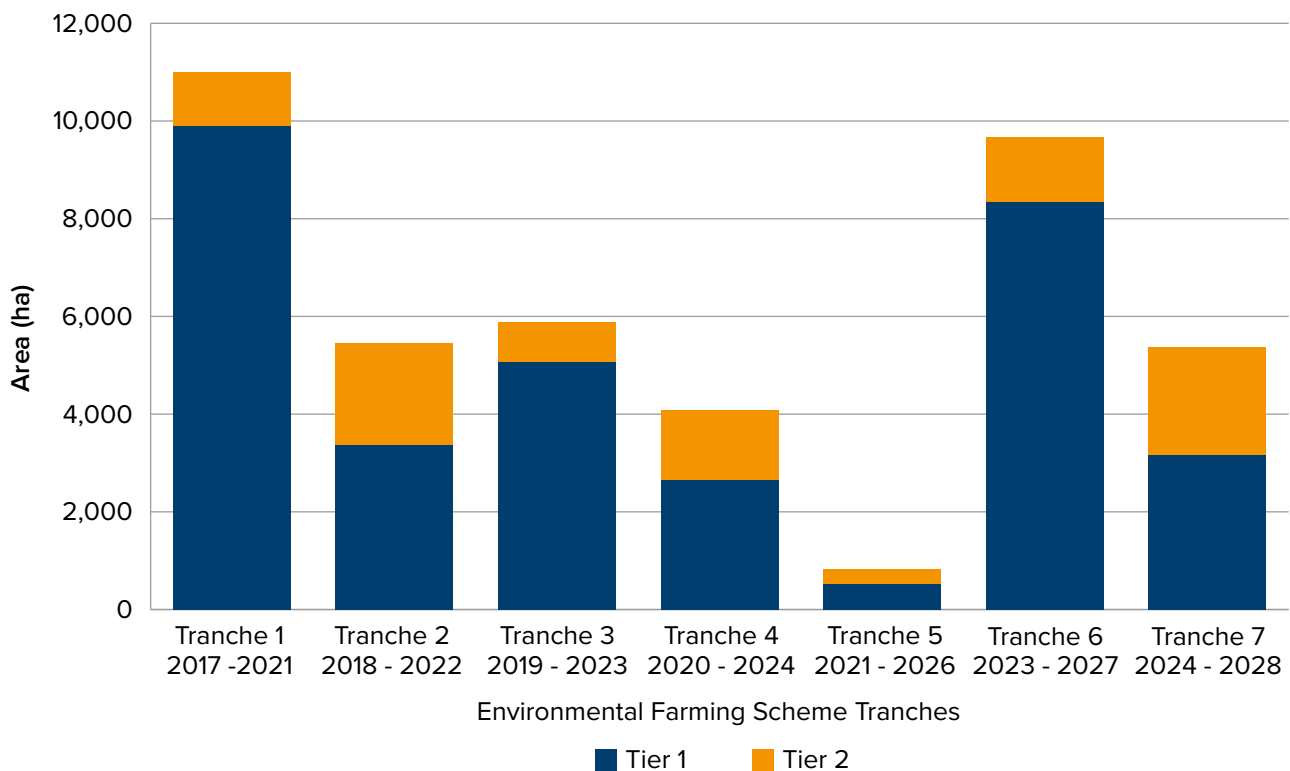


Figure 9. Variation among Tranches 1 to 7 in the areas of land entered into Tiers 1 and 2 of Environmental Farming Scheme Higher Level agreements. Tier 1 is for Special Areas of Conservation, Special Protection Areas, and Ramsar Sites. Tier 2 is for Areas of Special Scientific Interest with biological features. Tranches are five-year agreements, hence entries to the new Tranches 6 and 7 increase as earlier Tranches conclude.

Uptake of EFS Higher is patchy, with gaps in coverage of protected sites (Figure 10). The patchiness of EFS Higher coverage within protected sites is unsurprising given that it is voluntary for owners and occupiers to enter into the scheme.

Responsibility for recruitment to EFS Higher lies with DAERA, at least in so far as they are to achieve the objectives of protected sites. We understand that each tranche of EFS has been promoted in the press and on social media.⁴⁹⁵ DAERA also told us that it has applied prioritisation approaches to maximise the environmental benefit when EFS was over-subscribed, including prioritising based on whether the land was designated. However, we have not seen evidence of a strategic and proactive approach to maximising EFS coverage within eligible parts of protected sites and the surrounding areas. We would expect that a central component of such a strategy would be direct engagement with owners and occupiers inside and around protected sites to encourage them to apply for EFS where appropriate.

When addressing the issue of patchy coverage, stakeholders highlighted both the opportunities and limitations of group working, facilitated by EFS Group Level programmes. Bringing together farmers owning and occupying land in and around protected sites can bring significant benefits. So-called ‘farm clusters’ allow farmers in specific areas, such as in a river catchment, to work collaboratively to achieve greater environmental gains than

⁴⁹⁵ Written response to questions from DAERA to the OEP (16 January 2025).

would be possible if they were working alone. We understand that Group Schemes are considered an effective and more collaborative agri-environment model.⁴⁹⁶

EFS Group level programmes, can be entered into on any eligible land and do not need to be focused on improving the condition of protected sites.⁴⁹⁷ A key benefit is that farmers receive free-to-access third-party support and advice from knowledgeable, trusted advisors.⁴⁹⁸ This includes help with applying for and delivering agri-environment measures in protected sites, including solving problems when they arise.⁴⁹⁹ We heard that this support and advice would not be received outside Group programmes.⁵⁰⁰

We understand there are ten Group Level projects, delivered by four eNGOs currently in operation. These schemes are facilitated by third parties, all of which are eNGOs. Examples include Ulster Wildlife's EFS Group for flower-rich wet grasslands in the west of Fermanagh,⁵⁰¹ and RSPB NI's EFS Group for breeding waders in the Antrim Hills.⁵⁰² These facilitator organisations submit proposals based on criteria set by DAERA.⁵⁰³ The number and extent of these programmes reflects what proposals are submitted, the available budget and the resources of facilitators.⁵⁰⁴

We consider that EFS Group schemes and any other similar schemes under the forthcoming Farming with Nature Package will help with achieving the EIP protected site condition target. These should be fully supported and their successes should be celebrated. However, the quality of advice and support available to farmers within these schemes should be more widely available to owners and occupiers of protected sites and, where necessary, their surrounding areas.

In our view, the absence of land eligibility assessments and a strategic engagement plan, along with a lack of proactive engagement with owners and occupiers, hinders the uptake of EFS Higher agreements on protected sites. Resource limitations create an additional limitation to the delivery of agreements and increasing uptake.

496 Various site visits and discussion with the OEP and owners and occupiers (2024); call for evidence responses from RSPB NI to the OEP (21 April 2023); call for evidence responses from Ulster Wildlife to the OEP (19 April 2023). See also Ulster Wildlife, 'Farming for Nature's Recovery' (2024) <www.ulsterwildlife.org/farming> accessed 12 June 2024; RSPB Northern Ireland, 'Nature Friendly Farming Visit on the Antrim Hills' (21 April 2024) <www.rspb.org.uk/media-centre/nature-friendly-farming-visit-on-the-antrim-hills> accessed 17 January 2025.

497 Written response to questions from DAERA to the OEP (16 January 2025).

498 Various site visits and discussion with the OEP and owners and occupiers (2024).

499 See for example Ulster Wildlife (n 496).

500 Various site visits and discussion with the OEP and owners and occupiers (2024).

501 Ulster Wildlife (n 496).

502 RSPB, 'Conservation Helps Bring Curlews Back from the Brink' (20 November 2023) <<https://rspb.org.uk/media-centre/bring-curlews-back-from-the-brink>> accessed 25 June 2024.

503 Written response to questions from DAERA to the OEP (16 January 2025).

504 *ibid.*

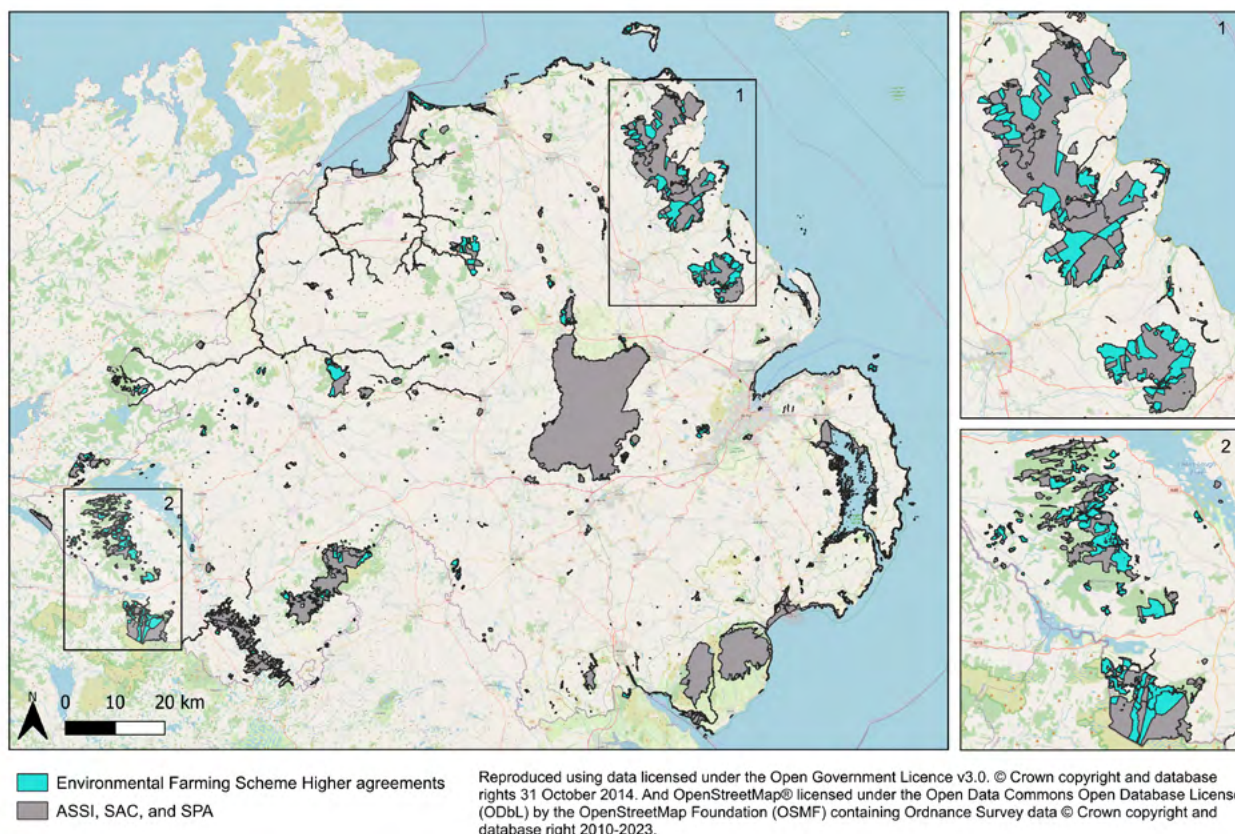


Figure 10. Distribution of land under Environmental Farming Scheme Higher Level agreements on protected sites in Northern Ireland. Protected sites are shown in grey and land under EFS Higher within these sites is shown in blue. Figure includes examples of variation in spatial distribution of uptake of Environmental Farming Scheme Higher Level agreements on protected sites in (1) the Antrim Hills, and (2) Fermanagh. Maps exclude EFS eligibility identification as DAERA has not conducted an assessment.

6.4.3 Flexibility to develop plans that will help achieve favourable condition

Site specific Remediation Plans (ssRMPs) are developed for protected sites under an EFS Higher agreement and include several components, such as an evaluation of the state of the site, such as its biodiversity.⁵⁰⁵ The plans contain an outline of the management options to bring the site under ‘favourable management’⁵⁰⁶ and to improve or maintain the wider environmental quality of the land. Prescribed actions, such as controlled grazing and interventions, are set out, along with a framework for monitoring and evaluating progress. Plans also describe what financial support is available to farmers for implementing these actions, including payments for non-productive investments like fencing or habitat restoration. Plans are quality assured by DAERA.⁵⁰⁷

505 DAERA, ‘EFS Planner Instructions’ (n 481).

506 We understand that the focus on what DAERA refers to as ‘favourable management’ accounts for the fact that favourable condition of features may not be achieved within the timeframe of the EFS agreement. Rather the appropriate management of sites through EFS should allow, or at least contribute, to a habitat moving towards favourable condition. Written response to questions from DAERA to the OEP (16 January 2025).

507 Written response to questions from DAERA to the OEP (16 January 2025).

Although EFS Higher agreements and the ssRMPs are developed for individual sites, the management activities from which EFS planners can prescribe are standardised across Northern Ireland. When developing ssRMPs prescriptions for farming practices and other action, planners refer to the EFS Options List for the relevant habitat.⁵⁰⁸ DAERA informed us that ssRMPs are created using the prescription to meet the needs of the site and the farm business.⁵⁰⁹ They added that this is developed with professional EFS planners and farm businesses. We understand that any action contrary to the prescriptions set out in an ssRMP could result in a violation of the EFS agreement, which could result in penalties such as the recovery of payments or the cancellation of the agreement.⁵¹⁰

The standardisation of options brings several benefits. For example, it ensures that management practices and related payments are consistent across agreements. It also helps to minimise the cost of administering the scheme and the time to finalise agreements. However, the specific environmental and agricultural circumstances of individual sites require flexibility in the development of ssRMPs. While standardised options provide a useful framework as a starting point and may be appropriate for some sites, it hinders the tailoring of management prescriptions to the sites that need a more bespoke approach.

The lack of adaptability within ssRMPs was raised with us by stakeholders.⁵¹¹ The standardised approach was described as a ‘one-size-fits-all’ system.⁵¹² This was considered to be particularly problematic in areas with high habitat heterogeneity within field boundaries, for example in Fermanagh.⁵¹³ Several environmental and farming stakeholders and an EFS planner suggested that the EFS Options List creates a limitation on EFS Higher agreements in delivering favourable management.⁵¹⁴

In some cases, this approach was considered by stakeholders to be a cause of unfavourable condition of protected features. This was observed during a site visit where scrub encroachment on upland heath is contributing to the unfavourable condition of the site’s feature. While there are options to control scattered scrub within EFS, the owner of the site told us that limitations placed on grazing in the EFS agreement constrained their effective management of encroachment. During this visit, EFS was described to us as being more restrictive in determining the management of land than the designation of the protected site on the land. Consequently, after being in agri-environment schemes for almost 40 years the site owners had chosen not to re-enter.⁵¹⁵

508 For the most up-to-date options, see Annex A in DAERA, ‘EFS Planner Instructions’ (n 481).

509 Written response to questions from DAERA to the OEP (3 March 2025).

510 See Appendix D DAERA, ‘Environmental Farming Scheme (EFS) Higher Level Terms and Conditions’ (2018) <[www.daera-ni.gov.uk/sites/default/files/publications/daera/EFS %28H%29 terms and conditions - Final Version 2 - December 2018.DOCX](http://www.daera-ni.gov.uk/sites/default/files/publications/daera/EFS%20H%29%20terms%20and%20conditions%20-%20Final%20Version%202%20-%20December%202018.DOCX)> accessed 12 March 2025.

511 Various site visits and discussions with the OEP and owners and occupiers (2024).

512 *ibid.*

513 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023); various site visits and discussions with the OEP and owners and occupiers (2024); meeting with NIAPA and the OEP (12 October 2023).

514 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023); various site visits and discussions with the OEP owners and occupiers (2024); written review from Expert Panel member.

515 Various site visits and discussions with the OEP and owners and occupiers (2024).

We also heard that the perceived limitations to develop bespoke plans reduces the autonomy of EFS planners and landowners or occupiers. We were informed that while NIEA may know the overall objectives for the protected sites, it is the owners and occupiers who know their land and the practical requirements of working with it.⁵¹⁶ The development of EFS agreements was subsequently characterised as negatively impacting relationships between owners and occupiers, planners, and DAERA/NIEA.⁵¹⁷

Stakeholders suggested that the lack of flexibility is not only caused by the need to select options from a standard list but also by the limited resources available to NIEA.⁵¹⁸ Creating bespoke schemes requires time, skills, expertise and administrative effort but this has been shown to yield better outcomes. Stakeholders frequently cited the Burren project in the Republic of Ireland, which is a focused conservation initiative that involves farmers, scientists and conservation experts working collaboratively, as a positive example of such co-design and implementation.⁵¹⁹

When we raised concerns with DAERA about the lack of flexibility within EFS Higher, we were informed that deviations from the standard EFS management options may be approved when required to meet the requirements of a protected site and when justified and supported by scientific evidence.⁵²⁰ The process for these deviations is set out in the EFS Planner Instructions.⁵²¹ DAERA added that this is also discussed each year in DAERA training for EFS planners.⁵²²

It is not clear how many such deviations have been approved because DAERA does not hold records of these.⁵²³ We heard from an individual familiar with the operation of EFS Higher that most planners avoid seeking deviations due to a perceived lack of flexibility to accommodate them. We expect that this is at least in part due to resource constraints within DAERA (see also Chapter 3). We were also told that although planner training is provided, it has been insufficient for enabling the development of bespoke plans, and that planners feel their primary duty is to align their plans with the EFS prescriptions Options List for sites and habitats. This often limits their ability to create tailored solutions that will help deliver favourable condition.

We consider there is both a need and an upcoming opportunity, with the development of a new agri-environment Scheme ('Farming with Nature'), to ensure that agri-environment agreements prescribe and incentivise the management that is needed to contribute to achieving favourable condition.

516 *ibid.*

517 Various site visits and discussions with the OEP and owners and occupiers (2024); written review from Expert Panel member.

518 *ibid.*

519 Burren Life Programme, 'Burren Programme' (2015) <<http://burrenprogramme.com/the-burren/>> accessed 15 June 2024.

520 Written response to questions from DAERA to the OEP (16 January 2025). We understand that accurate and complete in-field RCA evidence provided by the Planners along with supporting evidence is required to deviate from standard management (written response to questions from DAERA 3 March 2025). See also DAERA, 'Environmental Farming Scheme Higher Level Tranche 8 Applications' 21 <www.daera-ni.gov.uk/sites/default/files/publications/daera/EFS_Higher_-_Planner_Instructions_Tranche_8_-_June_2024.pdf> accessed 17 June 2024.

521 DAERA, 'EFS Planner Instructions' (n 481).

522 Written response to questions from DAERA to the OEP (16 January 2025).

523 Written response to written questions from DAERA to the OEP (3 March 2025).

6.4.4 Relationship between EFS Higher agreements and NIEA's protected site condition monitoring

We heard concerns that data from NIEA's common standards condition monitoring of protected sites are not used to identify or adjust EFS Higher management prescriptions.⁵²⁴ It was the perception of several owners, occupiers and other stakeholders that the connection between the EFS Higher agreement and protected site designation on the land was limited to a box that can be ticked on the application form. The purpose of which is simply to demonstrate that the land is designated as a protected site and therefore eligible for EFS Higher.⁵²⁵

We could find no advice on, or requirement to use, protected site monitoring data in the DAERA guidance for EFS Higher planners. The guidance directs them to DAERA's website, which contains details of why the site was designated, including its feature(s).⁵²⁶ The guidance states that "it is important to understand the feature(s) of each site, the conservation objectives and views about management when considering EFS management options".⁵²⁷

The guidance adds that "NIEA has a wide range of data for some of these areas (SACs and ASSIs) including habitat maps and habitat data points, and can provide detailed information to help support the completion of the ssRMP and application".⁵²⁸ The guidance further explains that "[h]abitat points from designated site (Biological ASSIs) habitat condition assessment data are available for most Tier 1 and Tier 2 land. The habitat points indicate the habitat type recorded in that specific location at the time of the survey and should be used as a guide for habitat allocation".⁵²⁹ It also provides a link to information about NIEA's conservation management plans for 40 SACs, which includes information on the pressures on these sites' features and the measures needed to address them.⁵³⁰

However, the guidance does not advise planners where they can access the latest protected site condition monitoring information.⁵³¹ The guidance does not state that this information should be set out in the ssRMP and used to determine management prescriptions. Extracts of example ssRMPs do not state the condition of the relevant protected site's features, only the "reason for designation", which appears to be the site feature(s).⁵³² The reference to SAC management plan information is helpful but there is no guidance on how planners are to use this information to inform ssRMPs.

524 Meeting with former NIEA staff member (March 2024).

525 Various site visits and discussions with the OEP and owners and occupiers (2024).

526 DAERA, 'EFS Planner Instructions' (n 481) 11.

527 *ibid.*

528 *ibid* 19.

529 *ibid* 13.

530 *ibid* 19.

531 It should be noted that DAERA has only published condition data in September 2024. Prior to this condition data for individual protected sites were not publicly available.

532 DAERA, 'EFS Planner Instructions' (n 481) 36 – 40; 97-100.

Guidance for EFS Planners states that rapid condition assessment (RCA)⁵³³ must be carried out within each field indicating the condition of the field.⁵³⁴ These results are interpreted against condition targets for each habitat type along with the protected site documentation, with management options selected to bring the field under management that will contribute to achieving favourable condition of the protected site.⁵³⁵

We understand that RCAs are undertaken at field and farm level and inform the ssRMP.⁵³⁶ RCAs may be valuable for protected sites that have not undergone a condition assessment in several years and may provide information at a more localised level. We also understand that they cover land beyond designated sites where condition data are unavailable.⁵³⁷ However, these RCAs do not appear to be a full substitute for drawing on existing protected site condition monitoring information.

We note that tools for carrying out RCAs are only provided for seven broad habitat groups.⁵³⁸ Considerations for breeding waders and marsh fritillary have been incorporated into those assessments.⁵³⁹ These assessments will not be suitable for all protected site features and are unlikely to be as detailed as the assessments carried out by NIEA. The absence of consideration of protected site condition data in the ssRMP development process risks inappropriate or ineffective management prescriptions.

We consider that the use of NIEA protected site condition monitoring is necessary to ensure that EFS Higher agreements can deliver the management required for all protected site habitat and species features. Furthermore, relevant guidance should more explicitly outline the connection between site features, their condition and management options.

A site owner provided us with a copy of an ssRMP as an example. On reviewing the plan we could see that it does not state the feature for which the site is designated and did not state the condition of the feature or outline the actions required for its restoration to favourable condition (its condition was unfavourable). This site is the only place on the island of Ireland where this feature occurs. We were not provided with other examples of ssRMPs. While this is only one plan, it raises concerns about the extent to which plans are designed to secure the right management for protected site features.

We consider that the condition of protected features, both habitats and species, should be a key consideration in the development of ssRMPs. We observed a lack of awareness of site condition from owners and occupiers that we engaged with through this project. This appears to be caused by the lack of communication and information sharing between NIEA and owners and occupiers (see also section 5.4). We heard that without understanding the condition of the site, the intended goals and necessary actions prescribed through the ssRMP are unclear.⁵⁴⁰ This appears to cause frustration, as owners and occupiers, despite their willingness, are unaware of whether the practices and interventions they are undertaking are effective. Including information drawn from site condition monitoring in

533 RCA is a method, developed by DAERA, to evaluate the “health” or condition of priority habitats in Northern Ireland. These assessments are designed to provide insights into the state of habitats like grasslands, moorlands, and coastal areas at a field and farm scale. They help identify key indicators of habitat quality, such as vegetation composition and environmental factors, to guide conservation efforts. See DAERA, ‘Northern Ireland Priority Habitat Rapid Condition Assessments’ <<https://www.daera-ni.gov.uk/articles/northern-ireland-priority-habitat-rapid-condition-assessments>> accessed 13 January 2025.

534 DAERA, ‘EFS Planner Instructions’ (n 481) 32,33.

535 Written response to questions from DAERA to the OEP (16 January 2025).

536 *ibid.*

537 Written response to questions from DAERA to the OEP (3 March 2025).

538 DAERA, ‘EFS Planner Instructions’ (n 481) 12.

539 *ibid.*

540 Meeting with NIAPA and the OEP (12 October 2023).

ssRMPs and ensuring this is built into the design of future agri-environment schemes would provide crucial contextual information and clarify the purpose of EFS Higher activities to owners and occupiers.

DAERA told us that the protection of site's features is central to the management of these sites.⁵⁴¹ However, it added that protected site condition assessment data are not readily available.⁵⁴² This appears to explain why a combination of in-field rapid condition assessment data and the professional judgement of the EFS Planners have been used to develop ssRMPs. As we state in Chapter 5, protected site monitoring is of little value unless it is put to practical purpose. In our view, information from condition assessments should be readily available within and beyond DAERA so that it can be put to use. In this case, the data could help to inform high-quality ssRMPs that secure the management that protected site features need to achieve favourable condition. These data should be utilised alongside rapid condition assessments and Planners' judgment.

6.4.5 EFS Higher agreement payments and duration

The level of support provided through EFS Higher should make entering into the agreement appealing for owners and occupiers.⁵⁴³ We heard concerns from protected site owners and occupiers that the financial support provided through EFS Higher is insufficient to encourage participation in the scheme and to fund the required management.⁵⁴⁴ We observed that this appears to be hindering the development of positive relationships between DAERA/NIEA and the owners and occupiers. It could also lead to resistance to the designation of new protected sites as the burdens that accompany designation may be viewed as outweighing the value of EFS support.

We understand that the payment rates for EFS are based on income foregone for producing an environmental benefit.⁵⁴⁵ Payments made in Tranches 1–5 covered 30% of costs.⁵⁴⁶ Starting from Tranche 6, payment rates were updated to cover a greater proportion of the (actual or standard) costs,⁵⁴⁷ depending on the specific management options selected.⁵⁴⁸ We were told these payments do not fully account for inflation.⁵⁴⁹ We heard from owners and occupiers that, as a result of this, EFS is considered as creating a financial risk.⁵⁵⁰ Our discussions with upland stakeholders highlighted this as a disproportionately significant risk for farming in marginal areas.⁵⁵¹

541 Written response to questions from DAERA to the OEP (3 March 2025).

542 *ibid.*

543 Joseph J Bailey and others, 'Protected Areas and Nature Recovery. Achieving the Goal to Protect 30% of UK Land and Seas for Nature by 2030' (British Ecological Society 2022) <www.britishecologicalsociety.org/wp-content/uploads/2022/04/BES_Protected_Areas_Report.pdf> accessed 20 June 2024.

544 Various site visits and discussions with the OEP and owners and occupiers (2024).

545 DAERA, 'Rural Development Programme (Regional) - Northern Ireland' 121 <www.daera-ni.gov.uk/sites/default/files/publications/daera/Programme_2014UK06RDRP002_10_0.pdf> accessed 20 June 2024.

546 Bealey, Norton and Wagner (n 396) 25.

547 Actual costs refers to actual expenditure made to purchase an item or service. In some cases, it will include construction and/ or installation of a capital item to a certain specification. Standard costs refers to a predetermined fixed rate set by the scheme for specific capital items or management practices. Costs – actual or standard – are option dependent. See, for example, DAERA, 'Environmental Farming Scheme (Higher/Group Level) Advice Note 17/02 - EFS Actual Cost Items' (2017) <www.daera-ni.gov.uk/publications/environmental-farming-scheme-higher-group-level-advice-note-1702-efs-actual-cost-items> accessed 12 March 2024; DAERA, 'Environmental Farming Scheme (EFS) Higher Level Terms and Conditions' (n 510); DAERA, 'Environmental Farming Scheme (EFS) - Higher Level' (n 477).

548 Written response to questions from DAERA to the OEP (16 January 2025).

549 Various site visits and discussions with the OEP and owners and occupiers (2024).

550 *ibid.*

551 Various site visits and discussions with the OEP and owners and occupiers (2024); meeting with NIAPA and the OEP (12 October 2023).

The tiering of payments by area was identified by owners, occupiers and both environmental and farming stakeholder groups as a financial disincentive to entry into agri-environment schemes.⁵⁵² EFS options involve a sliding scale of payment rates that reduce as land area increases. For example, the moorland payment rate for 0-50 hectares is £40 per hectare, reducing to £20 for 50.01–100 hectares, and to £10 for over 100.01 hectares.⁵⁵³ Stakeholders told us that this approach does not adequately compensate for the services and benefits provided by large sites. We heard that owners and occupiers of a large blanket bog SAC chose not to renew their agreements because the effort required was not justified by the financial return.

We also heard concerns about the duration of EFS Higher agreements. Whilst previous agri-environment schemes lasted up to 10 years, EFS agreements are just for five years, with works needing to be completed within the first year of the agreement. Those involved in managing protected sites widely agreed that a five-year duration is insufficient, for three reasons.⁵⁵⁴

First, a five-year duration is not consistent with timeframes for the ecological recovery of habitats and species. Features often require much longer to respond to management practices and to eventually reach favourable condition subject to the other pressures affecting them.

Second, this timeframe creates challenges in balancing ecological needs with farm business models. We heard from owners and occupiers, who were participating in EFS agreements, that the five-year duration does not sufficiently accommodate year-to-year variations in farming practices. For example, grazing practices may need to vary during an agreement because of weather patterns. Wet ground poses animal welfare and safety risks around grazing.⁵⁵⁵ Stakeholders also told us that the requirement to complete all capital works within the first year is a limitation of the scheme.⁵⁵⁶ This appears to result in agreements being cancelled as agreement holders do not complete capital works required and withdraw from the scheme.⁵⁵⁷

Third, the need to re-apply every five years for a new agreement creates a resource burden on owners and occupiers. Reflecting on this, owners and occupiers noted that without the support of third parties, including planners and eNGOs, they would be unwilling to apply, due to limited financial support received through EFS.⁵⁵⁸

Studies indicate that landowners or occupiers are less likely to engage in a scheme if they do not have confidence that it will be long-lasting.⁵⁵⁹ Given that some protected sites are likely to take at least a decade to be restored to favourable condition, longevity is an essential component of an effective agri-environment scheme.⁵⁶⁰ Longevity should, however, be balanced by ensuring management activities can be adapted when necessary. This can be done by ensuring that long-term agreements can be refined based on a process of continuous review of their effectiveness in supporting favourable site condition.

552 Various site visits and discussions with the OEP and owners and occupiers (2024).

553 DAERA, 'Guide to the Environmental Farming Scheme for Agreements Commencing 01 Jan 2024' (2023) <www.daera-ni.gov.uk/publications/guide-environmental-farming-scheme-agreements-commencing-01-jan-2024> accessed 13 March 2025.

554 Various site visits and discussions with the OEP and owners and occupiers (2024).

555 *ibid.*

556 *ibid.*

557 Written response to information request from NIEA to the OEP (20 March 2024).

558 Various site visits and discussions with the OEP and owners and occupiers (2024).

559 Hawkins and others (n 437) 50.

560 Natural England, 'Protecting England's Natural Treasures, Sites of Special Scientific Interest' (n 129); Hawkins and others (n 437) 21.

6.4.6 Using EFS agreements to address offsite pressures on protected sites

Ensuring that eligible land surrounding protected sites is entered into appropriate EFS agreements is an important tool to address offsite pressures on those sites. EFS promotes better environmental practices, for example improving water quality, reducing soil erosion and enhancing biodiversity. This can make a significant contribution to achieving favourable condition on nearby protected sites. DAERA drew our attention to EFS Wider Level riparian options that have been shown to reduce phosphorus inputs,⁵⁶¹ a key pressure affecting biodiversity in Northern Ireland.⁵⁶²

We consider that EFS could be used more effectively to address off-site pressures. Existing management options within EFS Higher and Wider levels focus on enhancing the management of the land that has been entered into the scheme. They do not specify how these management choices can address offsite pressures on other areas of land. We could find no details of how EFS agreements are being developed to address specific offsite pressures on protected sites, for example that have been identified in site condition assessments or SAC conservation management plans.

The ssRMPs within EFS agreements are not required to identify or remedy off-site pressures. Guidance for EFS Higher planners does not refer to the need to address offsite pressures on protected sites.⁵⁶³ If such pressures are not identified in the ssRMP, there is no mechanism through the current agri-environment schemes to identify and prescribe options for mitigating offsite pressures on protected sites. There are also no options within EFS to incentivise actions within buffer areas adjoining the site.

We consider that more consideration should be given in the targeting, development and monitoring of agri-environment schemes to the need to address offsite pressures that are causing unfavourable protected site condition.

6.4.7 Data on habitats and species, and on the effectiveness of EFS

EFS Higher agreements are targeted and developed based on 33 mapped layers of information. These layers categorise every field in Northern Ireland and are used to inform the selection of management prescriptions. These layers will indicate, for example, whether there is a protected site on the land and whether certain habitats or species may be present. NIEA told us that “not all priority habitats and areas for species have been mapped – NIEA continues to update priority habitat layers for EFS when new data become available”.⁵⁶⁴

We were informed that the absence of comprehensive and up-to-date priority habitat layers negatively impacts EFS agreements and related ssRMPs.⁵⁶⁵ For example, the datasets are not complete for five terrestrial priority habitats (peatland, heathland, grassland, fens and woodlands).⁵⁶⁶ While there is an understanding of the key habitats and species that are present on protected sites, these data gaps mean that there is incomplete information about land in Tier 3 of EFS Higher (priority habitats and species areas outside protected

561 Scott and others (n 435).

562 Office for Environmental Protection, ‘Drivers and Pressures Affecting Terrestrial and Freshwater Biodiversity in Northern Ireland’ (n 68).

563 DAERA, ‘EFS Planner Instructions’ (n 481).

564 Written response to questions from DAERA to the OEP (16 January 2025).

565 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

566 DAERA, ‘Northern Ireland Natural Environment Mapviewer Catalogue’ (2022) <<https://gis.daera-ni.gov.uk/arcgis/sharing/rest/content/items/327ada3c3b2a4dcb83d9353a06d4954d/data>> accessed 13 March 2025.

sites). This could hinder work to ensure that appropriate management is put in place on land surrounding protected sites and, in doing so, to address offsite impacts on sites. DAERA told us that it relies on the professional EFS Planner to ensure that all appropriate habitat management actions are identified.⁵⁶⁷

Another area where data appear to be lacking is evidence of the effectiveness of EFS Higher in delivering the appropriate management of protected sites. We could not find an assessment – either the level of an individual protected site or across all protected sites – of whether ssRMPs are delivering favourable management or condition. Understanding how effective this scheme has been for protected site objectives would inform the future development of the scheme and of the forthcoming Farming with Nature scheme. DAERA told us that the effectiveness of EFS is currently being assessed in detail and the results will be shared with Farming with Nature development teams. This is an opportunity to consider the effectiveness of EFS in delivering positive protected site management and to identify how Farming with Nature can build on successes and addresses weaknesses.

We understand that the EFS Monitoring Evaluation Framework was introduced in 2017 and includes a work package dedicated to ASSI data.⁵⁶⁸ It places greater emphasis on protected sites than previous monitoring frameworks, incorporating evaluations at both the programme's outset and its conclusion. However, as this new methodology has only recently been introduced, it is difficult to determine, at this stage, the effectiveness of EFS Higher in contributing to the favourable condition of protected sites. Any EFS monitoring programme will need to draw on and be supported by an improved programme of condition monitoring (see Chapter 5).

In our view, enhancing the data used to develop and assess management prescriptions through agri-environment schemes should enable more targeted actions, necessary management adaptations, and acknowledgement of accomplishments.

6.5 Management agreements

DAERA has statutory powers to enter into management agreements with owners and occupiers of ASSIs,⁵⁶⁹ SACs and SPAs⁵⁷⁰ to secure the management of the site (see Section 6.5.1). DAERA can also enter into management agreements on land adjacent to or outside of protected sites, where the purpose is to ensure that the land is managed to conserve or enhance the feature(s) of the protected site (see Section 6.5.2).⁵⁷¹ We understand that these powers are exercised by NIEA as an executive agency of DAERA.⁵⁷²

These agreements, and related financial support, are used for the purposes of conserving or enhancing the condition of the protected features, and can impose restrictions on the use of land.⁵⁷³

567 Written response to questions from DAERA to the OEP (3 March 2025).

568 Written response from DAERA to the OEP (10 June 2024).

569 Art 34, Environment Order.

570 Reg 13, Habitats Regulations.

571 The power to enter an agreement on adjacent land is provided for ASSIs by Article 43 of the Environment Order 2002. For SPAs and SACs, this is included within Regulation 13 of the Habitats Regulations.

572 Call for evidence response from NIEA to the OEP (14 June 2023).

573 *ibid.*

We found that management agreements are used where land in a protected site is not eligible for agri-environment schemes. This might be because an ASSI contains only earth science features, or where the land is not owned by a farm business or is less than 3 ha.⁵⁷⁴ We understand that no assessment has been made of land that may need a management agreement because it is ineligible for entry into an agri-environment scheme.⁵⁷⁵

NIEA told us that it has entered into a variety of different types of management agreements. For example we understand that one agreement was established for a parcel of land (Moss Bay) within the Lough Neagh and Lough Beg SPA, for a period of 25 years (1999–2024). This included an annual sum paid for complying with the terms of the agreement. We could not find any assessment of the effectiveness of this agreement.

The power to enter into management agreements⁵⁷⁶ has been mainly delivered through NIEA's Management of Sensitive Sites (MOSS) programme. The type of MOSS agreement is dependent on the specific needs of the site and the availability of funding.⁵⁷⁷ These include agreements related to woodland management, rights to cut or carry peat, and agreements only covering capital works.⁵⁷⁸ MOSS agreements are intended to be tailored to the specific management that is required to conserve and enhance the site's features and to achieve the conservation objectives of the site.⁵⁷⁹

Between 2003 and 2007, the number of management agreements increased from 3 to 106. The number of agreements declined after 2007. By 2023 there were no agreements in place.⁵⁸⁰ In 2023 NIEA informed us that since 2003 it had “drawn up and managed a total of 188 5-year MOSS agreements, covering 6,168 hectares. All agreements have expired”.⁵⁸¹ It added that “this remains an important mechanism for ASSI restoration and management, should resources and funding allow”.

This appears to be another consequence of the “the insufficient resources and capacity within NIEA to fully implement the legislative requirements to protect and restore protected sites”.⁵⁸² NIEA provided us with information showing a significant reduction in the funding that was available for the MOSS programme, from a peak in 2009/10.⁵⁸³ A much-reduced budget for entering into MOSS agreements remained in place in 2023 but NIEA told us that “due to resourcing constraints, there was no spend”.⁵⁸⁴ This suggests that there is a shortfall not only in the budget allocated to be spent on agreements but also in the staff resource that is required to administer the programme.

NIEA has subsequently informed us that the MOSS programme has recently been re-started but at a much-reduced scale and with funding only for one-year agreements. We were told that new “agreements are being progressed, which if fully delivered will bring two ASSI Woodlands towards Favourable Condition in 2024/25 financial year”.⁵⁸⁵ NIEA added that management agreements have been used “only on a limited basis in recent years on a risk

574 Written response to information request from NIEA to the OEP (20 March 2024); written response to questions from DAERA to the OEP (16 January 2025).

575 Written response to information request from NIEA to the OEP (20 March 2024).

576 Art 34 of the Environment Order.

577 Written response to questions from DAERA to the OEP (16 January 2025).

578 Written response to information request from NIEA to the OEP (17 September 2024).

579 Call for evidence response from NIEA to the OEP (14 June 2023); Bealey, Norton and Wagner (n 396).

580 Written response to information request from NIEA to the OEP (20 March 2024).

581 Call for evidence response from NIEA to the OEP (14 June 2023).

582 *ibid.*

583 Written response to information request from NIEA to the OEP (20 March 2024).

584 Written response to information request from NIEA to the OEP (9 July 2024).

585 Written response to questions from DAERA to the OEP (16 January 2025).

basis for those ASSI features at greatest risk and where there is no other mechanism in place”.

Management agreements are an important tool to secure the appropriate management of sites that are not eligible for agri-environment schemes. They will need to be used much more widely if DAERA is to achieve its EIP protected site condition target. Without these agreements being in place, owners and occupiers who are not eligible for agri-environment schemes would presumably be required to finance management activities themselves to conserve and enhance protected features without proactive advice from NIEA. This presents a significant barrier for both the owner and occupier, as well as NIEA, in achieving favourable site condition.

There is evidence that suggests MOSS agreements have been effective. We were provided with an unpublished, independent assessment from 2018 of 18 MOSS agreements.⁵⁸⁶ This assessment concluded that MOSS agreements have several benefits. They enable targeted, specialist work and are particularly suited to funding the management of coastal areas and lowland raised bogs. They allow for more collaboration and negotiation between owners or occupiers and government. The assessment also found that they fully cover capital costs and offer value for money.⁵⁸⁷ 14 of the 18 agreements assessed were judged to have been successful, or partly successful, in supporting the conservation and enhancement of the ASSI features. While this assessment only included a sample of agreements, these findings are encouraging and, in our view, lend weight to the case for scaling up the MOSS programme. In doing so, we have identified three areas where we consider that improvements are needed.

First, in our view, the current short-term duration of MOSS agreements impedes their ability to secure favourable site condition. We understand that agreements prior to 2015 lasted for a minimum of five years.⁵⁸⁸ However, after 2016, DAERA moved to a zero-annual budgeting, which restricted MOSS agreements to in-year work. This was because agreements could not be entered into when payment in subsequent years cannot be guaranteed. As a consequence, more recent agreements have lasted only one year.⁵⁸⁹ This will not secure the several years of continuous management that will in many cases be needed to see positive changes in site condition. It will limit the ability for NIEA to monitor, assess and adapt the agreement where necessary over the course of several years to achieve the desired results. It also deprives NIEA of the ability to develop a long-term, positive relationship with the site’s owners and occupiers and the provision of advice to support their management.

The legal powers to enter into management agreements are broad and do not, for example, limit the duration of such agreements. It appears that the limited duration is solely the result of resource planning. Whilst it is not for us to determine a suitable timeframe for these agreements, we consider that between one and five years may support the delivery of some capital works but is unlikely to be long enough to secure the long-term management that is needed to achieve favourable site condition.

586 Bealey, Norton and Wagner (n 396).

587 *ibid*.

588 Written response to questions from DAERA to the OEP (16 January 2025).

589 Written response to information request from NIEA to the OEP (20 March 2024); written response to questions from DAERA to the OEP (16 January 2025).

Second, the 2018 assessment concluded that NIEA's protected site monitoring programme hindered the development and evaluation of MOSS agreements.⁵⁹⁰ For example, there was no site condition monitoring undertaken within the land covered by some of the agreements that were assessed. NIEA informed us that "agreements are based on ecological assessment by Departmental scientists, who determine the required management".⁵⁹¹ We consider that increasing the scale of the site monitoring programme so that it can support the development, evaluation and adaptation of management agreements would result in better designed and implemented agreements that are more likely to achieve favourable site condition. We address the frequency of protected site monitoring in Chapter 5.

Third, NIEA informed us that no management agreements have been entered into with owners or occupiers of land outside a protected site.⁵⁹² This is despite the legislation expressly allowing for this.⁵⁹³

The conservation and enhancement of protected site features requires consideration of, and action addressing, pressures stemming from the wider landscape. At the time of designation, Conservation Objectives are developed for ASSIs, SPAs, and SACs which include a description of off-site pressures. Pressures include pollution⁵⁹⁴ (for example nitrogen deposition),⁵⁹⁵ changes caused by climate change, deer encroachment,⁵⁹⁶ or the use of adjoining land (for example forestry).⁵⁹⁷ Addressing these pressures may require changes to how land is managed outside protected sites.⁵⁹⁸

NIEA told us that resource constraints have impacted work within protected sites and "this is compounded when considering factors outwith the site boundary".⁵⁹⁹ It added that "due to the lack of multi-year budget settlements, there have been ongoing challenges developing and facilitating multi-year management agreements".

Northern Ireland's natural environment is subject to sustained pressures, including those from the surrounding landscapes and global-scale change.⁶⁰⁰ Given off-site pressures are known for individual sites, for example documented within conservation objectives and SAC conservation management plans,⁶⁰¹ we consider that much greater action is necessary. This should include, where appropriate, using the powers provided by the Environment Order and the Habitats Regulations to enter into management agreements outwith the site.

590 Bealey, Norton and Wagner (n 396).

591 Written response to questions from DAERA to the OEP (16 January 2025).

592 Written response to information request from NIEA to the OEP (20 March 2024).

593 The power to enter an agreement on adjacent land is provided for ASSIs by Article 43 of the Environment Order 2002. For SPAs and SACs, this is included within Regulation 13 of the Habitats Regulations.

594 Call for evidence response from NIEA to the OEP (14 June 2023).

595 NIEA, 'The Condition of Northern Ireland's Areas of Special Scientific Interest: The Results of the First Condition Assessment Monitoring Cycle 2002-2008:' (n 63) 17; DAERA, 'Future Operational Protocol to Assess the Impacts of Air Pollution on the Natural Environment - A Call for Evidence' (2023) 10–13 <www.daera-ni.gov.uk/consultations/future-operational-protocol-assess-impacts-air-pollution-natural-environment-call-evidence> accessed 14 March 2025.

596 Various site visits and discussions with the OEP and owners and occupiers (2024).

597 *ibid.*

598 Hawkins and others (n 437).

599 Written response to information request from NIEA to the OEP (9 July 2024).

600 Office for Environmental Protection, 'Drivers and Pressures Affecting Terrestrial and Freshwater Biodiversity in Northern Ireland' (n 68).

601 Via a written response to information request from NIEA to the OEP (9 July 2024), NIEA told us that Conservation Objectives require updating but no funding or resources have been allocated to this. DAERA confirmed that NIEA has updated the Conservation Objectives for six freshwater / riverine SACs including the Cladagh (Swanlinbar) River SAC, Owenkillev SAC, River Faughan & Tributaries SAC, River Foyle & Tributaries SAC, River Roe & Tributaries SAC, and the Upper Ballinderry River SAC (written response to questions from DAERA to the OEP (16 January 2025)). NIEA also told us, through a written response to information request from NIEA to the OEP (9 July 2024), that there has been no specific target, driver, or dedicated resource to publish conservation objectives for all ASSIs.

6.6 In-Perpetuity Agreements

Under powers in legislation that has now been repealed,⁶⁰² the Environment and Heritage Service (EHS) entered into management agreements with protected site owners and occupiers referred to as In-Perpetuity Agreements (IPAs). These were one-off payments to landowners for carrying out specific management practices, or for stopping damaging activities.⁶⁰³ The rate of payment was determined on a site-by-site basis.

There are currently 260 IPAs across 60 ASSIs,⁶⁰⁴ some of which have been in place for over 30 years. NIEA told us that their records indicate that the total area of ASSIs covered by IPAs is 2,006 hectares, which is approximately 1.8% of the land area of ASSIs.⁶⁰⁵ NIEA largely stopped using IPAs following the Environment Order, with the last IPA being signed in 2011.⁶⁰⁶

We understand that some sites were selected for entry into an IPA to end harmful activities.⁶⁰⁷ For example, we heard that they were used to restrict slurry spreading across different locations in Fermanagh.⁶⁰⁸

IPAs largely set out activities that should be restricted on a site, for example changing the grazing regime. This would have been necessary between up to 2002 as at this time there was no legal requirement to obtain consent to carry out activities that were potentially harmful to the site's features. The Environment Order created such a requirement, which means that where IPAs only seek to prevent potentially harmful activities and where these are now listed as 'notifiable operations' (and so require DAERA's consent), they are unlikely to be serving a useful purpose.

Of more concern is the fact that the presence of an IPA on land prevents owners and occupiers entering EFS or management agreements.⁶⁰⁹ EFS funding cannot be used to support actions already being funded on the same land area under another agreement such as an IPA. This is known as double-funding.⁶¹⁰

As part of this project we visited a site on which an IPA was in place. The owner, who acquired the land within the past decade, expressed frustration over the restrictions imposed by the IPA, to which they had not initially been a party.⁶¹¹ The current owner did not receive any benefit from the initial payment and is prevented from receiving any other financial support through a management agreement or agri-environment scheme.⁶¹²

602 Art 24(8)(a), Nature Conservation and Amenity Lands Order 1985.

603 Call for evidence response from NIEA to the OEP (14 June 2023).

604 Call for evidence response from NIEA to the OEP (14 June 2023); written response to questions from DAERA to the OEP (16 January 2025).

605 Written response to information request from NIEA to the OEP (9 July 2024); written response to questions from DAERA to the OEP (16 January 2025).

606 Written response to questions from DAERA to the OEP (16 January 2025).

607 Call for evidence response from NIEA to the OEP (14 June 2023).

608 Various site visits and discussions with the OEP and owners and occupiers (2024).

609 Call for evidence response from NIEA to the OEP (14 June 2023); written response to information request from NIEA to the OEP (9 July 2024).

610 Written response to information request from NIEA to the OEP (9 July 2024).

611 Various site visits and discussions with the OEP and owners and occupiers (2024).

612 *ibid.*

We understand that the compensation provided through an IPA was significant at the time of their establishment. However, changes in ownership, inflation, and the costs associated with changing practices mean that these one-time payments are unlikely in many cases to provide sufficient ongoing funds for site management. We expect that some of the land currently under IPAs will require new funding to support appropriate management but the presence of an IPA will prevent this.

NIEA told us that a review of nine EFS Higher applications that had IPAs was undertaken in 2018.⁶¹³ Following this review and specific legal advice, at least one IPA was quashed and was allowed to enter EFS the following year.⁶¹⁴

NIEA acknowledges that many IPAs are no longer delivering the environmental outcomes required for the protected sites.⁶¹⁵ The agency appears to have made little progress on carrying out a review of all IPAs or on bringing other IPAs to an end where necessary. NIEA told EFS applicants on land that was subject to an IPA that it has started a review of IPAs but “due to the large number within NI this will require a substantial resource and will also require legal input”.⁶¹⁶ It added that “we are uncertain of the timeframe at this stage due to the extent of the work”.⁶¹⁷

The continuing presence of IPAs is impeding the entry of some sites into agri-environment schemes. Such schemes may be needed to fund management to conserve and enhance the sites’ features. We note NIEA’s intention to carry out a review of IPAs and the significant resource this will require. In our view such a review should be carried out as part of a broader delivery plan to achieve the EIP target for improving protected site condition. It should be given an appropriate level of priority depending on the contribution it would make to meeting that target.

613 Written response to information request from NIEA to the OEP (20 March 2024).

614 *ibid.*

615 Call for evidence response from NIEA to the OEP (14 June 2023).

616 Written response to information request from NIEA to the OEP (20 March 2024).

617 *ibid.*

Chapter 7. Regulatory tools and enforcement



Chapter 7. Regulatory tools and enforcement

7.1 Overview

In this chapter, we look at the effectiveness of regulatory tools and at the enforcement regime through which DAERA can regulate harmful operations and mandate positive management of protected sites. We have assessed the consenting and assenting regime, which is the primary legal mechanism for preventing harmful activities on protected sites. We also examine compliance monitoring and enforcement undertaken by NIEA, including the number and nature of actions taken in response to non-compliance. Lastly, we consider the use of management notices to compel management on protected sites.

We found that:

- Owners and occupiers of protected sites are often unfamiliar with, and sometimes disengaged from, the requirements of the consenting regime to which they are subject. This could lead to damaging activities being carried out on sites.
- There is a lack of knowledge of the consequences of non-compliance, as there is no register of protected site offences and corresponding enforcement action. Filling this gap offers an opportunity to create a deterrent effect.
- The frequency with which NIEA carries out compliance monitoring has dropped, making it harder to detect non-compliance.
- Where non-compliance is detected, NIEA prefers to resolve this consensually, for example by entering into a restoration agreement with the offender. This approach is intended to build effective working relationships with landowners and occupiers. While this is a sound basis for effective regulation, sometimes enforcement will be necessary. Of the approximately 2,000 compliance investigations that have been undertaken under Article 46 of the Environment Order since 2003, only five prosecutions have been brought for protected site offences under that Environment Order. The scarcity of prosecutions is unlikely to deter offences.
- Enforcement of protected site laws in Northern Ireland could be improved through the use of civil sanctions which are currently not available to NIEA.
- NIEA has not issued a statutory management notice to mandate the appropriate management of protected sites, even where voluntary measures may be failing to achieve positive outcomes.

An effective regulatory and enforcement regime underpins the purpose and operation of the protected site laws. This should include active monitoring of compliance with protected site laws, prompt action, and use of a range of regulatory approaches and tools, to deter and address non-compliance and secure positive management. Regulatory tools should include civil as well as criminal sanctions.

To achieve this we make the following recommendations:

Recommendation 13: DAERA should:

- a) develop and publish more detailed guidance on consenting obligations and processes for landowners and occupiers, as well as ensuring access to support and advice;
- b) address unlawful and inadequate activities by owners, occupiers and other relevant persons by increasing monitoring to identify non-compliance, using management notices when voluntary agreements are not complied with or cannot be entered into, and taking appropriate enforcement action in response to non-compliance; and
- c) produce and publish records of enforcement action.

The above recommendation is mostly intended to improve understanding of and compliance with protected site laws. Our recommendation regarding the use of management notices is intended to support efforts by NIEA to ensure that sites are well-managed where voluntary approaches have failed.

Recommendation 14: DAERA should consider proposing legislation to the Assembly that would, if adopted, make civil sanctions available to NIEA as an enforcement option for protected sites offences.

We consider that the introduction of civil sanctions merits consideration in Northern Ireland. This would fill a gap in the regulatory toolkit. While this report notes the case for such an approach in the specific area of protected sites, we note the potential for this issue to be considered across Northern Ireland environmental law more broadly.

Because the environment is a devolved matter, the Northern Ireland Assembly would need to enact its own legislation to create civil sanctions powers. We recommend that DAERA considers proposing similar legislative provisions to those found in the Regulatory Enforcement and Sanctions Act 2008 and its secondary legislation, the Environmental Civil Sanctions (England) Order 2010, to enable civil sanctions to be used in respect of protected sites offences under the Environment Order and the Habitats Regulations.

7.2 Introduction to regulatory tools and enforcement

By regulatory tools, we mean the measures or obligations that exist in legislation, which regulators can use to deliver a particular outcome. A range of regulatory tools exist to intervene in activities in and around protected sites. At one end there are voluntary mechanisms (Chapter 6), though the tools we address in this chapter are those that impose obligations or prohibit certain activities, and the enforcement of such obligations and restrictions.

Regulatory tools to control activities that could damage protected sites in Northern Ireland are provided through two main pieces of legislation, namely the Environment Order and

the Habitats Regulations.⁶¹⁸ These tools – which include assent and consent, compulsory purchase, enforcement (in respect of consenting obligations and damage and destruction of an ASSI), and management notices⁶¹⁹ – seek to protect sites from damaging operations, and secure better management by owners and occupiers. These tools are available to DAERA (in practice implemented by NIEA), and they are assessed within the following sections.

7.3 The consenting and assenting regimes

It is unlawful to carry out harmful activities (known as ‘notifiable operations’) in an ASSI, unless special consent⁶²⁰ or assent⁶²¹ has been granted by the regulator.⁶²² Notifiable operations are those that are listed within the ASSI declaration, that appear to NIEA to be likely to damage the flora and fauna of the protected site (for example Box 12).

If private owners or occupiers of an ASSI wish to carry out a notifiable operation they must follow the process set out in Article 32 of the Environment Order. The owners or occupiers must give NIEA notice of a proposal to carry out the operation. The operation can then be carried out only if NIEA grants consent (which can be granted subject to conditions), or if the operation is carried out in accordance with the terms of a management agreement or under a management notice. If NIEA neither gives consent, nor refuses it within three months of receiving the proposal, then the owners or occupiers should treat NIEA as having refused consent. The owners or occupiers can choose to appeal the refusal within a limited period.⁶²³

The regime applies differently when operations likely to damage ASSIs are proposed by a public body. A public body has a general duty, under Article 38 of the Environment Order, to take reasonable steps to further the conservation and enhancement of ASSIs. In addition, if a public body intends to carry out operations likely to damage an ASSI – whether or not such operations take place in the ASSI – it must give NIEA notice of this.⁶²⁴ NIEA can then choose to give or decline assent to the proposed operations. If NIEA does not assent to the operations, the public body may nevertheless proceed, provided it complies with conditions and requirements set out in the Environment Order.⁶²⁵

618 Our focus is on regulatory tools and enforcement powers within legislation specific to protected sites. Legislation such as the Wildlife (Northern Ireland) Order 1985, which deals with wildlife crime, or legislation dealing more broadly with environmental damage, such as the Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009, is not within the scope of this project. Nor will we consider the legal regimes for assessing the environmental effects of proposed development (namely Environmental Impact Assessment, Strategic Environmental Assessment and Habitats Regulations Assessment), as these are the subject of other OEP work which is available on our website.

619 Terms are summarised in the Report Glossary.

620 Art 32, Environment Order.

621 Arts 32 and 39, Environment Order.

622 Prior to the Environment Order 2002, under the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985, the consenting regime was weak. In evidence to the Committee for the Environment in 2002, a representative of DoE explained that the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 regime allowed landowners or occupiers simply to wait for a period of three months (extendable by six months by the Department) before undertaking an activity or operation likely to damage the ASSI features. There was no power within the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 to refuse applications for operations likely to damage ASSIs. See: Committee for the Environment, ‘Areas of Special Scientific Interest Bill: Committee Stage’ (Northern Ireland Assembly 2002) <<https://archive.niassembly.gov.uk/environment/moe/moe021003.htm>> accessed 5 March 2025.

623 Art 33(2-3), Environment Order.

624 Art 39, Environment Order.

625 Arts 39 – 40, Environment Order.

Box 12. Examples of notifiable operations in ASSIs

The declarations of these three ASSIs, which were visited by our project team, include these examples of notifiable operations, that are likely to damage the flora or fauna of the site.

Carn/Glenshane Pass ASSI in the Sperrin Mountains is designated for its upland blanket bog and associated plant and animal communities, including breeding red grouse. Notifiable operations include damage or disturbance of surface and subsurface (for example through ploughing or extraction of peat), mowing or cutting of vegetation, application of manure, slurry or artificial fertiliser, burning, and changes in tree or woodland management (for example planting).⁶²⁶

Murlough ASSI in County Down is designated for its coastal complex including dune systems and associated plant communities. It hosts wintering wildfowl and waders, is a haul-out site for common and grey seals, and accommodates a wide range of invertebrates including rare species, most notably the marsh fritillary butterfly. Notifiable operations include activities which would affect wetlands (including marshes, fens, bogs, rivers, streams and open water), such as making changes in the methods or frequency of routine drainage maintenance, modification in the structure of any watercourse, lowering of the water-table, and changing the management of bank-side vegetation.⁶²⁷

Monawilkin ASSI in Fermanagh is designated for its unimproved calcareous grassland, with additional mosaic habitats, associated plants, and moth and butterfly species. Notably it is the only known locality in Northern Ireland where the pale Eggar moth (a priority species) is found.⁶²⁸ Notifiable operations include drainage, including the use of mole, tire, tunnel or other artificial drains; reclamation of land from marsh, lake or river, and the construction, removal or destruction of roads, tracks, walls, fences, hard-standings, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines or cables, above or below ground.⁶²⁹

Regulations 15 and 16 of the Habitats Regulations make an express link between the consenting regime applicable to ASSIs and the operations that can take place in an SAC or SPA.

Regulation 15(2) enables NIEA to amend an ASSI declaration for the purpose of securing compliance with the requirements of the Habitats Directive. In practice, this could include amendments to ensure that activities likely to damage SAC or SPA features are also included in the ASSI declaration as notifiable operations.

Regulation 16 states that the owner or occupier of land within an SAC or SPA must not carry out any operation specified in the ASSI declaration in relation to the site unless they have NIEA's written consent or, in certain circumstances, are acting in accordance with the terms of a management agreement. If the ASSI declaration has been amended to include activities

626 Department of the Environment, 'Carn/Glenshane Pass ASSI Site Citation Documents and Map' (2000) <www.daera-ni.gov.uk/publications/carn-glenshane-pass-assi> accessed 18 June 2024; Department of the Environment, 'Carn/Glenshane Pass ASSI' (2000) <www.daera-ni.gov.uk/publications/carn-glenshane-pass-assi> accessed 13 March 2025.

627 Department of the Environment for Northern Ireland, 'Murlough ASSI Site Citation Documents and Map' (1995) <www.daera-ni.gov.uk/publications/murlough-assi> accessed 13 March 2025.

628 Office for Environmental Protection, 'Drivers and Pressures Affecting Terrestrial and Freshwater Biodiversity in Northern Ireland' (n 68).

629 Department of the Environment, 'Monawilkin ASSI Site Citation Documents and Map' (2008) <www.daera-ni.gov.uk/publications/monawilkin-assi> accessed 10 January 2024.

likely to damage SAC or SPA features (assuming that these are different from the features for which the site was designated as an ASSI), then the consenting requirements apply for such activities.

If, however, the SAC or SPA is not underpinned by an ASSI declaration (for example a large part of the Antrim Hills SPA – see section 1.3.2), or if the ASSI declaration is not amended to protect SAC or SPA features against potentially harmful activities, then these features do not benefit from the protection of a consenting requirement. This leaves the site vulnerable to activities which, because they are not included in an ASSI declaration, would not require consent from NIEA. Other protections under the Habitats Regulations would apply, such as the requirement to carry out an appropriate assessment under Regulation 43, but these may not always provide protection against the carrying out of notifiable operations.

The stricter control over notifiable operations, which the consenting regimes provide, is an important practical implication of ASSI designation. NIEA states that the prevention of damaging activities through these regimes has contributed to the better condition of for designated areas, compared to non-designated habitats.⁶³⁰ However, to our knowledge no formal assessment has been carried out of the effect of consenting and assenting on site condition.

For this regime to be effective in preventing damaging operations from taking place unlawfully, its delivery needs to be sufficiently resourced, and those subject to it must understand and properly engage with it. We have observed that these elements are largely lacking in Northern Ireland.

It is worth noting that DAERA also has the power to make byelaws under Article 45 of the Environment Order, and Regulation 23 of the Habitats Regulations. Byelaws may prohibit or restrict various activities, and are mainly aimed at regulating public use of protected sites. Usually, byelaws cover activities such as using vehicles, lighting fires or removing features from the land. They focus on third-party activities, while consent and assent apply to those who directly manage the land. NIEA confirmed that no byelaws have been made for terrestrial or freshwater ASSIs, SACs or SPAs.⁶³¹ Having carried out a review and based on the experience of other bodies with byelaw-making powers, NIEA concluded that using and enforcing byelaws is resource-intensive and difficult.⁶³²

7.3.1 Understanding of the consenting regime

Evidence from our stakeholder discussions suggests that owners and occupiers of protected sites are often unfamiliar with, and sometimes disengaged from, the consenting regime. We heard that some landowners lack clarity about what to ask consent for, and how to do so.⁶³³ The CNCC echoed these concerns. It noted that many landowners were

630 Call for evidence response from NIEA to the OEP (14 June 2023); Sara McGuckin, 'How Protection Can Work: A Terrestrial Example of an Internationally Important Protected Site: Ballynahone Bog, Northern Ireland' (3 December 2022) 6 <<https://youtu.be/HDQttKwIBAc>>. Provided as part of written response to information request from NIEA to the OEP (20 March 2024).

631 Written response to information request from NIEA to the OEP (20 March 2024). In written response to questions from DAERA to the OEP (16 January 2025), DAERA confirmed that the only byelaws made are for Strangford Lough covering regulation of anchoring, mooring and diving (see DAERA, 'Strangford Lough Regulation of Anchoring, Mooring and Diving Bye Laws' (2015) <<https://www.daera-ni.gov.uk/publications/strangford-lough-regulation-anchoring-mooring-and-diving-by-laws>> accessed 18 January 2025.) As this related to a marine site it is not within the scope of this project.

632 Written response to information request from NIEA to the OEP (9 July 2024).

633 Various site visits and discussions with the OEP and owners and occupiers (2024), meeting with the Mourne Heritage Trust and the OEP (8 August 2023)

unaware that their land was designated, and, therefore, unaware of the management required to protect the site's features.⁶³⁴

This appears to be a long-running issue. A 2013 customer survey of ASSI owners, carried out by DoE and NIEA, indicated that only 45% of ASSI owners were fully aware of their legal responsibilities, and that only 49% felt they had received sufficient information about the designation of their land.⁶³⁵

Ulster Wildlife told us that many landowners would not follow the consenting process without support from them or other organisations. Ulster Wildlife's own experience has been characterised by the frustration of making multiple attempts at consenting applications before obtaining consent from NIEA.⁶³⁶ Ulster Wildlife added that if owners and occupiers are put off by the consenting process, they may hold back from carrying out beneficial activities on a site, or what is worse, "do things quietly and get away with it".⁶³⁷ Even if these acts are minor individually, they can have a significant cumulative impact on sites over long periods of time.

We found that there is limited information available about how to apply successfully for consent and assent. Guidance on how NIEA considers consenting and assenting applications is relatively superficial and limited.⁶³⁸ It informs users of the need for consent in the case of notifiable operations, and gives a time estimate for dealing with applications. However, it provides no detail on the factors which NIEA will (and will not) take into account when assessing the applications.

By contrast, Natural England's SSSI consenting guidance, and its SSSI Regulation Operational Standard, provide more detail on its approach to applications for consent and assent.⁶³⁹ It also includes a reference to the Evidence Standards used by Natural England in undertaking its assessment.

There is scope to improve NIEA's existing guidance on consenting and assenting. For example, applicants might benefit from a fuller explanation of the factors that are considered in assessing consenting and assenting applications. Natural England's guidance and published standard provide more information and might be a useful blueprint. Guidance should be publicly available to anyone wishing to apply for consent or assent, and sent to new owners and occupiers as part of NIEA's initial contact letter. Not only would such guidance better inform applicants, it would also enable NIEA to treat applications consistently.

We also heard from owners and occupiers, and the organisations supporting them (for example eNGOs), who said that there is little opportunity to engage with NIEA to discuss the needs of a site and to explore options. For example, NIEA was described as "paper-based" and unwilling to visit sites.⁶⁴⁰ DAERA told us that NIEA visits sites as much as possible.

634 Call for evidence response from CNCC to the OEP (12 May 2023).

635 From a survey carried out by DAERA in partnership with the Northern Ireland Statistics and Research Agency. Written response to information request from NIEA to the OEP (20 March 2024).

636 Meeting with Ulster Wildlife and the OEP (22 May 2023).

637 *ibid.*

638 DAERA, 'ASSI Notifiable Operations' <www.daera-ni.gov.uk/articles/assi-notifiable-operations> accessed 2 July 2024.

639 'Natural England Standard: SSSI Regulation' (2013) <www.publications.naturalengland.org.uk/publication/6597120400293888> accessed 10 September 2024.

640 Meeting with the Mourne Heritage Trust and the OEP (8 August 2023).

Rather than a lack of willingness, it was not resourced to engage with every applicant for every proposal.⁶⁴¹

This shows that improved guidance alone will not be enough. Where owners or occupiers require support in making an application, NIEA staff with breadth and depth of relevant experience and expertise should be available to visit sites to discuss with owners and occupiers.

NIEA intends for new owners of ASSIs to receive a letter informing them of the status of their land and the need to comply with consenting requirements.⁶⁴² This is a good start but will not address a lack of awareness amongst existing ASSI owners and occupiers. NIEA told us that it was piloting better ways of communicating with owners and occupiers as part of its MOSS programme, which will allow for feedback on NIEA's communication. This may provide information to inform improvements to NIEA's communication regarding the designated status of land and the associated regulatory requirements.⁶⁴³

7.3.2 NIEA is perceived as inflexible

NIEA is perceived by some as a bureaucratic law enforcement body, with which owners and occupiers are reluctant to engage constructively.⁶⁴⁴ Some stakeholders called for greater flexibility to be shown in consenting decisions.⁶⁴⁵ A lack of confidence, rooted in inexperience, has also been raised as a barrier to NIEA staff engaging with innovative ideas and projects.⁶⁴⁶ DAERA told us that decisions are always made on the best available science and through consultation with internal experts where necessary.⁶⁴⁷

In some cases, this perceived inflexibility creates tensions in respect of site management projects intended to promote positive outcomes for nature. In one example, ecologists for a public sector landowner made proposals to NIEA to undertake dune rejuvenation at two sites. This project was similar to others carried out in other parts of the UK, with the objective of reviving early successional habitats. NIEA adopted what an ecologist at the organisation described as a “strikingly conservative” approach to the proposal, compared with other UK regulators. The project was ultimately given assent in a significantly scaled-back form.⁶⁴⁸

To some extent inflexibility is caused by the current legal framework for designating and managing sites (including the consenting regime) for the benefit of specific features. This approach can sit uneasily with the dynamic qualities of nature and the pressure of climate change. These processes are forcing change in the composition of protected features, sometimes resulting in a shift or loss of features from protected sites.

Our report focuses on how existing protected sites legislation can be better implemented to improve the condition of these sites. We consider that the better implementation of these laws would make a significant contribution to achieving DAERA's “thriving, resilient and connected nature and wildlife” outcome in the EIP. However, we acknowledge that there

641 Written response to information request from NIEA to the OEP (3 March 2025).

642 Written response to information request from NIEA to the OEP (20 March 2024).

643 *ibid.*

644 Meeting with NIAPA and the OEP (12 October 2023).

645 Various site visits and discussions with the OEP and owners and occupiers (2024).

646 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

647 Written response to information request from DAERA to the OEP (3 March 2025).

648 Meeting with an employee at a public sector organisation that manages protected sites in Northern Ireland and the OEP (2024).

are calls for bringing flexibility to the feature-based approach which underpins protected sites legislation. Such proposals would require in-depth and evidence-based analysis, including of potential unintended consequences. This would also be likely to require significant and complex changes to legislation. This would take time and resources and we note that there are only five years to achieve several of the nature targets in the EIP. While this is beyond the scope of this project, the OEP continually reviews areas of significance for environmental improvement.

7.4 Enforcing compliance with protected site laws

The regulation of protected sites is a complex balancing act between respecting individual property rights and needing to protect ecological features. This exercise requires consideration not merely of technical compliance, but sometimes also of conflicting social, ethical and environmental concerns. However, the purpose of protected sites legislation can only be achieved if the obligations and restrictions set out in that legislation are fairly and effectively enforced. If they are not, then the purpose and effectiveness of the regime is undermined.

Adequate enforcement can also help to prevent damaging activities. The NIAO analysis, in a 2003 report, was that enforcement action under protected site laws can act as a “deterrent to others who may be tempted to destroy or damage environmental assets,” as well as enabling the restoration of damaged sites.⁶⁴⁹ See also Box 7.

DAERA has powers to take enforcement action in respect of breaches of the Environment Order. This includes a power to prosecute when notifiable operations are carried out without consent, or where a person intentionally or recklessly destroys or damages designated features without a reasonable excuse. This power is discharged by NIEA as an executive agency of DAERA. In practice, other enforcement options, such as issuing formal letters, including warning letters, or restoration agreements,⁶⁵⁰ are favoured by NIEA before taking proceedings to the Public Prosecution Service.

For these enforcement powers to be effective, they must be used. In order for them to be used, NIEA must be able to identify non-compliance. The system’s effectiveness also depends on procedural transparency, including public access to an enforcement register.

7.4.1 Monitoring and detection of non-compliance

In order to identify the areas at greatest risk of non-compliance, and so to take the required enforcement action, NIEA needs to be able to monitor activities taking place on protected sites. Insufficient monitoring of legal compliance can impact on how well non-compliance is detected and acted-upon.

NIEA does not currently have internal or published procedures for checking compliance with consent or assent requirements for protected sites. We were told that the Permissions Team at NIEA had developed such a document, but that it was not implemented due to resourcing constraints.⁶⁵¹

649 Northern Ireland Audit Office (n 123) para 3.6.

650 NIEA informed us, through response to an information request (9 July 2024), that restoration agreements are a type of management agreement entered into using its power in article 34 of the Environment Order.

651 Written response to information request from NIEA to the OEP (20 March 2024).

Despite the absence of such procedures, NIEA carries out what it refers to as site integrity monitoring. Site integrity monitoring is used to check that sites are still intact and have not been significantly modified since their declaration. It also includes checks to ensure that there were no infringements of consenting requirements, or of the terms of management agreements, when these were in place.⁶⁵²

Site integrity monitoring differs from site condition monitoring (Chapter 5). While condition monitoring seeks to ascertain whether the site's features are in favourable or unfavourable condition, site integrity monitoring helps to identify potentially unlawful activity for further investigation. It helps inform the regulator of changes that might reveal the undertaking of notifiable operations. It can also reveal other damaging or unauthorised activities, such as boundary encroachment, tree felling or construction of access tracks.

We commend NIEA's carrying out of site integrity monitoring. Indeed, site integrity monitoring has enabled a number of incidents to be detected and compliance cases to be commenced.⁶⁵³

Despite these outcomes, the frequency and effectiveness of site integrity monitoring has dropped significantly in recent years. Up until 2020 the majority of SPAs and SACs were monitored every year, ASSIs were monitored every 3 to 4 years.⁶⁵⁴ This was carried out using low-level helicopter reconnaissance, which involved flying over protected sites and capturing footage that was then used to monitor them. This largely stopped in 2020 as a result of Covid-19 restrictions. The associated helicopter contract then lapsed. Since then, NIEA staff have monitored sites by foot, responded to third party reports, and checked compliance with a sample of consents. However, this method has proved ineffective in monitoring large sites such as major water bodies and upland sites.⁶⁵⁵

On average, every year 180 ASSIs were subject to site integrity monitoring between 2012-13 and 2019-20. This dropped to seven sites in 2020-21 due to Covid-19 restrictions. Over the following three years to 2023-24, the annual average was 96 sites, almost half what it was previously. There is a similar pattern in the number of instances of non-compliance being detected by this monitoring. Between 2012-13 and 2019-20, on average site integrity monitoring resulted in 37 such instances being detected in each year. This dropped to 24 instances being detected on average in each year between 2021-22 and 2023-24. Figure 11 provides more detail on these changes over time.⁶⁵⁶

652 JNCC, 'Format for a Prioritised Action Framework (PAF) for Natura 2000, Northern Ireland' (n 149) 16.

653 Written response to information request from NIEA to the OEP (20 March 2024).

654 Written response to information request from NIEA to the OEP (17 September 2024).

655 *ibid.*

656 Written response to information request from NIEA to the OEP (20 March 2024); written response to information request from NIEA to the OEP (17 September 2024).

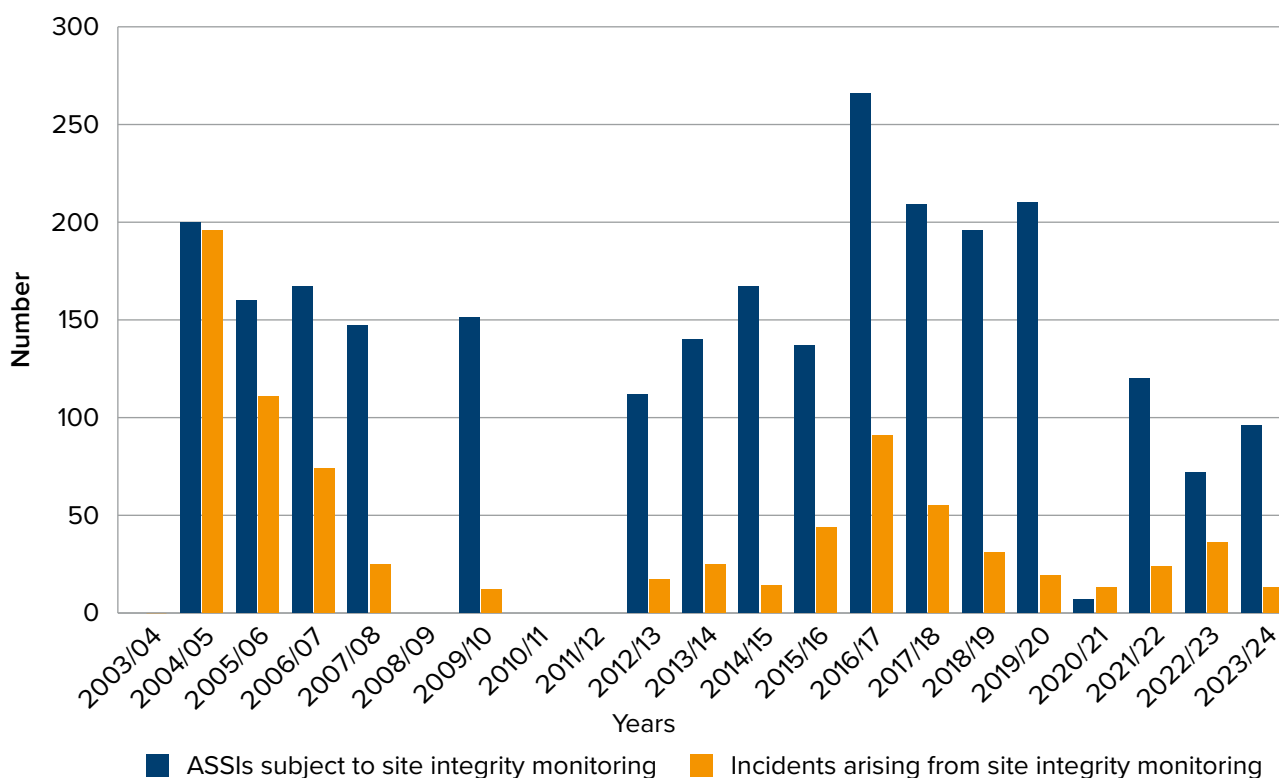


Figure 11. Number of Areas of Special Scientific Interest subject to integrity monitoring and incidents of potential non-compliance that were detected during monitoring. There are no records of monitoring or incidents arising for the years 2003/4, 2008/9, and 2010/11 and 2011/12. Flights were undertaken in January and March 2012, but there are no available records.

The reduction in site integrity monitoring will make it more difficult for NIEA to detect compliance issues on sites. It will also make NIEA more reliant on information about non-compliance being provided by others, rather than being able to use its own data. Stakeholders indicated that the lack of regular monitoring results in cases of boundary encroachment, small-scale damage taking place over long periods, overgrazing, erosion and land improvement going unnoticed.⁶⁵⁷

NIEA told us that it will need to consider how to deliver a new more effective site integrity monitoring regime which could continue to include the use of helicopters alongside newer technologies such as drones, satellite data, remote sensing and change detection.⁶⁵⁸ NIEA also pointed to the upcoming Living Map of Northern Ireland, which we referred to in Chapter 5.⁶⁵⁹

7.4.2 Low levels of enforcement action

NIEA should take swift, effective and proportionate action in response to non-compliance. In its 2003 report, the NIAO stated that “enforcement action should be commensurate with the nature of the offence, and [...] carried out as quickly as possible after the offence has taken place”.⁶⁶⁰

657 Call for evidence response from Ulster Wildlife to the OEP (2023).

658 Written response to information request from NIEA to the OEP (17 September 2024).

659 Written response to questions from DAERA to the OEP (16 January 2025).

660 Northern Ireland Audit Office (n 123) 32.

We understand that of the approximately 2,000 compliance investigations that have been undertaken under Article 46 of the Environment Order since 2003, only five cases of non-compliance have been successfully prosecuted under that Order.⁶⁶¹ Concerns about the enforcement of protected sites legislation was highlighted by several stakeholders in the course of our project. Stakeholders indicated that the implementation of protected sites legislation in Northern Ireland is not leading to effective or rapid enforcement or deterring reckless or even intentional damage of protected sites.⁶⁶²

Mourne Heritage Trust noted that, even where compliance monitoring is carried out by external partners or volunteers, there is a strong sense that NIEA does not take swift action in response to alerts of possible wrongdoing. It added that there is very little enforcement with regard to environmental crime and that, for example, just one conviction for wildfire would make a difference.⁶⁶³

Environmental NGOs have observed similar issues. They recounted examples of trees and hedges being removed at the wrong time of year, and recreational activities such as quad biking damaging heaths, blanket bogs and sand dunes. In these instances, despite being notified, we were told that NIEA took no action.⁶⁶⁴

Low-level harm over a long period can, cumulatively, have a significant impact on protected sites.⁶⁶⁵ The accounts that we received paint a concerning picture, suggesting that low-level breaches of protected site laws over long periods are not being addressed. Unless a breach is significant, we were told that “chances are, you will get away with it”.⁶⁶⁶ In our view, deterrence requires a degree of visible enforcement.

DAERA told us that “NIEA currently has a small compliance team which investigates damage reports and prioritises action for more significant cases”.⁶⁶⁷ This limited capacity to carry out enforcement work, when breaches are detected, is likely to have contributed to low levels of enforcement action.

Additionally, NIEA’s Compliance Policy and General Guidance for Protection of ASSIs (‘Compliance Policy’) places considerable emphasis on the need for engagement and attempts to rectify harm.⁶⁶⁸ NIEA emphasised, in its response to our call for evidence, that it focuses its compliance activity on “restoration agreements with [the] landowner” and “building a better understanding and relationship with their land”.⁶⁶⁹

We agree that it is worthwhile to invest in positive relationships between owners and occupiers and NIEA, and that the right incentives should be in place to encourage positive management and reduce the risk of offending. NIEA is right to be mindful that its enforcement strategy does not entrench its reputation as bureaucratic and distant. The CNCC told us that “shifting emphasis to positive management principles that are publicly funded, may help to reduce the need for enforcement”.⁶⁷⁰

661 Written response to information request from NIEA to the OEP (9 July 2024).

662 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

663 Various site visits and discussions with the OEP and owners and occupiers (2024).

664 Meeting with Ulster Wildlife and the OEP (22 May 2023).

665 *ibid.*

666 *ibid.*

667 Written response to questions from DAERA to the OEP (16 January 2025).

668 Natural Heritage Directorate, Northern Ireland Environment Agency, ‘Compliance Policy and General Guidance for Protection of Areas of Special Scientific Interest (ASSIs)’ <www.daera-ni.gov.uk/sites/default/files/publications/doe/protected-policy-compliance-policy-general-guidance-for-protection-of-ASSIs-2006_0.pdf>.

669 Call for evidence response from NIEA to the OEP (14 June 2023).

670 Call for evidence response from CNCC to the OEP (12 May 2023); call for evidence response from NIEA to the OEP (14 June 2023).

However, where non-compliance is suspected, it should be investigated with all options being considered. NIEA's Compliance Policy appears to support this approach. It states that NIEA "must in all cases assume the possibility of court action and progress the investigation accordingly".⁶⁷¹

The Compliance Policy could more clearly guide NIEA towards taking decisive action where this is deemed necessary. For example, the guidance states that factors such as repeat offending, severity and the long-term effect of the damage and failure to comply with past commitments to restore damage are to be "used by NIEA in determining whether a case file should be sent to [the Public Prosecution Service]".⁶⁷² This could be strengthened and clarified by stipulating expressly that such factors should, in fact, weigh in favour of referring the case to the Public Prosecution Service.

It is notable that the Compliance Policy has not been updated since 2006, and it is in some respects inaccurate. For example, it seems to suggest in paragraph 4.3 that enforcement action cannot be taken against a third party that did not know the site was an ASSI. Under Article 46(6A) of the Environment Order this is no longer the case. NIEA's Compliance Policy should give its staff the confidence to use available enforcement powers in an effective way.

We also note that NIEA has relatively few tools at its disposal to take action against unlawful activity. The sanctions provided by protected sites legislation in Northern Ireland are criminal sanctions.⁶⁷³ In response to offences under the Environment Order, NIEA can send verbal or written warnings requesting that the offender carry out remedial action or compensatory measures. This could lead to a restoration agreement being entered into. Where warning letters and attempts to agree compensatory measures do not achieve their objective, however, there is no other avenue than a referral to the Public Prosecution Service for prosecution through the courts. Entering into such legal proceedings is likely to require a significant investment of NIEA staff time.

By contrast, Natural England can use civil sanctions as an enforcement option against environmental offences including those relating to protected sites instead of prosecuting through the courts.⁶⁷⁴ Sanctions can include stop notices prohibiting the continuation of an activity until specific steps have been taken. They can also include enforcement undertakings, under which an offender commits to remedial action and, often, compensation payments.

Before civil sanctions were available in England, a 2006 report on the effectiveness of sanctions criticised the heavy reliance on criminal sanctions in many areas of regulation, and promoted the use of intermediate penalties.⁶⁷⁵ The author of the report, Professor Macrory, later said of the criminal sanctions regime that it was "making the criminal law do a great deal of work and there are real dangers that we devalue its power and impact [...] and that regulators may under-enforce the law because a criminal prosecution quite rightly is a serious and time-consuming business."⁶⁷⁶ Now, regulators themselves (such as Natural

671 Natural Heritage Directorate, Northern Ireland Environment Agency (n 671) para 3.6.

672 *ibid* 3.7.

673 Art 46, Environment Order.

674 The Regulatory Enforcement and Sanctions Act 2008 and the Environmental Civil Sanctions (England) Order 2010.

675 Richard B Macrory, 'Regulatory Justice: Making Sanctions Effective' (2006) <https://www.regulation.org.uk/library/2006_macrory_report.pdf>. Please note that Professor Richard Macrory is a Board member of the OEP.

676 James Maurici and Richard Macrory, 'Rethinking Regulatory Sanctions - Regulatory Enforcement and Sanctions Act 2008 - an Exchange of Letters' (2009) 21 *Environmental law & management* 183, 183.

England and the Environment Agency in England) have the power to impose sanctions without having to bring legal actions before the courts.

Civil sanctions have been well received as an enforcement mechanism for environmental offences in England. Natural England has made extensive use of civil sanctions, and has found it a helpful tool. The former Head of Legal Services at Natural England told us that “the availability of civil sanctions [is] of vital importance in the smooth and efficient regulation of protected sites and their availability allows statutory nature bodies to work towards optimal environmental regulation”.⁶⁷⁷

In respect of Northern Ireland, academics have called for the introduction of a range of new administrative and civil sanctions.⁶⁷⁸ In its response to our call for evidence, RSPB NI called for the introduction of civil sanctions in relation to ASSI offences.⁶⁷⁹ The lack of civil sanctions as an option might be described as a gap in the regulatory toolkit. These sanctions may be particularly useful for enforcing protected site laws because of the large number of private individuals, many of whom are farmers, who own or manage sites. In some cases, a civil sanction may be a more effective and proportionate tool with which to regulate these individuals than those currently available.

7.4.3 There is no register of offences and enforcement action

In contrast to England, there is no register of investigations, sanctions and enforcement relating to protected sites in Northern Ireland.⁶⁸⁰ When enforcement does take place, there is no publicly available record of this.

We requested information on investigations, including outcomes, as part of this project. NIEA confirmed that, whilst there is an ASSI Compliance Database, it is not possible readily to identify categories (levels) of damage and resulting enforcement action.⁶⁸¹

As noted above, NIEA confirmed, however, that since December 2003 there have been nearly 2,000 investigations of possible breaches of ASSI laws under Article 46 of the Environment Order,⁶⁸² with 120 of these remaining open as of January 2025.⁶⁸³ This resulted in only five cases being successfully prosecuted under the Environment Order.⁶⁸⁴ NIEA explained that other outcomes would have included entering into a restoration agreement, sending an advice or enforcement letter or concluding there had been no breach. It was unable to provide us with a breakdown of the number of investigations that resulted in each type of possible outcome. NIEA also informed us that 182 investigations of public authorities have been opened since 2005, but no information was provided as to the type of enforcement in these cases, or their outcomes.⁶⁸⁵

677 Personal communications 9 September 2024.

678 Ray Purdy and Peter Hjerp, ‘Environmental Governance in Northern Ireland: Identifying the Drivers for Change and Considering Solutions’ (Ecocentric Consulting 2016) 7 <www.ejni.net/wp-content/uploads/2020/07/Ecocentric-Report-Final-NI-26-1-2016.pdf>.

679 Written response from RSPB NI to the OEP (4 July 2024).

680 Written response to information request from NIEA to the OEP (20 March 2024).

681 *ibid.*

682 Written response to information request from NIEA to the OEP (9 July 2024); call for evidence response from NIEA to the OEP (2023). 922 investigations have occurred across 52 ASSIs since 2012.

683 Written response to information request from NIEA to the OEP (9 July 2024); written response to questions from DAERA to the OEP (16 January 2025).

684 Written response to information request from NIEA to the OEP (9 July 2024). NIEA confirmed that an additional five compliance cases on ASSIs have been prosecuted under the Waste and Contaminated Land (Northern Ireland Order) 1997.

685 Written response to information request from NIEA to the OEP (20 March 2024).

This lack of public information matters because accessing information about offences which have taken place, and the resulting enforcement action, contributes to raising awareness of the implications of unlawful activities. In response to our call for evidence, RSPB NI stated that:

“It is not possible at present for external bodies or members of the public to find out about compliance and enforcement activity, with the exception of ad hoc news articles relating to individual incidents. The only way to obtain data currently is via FOI [Freedom of Information] and Data Access Requests. The fact that compliance and enforcement activity has very little public profile means that it is unlikely to be serving as an effective deterrent to those who might damage sites. Combined with the shortcomings in support and advice to help owners and managers to manage sites appropriately, this means we are in a situation where neither the incentives nor disincentives are currently working properly to encourage good management and prevent damage”.⁶⁸⁶

This was also the view of Ulster Wildlife, which called for cases of non-compliance to be “open and transparent to deter future inappropriate actions by other landowners”.⁶⁸⁷ Publishing information on enforcement action also facilitates external scrutiny and reporting. The NAO’s report on Environmental Compliance and Enforcement in England is an example of such scrutiny.⁶⁸⁸

We consider that an easily accessible, electronic public register would increase the transparency of, and access to key information about, the implications of unlawful action on protected sites. This is something that DAERA’s enforcement policy already appears to stipulate but which has not been delivered. It states that “all decisions to take enforcement action will be recorded and retained” and that DAERA will “publish an annual report setting out a summary of all the enforcement action that has taken place during the previous year”.⁶⁸⁹

7.5 Mandatory management tools

To address cases of neglect or improper management that threaten the conservation interests of the site, the Environment Order and Habitats Regulations confer on DAERA mandatory management tools including compulsory purchase and management notices.⁶⁹⁰ While NIEA would be responsible for discharging such powers, they have not been used and there is no existing policy for their use.⁶⁹¹ We agree with the view that regulatory tools should be used such that “the strength of certain types of tools complements the weaknesses of others”.⁶⁹² We acknowledged in Chapter 6 that there is strength in voluntary measures which enable long-term commitment to positive management of protected sites. However, sometimes voluntary measures fail to deliver the desired outcome. In such circumstances, the legislation provides the strength of mandatory tools.

686 Call for evidence response from RSPB NI to the OEP (21 April 2023).

687 Call for evidence response from Ulster Wildlife to the OEP (19 April 2023).

688 National Audit Office, ‘Environmental Compliance and Enforcement. Department for Environment, Food & Rural Affairs’ (2022) <www.nao.org.uk/briefings/environmental-compliance-and-enforcement/> accessed 21 August 2024.

689 DAERA, ‘DAERA Enforcement Policy’ 6-7 <<https://www.daera-ni.gov.uk/sites/default/files/publications/dard/23.24.043%20DAERA%20Enforcement%20Policy%20-%202023.pdf>> accessed 17 January 2025.

690 Arts 35 and 41, Environment Order; Reg 27, Habitats Regulations.

691 Written response to questions from DAERA to the OEP (16 January 2025).

692 Stuart Bell and others, *Environmental Law* (9th edn, Oxford University Press 2017) 263.

7.5.1 Compulsory purchase

NIEA has the power to acquire land under Article 41 of the Environment Order for ASSIs and under Regulation 27 of the Habitats Regulations for SACs and SPAs. To use this compulsory purchase power NIEA must be satisfied that it is unable to conclude a management agreement, or that a management agreement has been breached, and that acquisition of the land is necessary to protect the designated features of the site.

Compulsory purchase powers under the Environment Order and the Habitats Regulations have not been used. Consequently, we have not been able to evaluate the implementation of these powers. We recognise that compulsory purchase is a drastic and costly measure to use to achieve positive management of protected sites.

7.5.2 Management notices

A management notice is a notice requiring an owner or occupier to carry out specified works or activities in line with the ASSI declaration. Under Article 35(1) of the Environment Order, NIEA may serve a management notice on an owner or occupier if it appears to NIEA that they are in breach of an existing management agreement (see section 6.4) and, as a result, the ASSI features are being inadequately conserved or restored. Under Article 35(2), NIEA can also serve a management notice on owners or occupiers where ASSI features are being inadequately conserved or restored and NIEA is satisfied that it is unable to conclude a voluntary management agreement on reasonable terms with the owner or occupier.

In contrast to the consenting and assenting regimes and other tools such as byelaws, management notices do not preclude activities from taking place, but require action to be taken. This type of tool can be useful because the special features of protected sites often require active management in order to be properly conserved or restored. This is captured by Bell and others, who note that “safeguarding most species and habitats requires active land management – grazing, harvesting, water-level management, etc. – rather than restrictions designed to prevent things happening”.⁶⁹³ Even if owners and occupiers are not in breach of consenting requirements, features may be at risk in the absence of positive management. In such cases, it may be appropriate to serve a management notice where voluntary incentives are not taken up or cannot be negotiated successfully.

NIEA has not served a management notice since this provision came into force in 2003.⁶⁹⁴ Given the declining condition of ASSIs, it is surprising that a power designed to ensure the appropriate management of protected sites has never been used, including where voluntary incentives fail to deliver. This cannot have been the intention of the Assembly when it conferred this power on DAERA.

There also appears to be little guidance about the circumstances under which NIEA might make use of a management notice. NIEA’s Compliance Policy refers to management notices as an enabling power of NIEA. Annex A of the Compliance Policy sets out a decision tree for NIEA to follow in the event of damage on ASSIs.⁶⁹⁵ There is no equivalent decision tree setting out the options open to NIEA to compel positive management of protected sites which are deteriorating out of neglect or inappropriate management. NIEA told us there are

693 *ibid* 706.

694 Written response to information request from NIEA to the OEP (20 March 2024).

695 Natural Heritage Directorate, Northern Ireland Environment Agency (n 671).

no clear policies or procedures around the use of management notices and therefore they are uncertain as to their effectiveness and practicability.⁶⁹⁶

We consider that the priorities in regulating protected sites should be on delivering positive, voluntary land management, for example using agri-environment schemes and management agreements (Chapter 6), and on ensuring compliance with consenting requirements. However, there are situations where imposing positive management practices through a management notice may be an appropriate course of action. As provided by the legislation, management notices are there to be used if management agreements are not delivering the requisite management practices, either because they cannot be entered into or because their terms are being breached.

In a 2010 paper discussing the statutory and policy background for the need to develop a strategic approach to protected sites management, NIEA stated that, in its view, “management notices should only be used as a last option but their use should not [be] excluded where it is the only means available to deliver appropriate management”.⁶⁹⁷ We agree with this approach. We consider that NIEA should use management notices, where attempts to achieve positive management through voluntary means have not achieved their purpose.

Given that the power to serve management notices has never been used and there are no clear policies or procedures to support its use, we expect that there is little, if any, awareness of its existence amongst owners and occupiers. This is a missed opportunity as greater awareness of the power could improve NIEA’s position in negotiations to enter into management agreements or to secure compliance with them. Owners and occupiers of protected sites would be aware that if negotiations were not successful, NIEA has the option of using this tool and may prefer to enter into an agreement than risk mandatory action.

We expect that one of the reasons why this tool has not been used is that there are limited resources within the agency to develop a policy and procedure to support its use, to draw up and serve notices and to handle any appeals that are made as a result. Therefore, the resourcing that the agency requires to be able to implement this power, as part of a plan to achieve the target for improving protected site condition in the EIP, should be considered as part of Recommendation 4 above.

Management notices are only available in relation to ASSIs, not SACs or SPAs. If SAC or SPA features that are not also ASSI features (for example where SPA and SACs are not underpinned as ASSIs) are being inadequately conserved or restored, NIEA cannot serve a management notice addressing the management of those SAC or SPA features. We consider that NIEA should make use of management notices where appropriate in relation to ASSIs. To the extent that this delivers improvements to the management of ASSI interest features, it may provide grounds for an amendment to the Habitats Regulations, enabling an equivalent tool to be used for SAC and SPA features.

696 Written response to questions from DAERA to the OEP (16 January 2025).

697 NIEA, ‘Statutory Requirement to Manage Designated Sites’ (2010). Provided as part of written response to information request from NIEA to the OEP (20 March 2024).

Glossary



Glossary

We use a number of defined terms which have a specific meaning in this report. We list these below

Defined terms

Term	Description
Assent	<p>Refers to the formal approval required from DAERA, under Article 39 of the Environment Order, when a public body proposes to carry out any operation(s)⁶⁹⁸ that might damage the features of an ASSI. This requirement applies whether the operation(s) in question will take place within the boundary of the ASSI or outside it and irrespective of distance from the site.⁶⁹⁹</p> <p>If DAERA does not assent to the operations, the public body may nevertheless carry out the operations, under certain conditions set out within Articles 39 and 40.</p>
Area of Special Scientific Interest (ASSIs)	Protected site that is designated for its unique wildlife, habitats, or geological features. These sites are identified and managed under the Environment Order to conserve biodiversity and geodiversity.
ASSI series	The complete list of ASSIs in Northern Ireland.
Birds Directive	Directive 2009/147/EC on the Conservation of Wild Birds.
Byelaws	DAERA has the power to make byelaws under Article 45 of the Environment Order, and Regulation 23 of the Habitats Regulations. Byelaws may prohibit or restrict various activities, and are mainly aimed at regulating public use of protected sites.
Compulsory purchase	DAERA has the power to acquire land under Article 41 of the Environment Order for ASSIs and under Regulation 27 of the Habitats Regulations for SACs and SPAs. To use this compulsory purchase power DAERA must be satisfied that it is unable to conclude a management agreement, or that a management agreement has been breached, and that acquisition of the land is necessary to protect the designated features of the site.
Consent	Refers to the formal approval required from DAERA, under Article 32 of the Environment Order, when a private landowner or occupier proposes to carry out any operation(s) ⁷⁰⁰ that might damage the features of an ASSI.

698 See definition of 'Notifiable operations' in DAERA, 'ASSI Notifiable Operations' (n 639).

699 DAERA, 'ASSI Guidance for Public Bodies/Competent Authorities' (2019) <www.daera-ni.gov.uk/articles/assi-guidance-public-bodiescompetent-authorities> accessed 3 March 2025.

700 See definition of 'Notifiable operations' in DAERA, 'ASSI Notifiable Operations' (n 639).

Term	Description
Destroyed	Feature categorisation used when the entire feature has been affected to such an extent that there is no hope of recovery. ⁷⁰¹
Enforcement	<p>The actions that the regulator can take in response to offences under protected site legislation. Offences under the Environment Order and Habitats Regulations are criminal offences. In response, NIEA can issue verbal or written warnings and seek to agree remedial measures. NIEA can also refer cases to the Public Prosecution Service, which will decide whether or not to proceed with a prosecution through the courts.⁷⁰²</p> <ul style="list-style-type: none"> • Enforcement of consenting obligations: Under Article 46(1) of the Environment Order, it is an offence punishable by fine to undertake a notifiable operation without consent (or reasonable excuse). This represented a ‘step up’ from the more permissive regime under the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985. This offence is reflected in very similar terms in Regulation 16 of the Habitats Regulations 1995 in relation to SACs and SPAs, which are subject also to an ASSI declaration. Regulation 22 of the Habitats Regulations 1995 permits the court to make an order requiring the offender to restore the land to its former condition. • Enforcement in respect of damage and destruction of an ASSI: The Environment Order stipulates that a person must not intentionally or recklessly destroy or damage the flora, fauna or other features by reason of which land is of special scientific interest without a reasonable excuse. This offence is also punishable by fine. If the person did not know that the site was an ASSI, the penalty is lower.⁷⁰³
Environmental Improvement Plan (EIP)	Refers to the ‘Environmental Improvement Plan for Northern Ireland’ prepared by DAERA to significantly improve the natural environment under paragraph 1 of Schedule 2 to the Environment Act 2021.
Environment Order	Refers to the Environment (Northern Ireland) Order 2002.
Habitats Directive 2019	Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora.
Habitats Regulations	Refers to the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.
Favourable condition	Feature categorisation used when the feature is meeting its objectives. ⁷⁰⁴

701 JNCC, ‘A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)’ (n 376).

702 Natural Heritage Directorate, Northern Ireland Environment Agency (n 689).

703 Arts 46(6) and 46 (6A), Environment Order 2002.

704 JNCC, ‘A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)’ (n 376).

Term	Description
Favourable Conservation Status	Favourable Conservation Status means that the habitat or species is healthy and is able to maintain itself, in this state, in the long term. ⁷⁰⁵
Qualifying feature	Refers to the specific habitats, species, or geological characteristics that justify the designation of a protected site. These features are identified based on their ecological, scientific, or conservation importance and are the primary focus of protection and management efforts for the site.
Common Standards Monitoring	Refers to the framework used in the UK to assess and monitor the condition of protected sites, such as Sites of Special Scientific Interest (SSSIs), Special Areas of Conservation (SACs), and Special Protection Areas (SPAs). It was developed to ensure a consistent approach to evaluating the health of these sites and the features they are designated to protect, such as specific species, habitats, or geological characteristics. The framework was developed and is reviewed by an inter-agency working group comprising JNCC and the four country nature conservation bodies (Natural England, Natural Resources Wales, NatureScot and DAERA). ⁷⁰⁶
Management notice	Under Article 35 of the Environment Order, NIEA may serve a notice requiring a landowner or occupier to carry out specified works or activities on the land. To serve a management notice, NIEA must be satisfied that features of a site are being inadequately conserved or restored and that either NIEA is unable to conclude a management agreement on reasonable terms or that an owner or occupier is not giving effect to any provision of a management agreement.
Notifiable Operations	Refer to specific activities or operations that could potentially harm the features of a designated site. These operations are listed in the site's designation documents, and landowners or occupiers must notify DAERA, in seeking assent or consent, before carrying out such activities. ⁷⁰⁷
Partially destroyed	Feature category used when part of the feature, or the habitat or processes essential to support part of the feature, have been removed or irretrievably altered. ⁷⁰⁸

705 *ibid.*

706 JNCC, 'Common Standards Monitoring' <<https://jncc.gov.uk/our-work/common-standards-monitoring/>> accessed 3 March 2025.

707 DAERA, 'ASSI Notifiable Operations' (n 639).

708 JNCC, 'A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)' (n 376).

Term	Description
Site integrity monitoring	Also referred to as compliance monitoring. This refers to checks carried out by NIEA that sites are still intact and have not been significantly modified since their designation. It has included checks to ensure that there are no infringements, either of notifiable operations or management agreements where these are in place. ⁷⁰⁹
Special Area of Conservation (SACs)	SACs are designated for habitats and species (excluding birds) under the Habitats Regulations.
Special Protection Area (SPAs)	SPAs are designated for species of, and habitats for, breeding, over-wintering, and migrating birds under the Habitats Regulations.
Unfavourable condition	The categorisation of feature condition used when the feature is not meeting its objectives. ⁷¹⁰
Unfavourable recovering condition	The categorisation of feature condition used when a feature of a protected site, that is not currently in a favourable condition but is showing signs of improvement due to appropriate management or conservation efforts. This status indicates that the feature is on a positive trajectory towards meeting its conservation objectives, although it has not yet fully achieved them. ⁷¹¹

List of acronyms and abbreviations

Acronym/Abbreviation	Definition
ASSI	Area of Special Scientific Interest
CNCC	Council for Nature Conservation and the Countryside
DAERA	Department for Agriculture, Environment and Rural Affairs
DARD	Department of Agriculture and Rural Development
Defra	Department for Environment, Food and Rural Affairs
DoE	Department of the Environment
EFS	Environmental Farming Scheme
EHS	Environment and Heritage Service
EIP	Environmental Improvement Plan
eNGO	Environmental non-governmental organisation
Ha	Hectares
IPA	In-Perpetuity Agreement
JNCC	Joint Nature Conservation Committee
MLW	Mean low water
MOSS	Management of Sensitive Sites
NEPD	Natural Environment Policy Division

709 JNCC, 'Format for a Prioritised Action Framework (PAF) for Natura 2000, Northern Ireland' (n 149).

710 JNCC, 'A Statement on Common Standards for Monitoring Protected Sites 2022 (Version 2.1)' (n 376).

711 *ibid.*

Acronym/Abbreviation	Definition
NI	Northern Ireland
NIAO	Northern Ireland Audit Office
NIAPA	Northern Ireland Agricultural Producers Association
NIEA	Northern Ireland Environment Agency
OEP	Office for Environmental Protection
RSPB NI	Royal Society for the Protection of Birds Northern Ireland
SAC	Special Area of Conservation
SEO	Strategic Environmental Outcomes
SPA	Special Protection Area
ssRMP	site specific Remedial Management Plan
SSSI	Sites of Special Scientific Interest
UFU	Ulster Farmers' Union
UK	United Kingdom

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Annex 1. Methodology and expert review

Annex 1. Methodology and expert review

This report draws on four research elements.

A.1 Call for evidence and stakeholder meetings

We issued a call for evidence between February and April 2023, inviting interested parties to submit evidence on the designation and management of sites protected for nature on land and freshwater in England and Northern Ireland. We included a list of non-exhaustive questions and areas of interest to stimulate responses to our call. These included, but was not limited to, matters of criteria for designation, statutory and voluntary tools, role of responsible authorities, sufficiency of sites network, and the support provided to owners and managers of protected sites. We also encouraged respondents include any other evidence they felt was of relevance to our review.

We received 58 responses from a range of stakeholders across England and Northern Ireland. 11 of these specifically concerned Northern Ireland, and an additional eight considered both England and Northern Ireland. Responses included written submissions, and 28 supplementary documents which included government policy and guidance documents, and evidence that had previously been submitted to the Interim Environmental Protection Assessor for Wales call for evidence on protected sites. Responses also identified 178 additional sources of evidence including peer-reviewed literature, government reports, and blogs.

We carried out 19 meetings with stakeholders with whom we wanted to discuss in greater detail their response, or secure input and evidence from. 10 of these meetings considered protected sites in Northern Ireland. We used a semi-structured approach in these meetings. Questions were provided in advance to stakeholders that related either to their response, or area of expertise. We also provided opportunity for stakeholders to discuss matters they felt were of relevance and identify exemplar case studies of protected sites that demonstrated best and worst practice. Meetings were not recorded, but notes were taken to inform our research.

Responses to our call for evidence and meeting notes were thematically analysed using NVivo. Five members of the project team with expertise in law, protected sites, and land management in both England and Northern Ireland carried out the analysis. The data were coded for themes guided by both the questions set out within our call for evidence, as well as inductively from the data. This approach enabled us to explore areas of interest whilst reducing the impact of confirmation bias and enabling a detailed exploration of the rich sources of evidence received. Our analysis was carried out iteratively, with several reviews carried out throughout the process to organise and clarify themes. Themes, and codes within them, included:

- Effectiveness of sites: in the context of environmental decline and other land uses.
- Governance of sites: roles, and responsibilities; decision-making and the role of politics; funding and resourcing.
- Designation of sites: purpose of designation; the process of designation; reviews of protected sites; denotification.

- Management of sites: citations and conservation objectives; management tools; role of agri-environment schemes; consenting; advice and support; funding and resourcing of management; impact of off-site pressures.
- Monitoring and reporting: the process of condition monitoring; reporting of monitoring.
- Enforcement: use of statutory tools; reporting damage or disturbance; post-enforcement engagement.
- Targets for protected sites: historic targets; setting and meeting new targets.
- Transboundary sites: impact of divergence between the UK and EU, and within the UK.
- Sites in the context of a changing climate: flexibility of sites; role in a changing climate.

A.2 Desk based research

We undertook desk-based research that built upon the themes identified through our call for evidence. This encompassed reviews of legislation, literature, and official reports, among other sources. We also held additional meetings with public authorities and requests for information from DAERA, NIEA, NI Water, and Forest Service.

This research was focused on the following themes:

- Legislation: including consideration of powers and duties.
- Governance: including targets for sites, coordination and oversight, delivery planning, and coherence with other strategies.
- Resourcing of NIEA: including the funding available for protected sites work, duration and planning of funding, staff turnover, capacity and expertise.
- Evidence/monitoring: including the quality of the evidence base for protected site designation, condition, and management, and how this is used.
- Land management: including the use of tools to ensure protected sites are managed appropriately, including advice, incentives, and regulation.
- Designation and the sites network: ensuring the network is sufficient including implementing reviews; enabling flexibility; addressing offsite impacts.

A.3 Site visits

Between May 2023 and February 2024, we undertook four site visits across Northern Ireland.⁷¹² Sites were identified through engagement with respondents to the call for evidence, and for the purpose of exploring key issues emerging through our research. In addition to understanding the delivery of sites work on the ground (which includes the designation, monitoring, management, and regulation) sites were selected for specific themes.

⁷¹² We visited Belmore Mountain, Culicagh Mountain and Monawilkin as part of one site visit, similarly we visited Eastern Mourne and Murlough collectively.

Sites visited:

- **Belmore Mountain ASSI:** understanding of, and engagement around monitoring.⁷¹³
- **Carn / Glenshane ASSI, SAC:** implementation of agri-environment schemes, and offsite pressures.⁷¹⁴
- **Cuilcagh Mountain ASSI, SAC:** implementation of agri-environment schemes, onacre land.⁷¹⁵
- **Eastern Mourne ASSI, SAC:** fragmented ownership, managing impact of wildfire, recreation, and tourism, resourcing, development of Conservation Management Plans.⁷¹⁶
- **Inner Belfast Lough ASSI:** offsite pressures.⁷¹⁷
- **Monawilkin ASSI, SAC:** in perpetuity agreement.⁷¹⁸
- **Murlough ASSI, SAC:** resourcing, adaptive management including and recreation.⁷¹⁹

A.4 Literature review of protected sites in the United Kingdom and the Republic of Ireland

We commissioned Land Use Consultants (LUC) to undertake a literature review relating to the designation and management of protected sites in England and Northern Ireland. This review aimed to identify, synthesise, and analyse key published literature (peer-reviewed and grey) that has considered the effectiveness of the laws governing the designation and management of protected sites in England and Northern Ireland and their implementation. The review also included analysis of literature relating to the UK and Republic of Ireland.

A.5 Expert panel and review

In undertaking this project, we established an expert panel with experience in the implementation of protected site laws in the UK, including specifically Northern Ireland, and internationally. Members were drawn from academic and practitioner expert communities, to bring specialist knowledge of areas relevant to the project. The panel was convened with terms of reference as a forum for discussion and information-sharing.

713 DAERA, 'Belmore Mountain ASSI' <www.daera-ni.gov.uk/protected-areas/belmore-mountain-assi> accessed 5 February 2024.

714 DAERA, 'Carn/Glenshane Pass ASSI' <www.daera-ni.gov.uk/protected-areas/carn-glenshane-pass-assi> accessed 11 January 2024; DAERA, 'Carn/Glenshane Pass SAC' <www.daera-ni.gov.uk/protected-areas/carn-glenshane-pass-sac> accessed 11 January 2024.

715 DAERA, 'Cuilcagh Mountain ASSI' <www.daera-ni.gov.uk/protected-areas/cuilcagh-mountain-assi> accessed 10 January 2024; DAERA, 'Cuilcagh Mountain SAC' <<https://www.daera-ni.gov.uk/protected-areas/cuilcagh-mountain-sac>> accessed 10 January 2024.

716 DAERA, 'Eastern Mourne ASSI' <www.daera-ni.gov.uk/protected-areas/eastern-mourne-assi> accessed 10 January 2024; DAERA, 'Eastern Mourne SAC' <www.daera-ni.gov.uk/protected-areas/eastern-mourne-sac> accessed 10 January 2024.

717 DAERA, 'Inner Belfast Lough ASSI' (11 January 2024) <<https://www.daera-ni.gov.uk/protected-areas/inner-belfast-lough-assi>>.

718 DAERA, 'Monawilkin ASSI' <www.daera-ni.gov.uk/protected-areas/monawilkin-assi> accessed 10 January 2024; DAERA, 'Monawilkin SAC' <www.daera-ni.gov.uk/protected-areas/monawilkin-sac> accessed 10 January 2024.

719 DAERA, 'Murlough ASSI' <www.daera-ni.gov.uk/protected-areas/murlough-assi> accessed 11 January 2024; DAERA, 'Murlough SAC' <www.daera-ni.gov.uk/publications/murlough-sac> accessed 11 January 2024.

Members:

- Professor Stuart Bell
- Paul Corbett
- Christina Cork
- Professor Roger Crofts
- Nigel Dudley
- Jake Fiennes
- Jeff Lunn
- Professor Jim McAdam
- David Stroud

We held two workshops with the expert panel, which included consideration of the findings and recommendations. Members were also engaged individually on subject specific matters, and provided written feedback. The panel was an advisory, not a decisionmaking or steering, body. As such, the findings and recommendations presented in this report are those of the OEP and do not necessarily reflect the views of panel members.

Prior to completion, we sent draft copies of our report to selected panel members for review. These were drawn from the Expert Panel based on their extensive knowledge of the delivery of protected site laws within Northern Ireland, and availability to undertake the review.

The contributing experts were:

- Paul Corbett
- Professor Jim McAdam
- David Stroud

All reviewers returned comments which we have considered in finalising the report. The report remains the work and presents the conclusions of the OEP. It does not necessarily reflect the views of the reviewers. We are grateful to all panel members for contributing their expertise to inform our work.



Annex 2. Contributors to our research

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Those listed below submitted evidence for our research or otherwise gave assistance to our review of the implementation of protected site laws in Northern Ireland. We are grateful to all these organisations and individuals for their valuable contributions to this study.

Northern Ireland departments and public bodies

- Council for Nature Conservation and the Countryside
- Department of Agriculture, Environment and Rural Affairs
- Forest Service Northern Ireland
- Northern Ireland Environment Agency
- Northern Ireland Water

Other departments and public bodies

- Environmental Standards Scotland⁷²⁰
- Interim Environmental Protection Assessor for Wales⁷²¹
- Joint Nature Conservation Committee
- Ministry of Defence

Other organisations

- British Ecological Society
- Chartered Institute of Ecology and Environmental Management
- Friends of the Earth Northern Ireland
- Institute of Environmental Management and Assessment
- International Union for Conservation of Nature National Committee UK Protected Areas Working Group
- Loughs Agency
- Mourne Heritage Trust
- National Trust
- Northern Ireland Agricultural Producers Association

720 Environmental Standards Scotland, 'Environmental Standards Scotland' <<https://environmentalstandards.scot/>> accessed 17 January 2025.

721 Welsh Government, 'Interim Environmental Protection Assessor for Wales' <<https://www.gov.wales/interim-environmental-protection-assessor-wales>> accessed 17 January 2025.

- Northern Ireland Environment Link
- Royal Society for the Protection of Birds – Northern Ireland
- Ulster Angling Federation
- Ulster Farmers' Union
- Ulster Wildlife
- Woodland Trust

We also received submissions to our call for evidence from two individuals not associated with organisations. Additionally, we engaged with, and received information from, 10 owners and occupiers of protected sites that we met during site visit.

