



Response to the Office for Environmental Protections (OEP) draft Strategy and Enforcement Policy

March 2022

Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the natural and built environment of Northern Ireland. Its 66 Full Members represent 190,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

NIEL's response to this consultation is solely concerned with the position, and unique circumstance of Northern Ireland within the OEP.

This response by NIEL was prepared by Nature and Environmental Protection Working Group and endorsed by our wider membership.

We consent to this response being published.

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Delivering our strategic objectives

Question 1. Do you have any comments on Section 2.2 of our strategy (Sustained environmental improvement)?

We welcome this objective noting that in Northern Ireland significant improvement is needed in all matters of environmental goals and targets. Nature is in crisis with Northern Ireland ranking 12th worst in the world for the amount of nature it has left. Specifically, 11% of species¹ and around 25% of birds² found here at risk from extinction, no lakes, rivers or coastal water bodies are in good condition³, just one out of 49 priority habitats in good condition⁴, and 86% of our peatlands are degraded⁵. These facts reflect the systemic failure of the NI Executive and other public authorities to meet environmental targets and commitments, such as those within the previous Biodiversity Strategy (2015-2020)⁶. It is in this context then that we note concern around how sustained environmental improvement is assessed within Northern Ireland, in particular we would like to bring a number of matters to your attention that require further consideration and explanation within the Strategy:

The inadequacies of Northern Irelands first EIP: the draft Environment Strategy which DAERA recently consulted on was widely criticised as being unambitious and non-specific⁷. Of the 225 targets and actions included, just 63 are clearly measurable, 172 are not timebound with 6 referring to 2021 and 11 to 2022, and at the time of consultation closing 2 targets had already been missed. Perhaps most troubling of the commitments made within the draft Environment Strategy were those that reflected a clear regression on current legal requirements such as having 70% of waterbodies at Good Status by 2027. In this context of inadequacy - and recognising that Northern Ireland does not have an equivalent legally binding target framework such as is to be set by the UK Government – that we believe greater clarification should be provided as to what else the OEP intends to scrutinise to achieve this objective.

Clarification of what targets will be subject to scrutiny: recognising that only England will be subject to the targets set by the UK Government, the Strategy should more clearly define what targets will be subject to assessment within Northern Ireland. We discuss this England-target bias further in response to Q21 but note it here due to the reliance on targets relating to this strategic objective.

Use of advice, scrutiny and enforcement functions: we welcome the OEP's intention to utilise their available functions in combination to achieve this, and indeed all other objectives.

¹ State of Nature (2019) [A summary for Northern Ireland.](#)

² Gilbert, G., Stanbury, A. and Lewis, L., 2021. [Birds of Conservation Concern in Ireland 4: 2020–2026.](#)

³ DAERA (2021) [Water Framework Directive Statistics Report.](#)

⁴ DAERA – [Priority habitats](#)

⁵ RSPB NI (2021) [Valuing our peatlands: Natural Capital assessment and investment appraisal of peatland restoration in Northern Ireland.](#)

⁶ RSPB NI (2021) [NI Biodiversity Strategy failing after years of inaction.](#)

⁷ RSPB NI: [Open letter to First Minister and deputy First Minister calls out 'unambitious' Environment Strategy](#)

Question 2. Do you have any comments on Section 2.3 of our strategy (Better environmental law, better implemented)?

We welcome the intention to drive betterment of environmental law. There is a history of poor implementation of environmental law in Northern Ireland and with the potential for deregulation we are extremely concerned that both design (effectiveness) and implementation of key protections may be further damaged.

The NI Environment Agency (NIEA): Northern Ireland is currently the only part of the UK and Ireland that does not have an independent Environmental Protection Agency (EPA). NIEA is an executive agency within DAERA carrying out only some of the functions of other statutory nature conservation bodies in the other countries¹. Because NIEA is not an independent body there are serious concerns regarding their effectiveness and where NIEA is responsible for regulating the activity of another department - such as NI Water² within the Department for Infrastructure - concerns around conflict of interest come to the fore. Due to their position within the Executive, NIEA are unable to consult/advise effectively and publicly on matters of environmental law unless the Executive is doing so anyway. Therefore, the scrutiny and advice provided by the OEP (and transparency of such) are crucial in Northern Ireland.

Scrutiny of transboundary environmental law: because nature does not adhere to geopolitical boundaries we believe it is vital that the OEP has an eye to the implementation of law that carries transboundary consequences/effects. To do so effectively, and with recognition of the need to maximise resources, we suggest that a scoping exercise should be undertaken to consider areas of environmental law that have or could have a transboundary impact specifically considering matters of implementation (by who/responsibility). This should then in-turn inform the OEP's actions to achieve this objective and indeed all others given that transboundary matters are a fundamental element of the OEP's operations in Northern Ireland. Such a pro-active approach should benefit both stakeholders, other government organisations and the OEP in providing clarity on how transboundary matters will be dealt with.

Role of local government: the strategy should be clearer about public authorities included in scope. In particular, local government, city/county level needs to be directly addressed. These authorities are critical for proper implementation of environmental law and so clarity should be given as to how the OEP's functions will effect local government.

¹ Functions of the NIEA include, but are not limited to: regulating industry, regulating waste sector; monitoring water quality; management of country parks; monitoring species and habitats; wildlife licenses; ASSI consents; water abstraction license; and enforcement.

² [Belfast Telegraph \(June 2021\) NI Water taken to court over 73 pollution incidents since 2007](#)

Question 3. Do you have any comments on section 2.4 of our strategy (Improved compliance with environmental law)?

Extensive regulatory dysfunction and unacceptable levels of disregard and non-compliance of environmental law have resulted in substantial degradation of the Northern Ireland environment, and significant social and economic costs¹. The objective of improving compliance with environmental law is, therefore, very pertinent for Northern Ireland, and a matter to which the environmental sector has long argued for^{2,3,4}. We would like to draw the OEP's attention to a number of key issues relating to compliance within Northern Ireland:

A joint initial investigation: in launching the first investigation, we would strongly suggest this should have an England and Northern Ireland focus. This joint approach would be beneficial in fostering support for the OEP as an organisation that is established in and for Northern Ireland. Also, noting that the Strategy outlines the OEP's intention to use relevant facts gathered through the complaints process in determining the first case, we would caution qualifying the low number of complaints made in Northern Ireland⁵ as equivalent to the severity/seriousness of environmental harms. The OEP rightly adopted a cautious approach to stakeholder engagement prior to the Assembly approving your remit, and as such it is likely that there remains a significant lack of understanding of who the OEP are and how and why to complain. We therefore welcome the OEP undertaking further stakeholder engagement to capture key concerns relating to matters of compliance to inform initial focus and would like to work with the OEP in arranging gatherings of key eNGOs and making suggestions re government organisations.

Approach to legacy EU complaints: clarity should be provided within this section in relation to the OEP's intended approach to dealing with complaints that have been closed by the EU Commission due to the UK's exit from the EU rather than due to resolution of the issues. Will the OEP collate details of cases and apply the decision-making framework (in the draft Enforcement policy) to determine action? Do these cases need to be re-submitted to the OEP?

Compliance relating to matters of a transboundary nature: the Strategy should outline how the OEP intends to deal with cases of compliance in relation to environmental harm that has a transboundary impact. Whilst we note that within section 3.8 there is an intention to establish dialogue with the EU Commission to manage situations where roles may overlap, clarification should be provided as to how the OEP intends to approach non-compliance in a transboundary context. Linked to the scoping exercise described in our response to Q2, such a proactive approach would facilitate better understanding by stakeholders, other enforcement bodies, and the OEP more broadly of how compliance relating to transboundary matters will be dealt with. Consideration of examples of non-compliance within this context (informing a decision-making framework) would also be beneficial for thinking through potential issues that may be faced by the OEP and the EU Commission in the future. The OEP should also include advice on such transboundary issues on its website providing a simplified/clear understanding for stakeholders and members of the public. It would be right and proper for a commitment to such actions – and intention to keep these up-to-date - to be included in the Strategy.

Complexities of compliance with the NI Protocol: Brexit fundamentally affects Northern Ireland differently when it comes to compliance with environmental law, due to the continued application and dynamic alignment with specific rules in Annex 2 of the NI Protocol⁶. The appropriate compliance mechanism will therefore depend on the environmental issue at hand – whether the OEP or the EU Commission and Court of Justice. The Strategy should therefore set out clearly how the OEP intends to cooperate with EU institutions on such matters because, for example, the OEP will be responsible for monitoring commitments around chemicals and producer responsibility (including batteries) as described in the draft Environment Strategy (Strategic Outcome 4) but these are in turn subject to compliance with EU regulations (incl. REACH, single use plastics (2019/904)). A carefully designed and clearly defined approach to engagement on matters pertaining to compliance with environmental laws in the NI Protocol will benefit the functioning of the OEP's monitoring and enforcement functions. Additionally, whilst we welcome the ability to make free of charge complaints via the OEP's website, we would strongly suggest that more information should be made available for members of the public relating to complaints necessitating oversight from EU institutions. The NI Protocol is an inherently complex document and so the development and publication of clear advice relating to role and remit of relevant enforcement mechanisms would assist in the OEP's functioning (upskilling staff) and engagement with stakeholders and the general public.

¹ [Brennan et al. \(2017\) Political, economic and environmental crisis in Northern Ireland: the true cost of environmental governance failures and opportunities for reform. *N. Ir. Legal Q.*, 68, p.123.](#)

² [Purdy & Hjerp \(2016\) Environmental Governance in Northern Ireland](#)

³ [Brexit & Environment \(2018\) What is the future of environmental governance in Northern Ireland.](#)

⁴ [Brennan, C., Dobbs, M. and Gravey, V., 2019. Out of the frying pan, into the fire? Environmental governance vulnerabilities in post-Brexit Northern Ireland. *Environmental Law Review*, 21\(2\), pp.84-110](#)

⁵ [The OEP external complaints report Oct – December 2021](#)

⁶ [Garvey, V & Whitten, L. The NI Protocol & the environment: the implications for Northern Ireland, Ireland and the UK \(March 2021\)](#)

Question 4. Do you have any comments on section 2.5 of our strategy (Organisational excellence and influence)?

The OEP's intention to be an effective - strategic, expert, responsive, and independent – organisation is extremely welcome. We appreciate that decisions relating to the resourcing of staff and premises in

Northern Ireland were subject to Assembly approval and subsequently to guidance from the Non-Executive Director representing Northern Ireland. With approval granted, and the appointment of the Northern Ireland NED expected soon¹, it is appropriate that the Strategy is expanded to include specific details relating to the establishment of the OEP in Northern Ireland including staffing levels, location of an office.

It is important that the OEP respects the devolution settlement and indeed the different biogeographic, institutional and legal systems, laws, and socio-political context in Northern Ireland. There will be a need to protect the decision-making authority and accountability of different administrations, and the Assembly and Courts that oversee them. To do so we support the establishment of a physical presence of the OEP in Northern Ireland with staffing that includes the necessary expertise in environmental legislation, science, and enforcement and regulation across domestic, European and international jurisdictions will be critical to ensuring that the OEP can function effectively in Northern Ireland.

Organisational excellence should include impartiality: Due to the miss-trust in governance mechanisms in Northern Ireland, and the unique geographic scope of the OEP, a clear commitment to and then realisation of impartiality in the operation of the functions across England and Northern Ireland is essential. Whilst impartiality is included at the end, explicit recognition of the sensitivities around being seen to be partial to either country should be included in this section.

We look forward to engaging in an expedited stakeholder engagement process to increase awareness of the OEP across Northern Ireland. The more stakeholders and members of the public know about the OEP the more effective the OEP can be in achieving the principal objective and mission.

¹ [AQW 30461/17-22](#)

Question 5. Do you have any comments on whether our four strategic objectives will lead us to pursue our principal objective and achieve our mission?

Subject to clarification on matters that we have raised above, we believe that by achieving the four objectives the OEP will be able to pursue the principal objective and mission.

How we will prioritise

Question 6. Do you have any comments on our approach to prioritisation?

The need to prioritise to make the biggest impact and the most of available resources is clear, and we appreciate the distinction that the OEP may make different contributions to environmental improvement in Northern Ireland to England. With a history of non-compliance and the resulting substantial damage caused to the natural environment, the OEP could and we hope will make a significant contribution in Northern Ireland. Whilst we broadly welcome the approach outlined in the draft Strategy, however, would like to raise the following matters:

Transparency: being transparent in how matters are prioritised and acted upon or not will be fundamental to ensuring trust and buy-in from stakeholders in Northern Ireland. Whilst the Strategy states that such ambitions will be realised/publicised through the corporate plan and annual reports, we would support a more proactive approach with reasons for acting or not summarised and made available as soon as practicable on the OEP's website.

Consideration of public perception: there are low-levels of environmental awareness across Northern Ireland, consequently, we would urge caution and a proportionate approach to considering public perception when determining prioritisation. In particular we would be concerned at the quantification and comparison of public perception across England and Northern Ireland as a determinant for prioritisation. For example, during the Lords debates on the Environment Act there was significant attention on issues of

water quality in England. The same could not be said of public attention in Northern Ireland. However, just a few months later water quality issues captured public focus in Northern Ireland. Clarity of when matters of public perception are considered should be provided so as not to undermine confidence in the impartiality of the OEP.

Relating to the capacity and capability to deliver: the Strategy should set out clearly how the OEP will demonstrate that there is no bias between availability of resources and decision to act in one country rather than the other. The OEP must ensure that when resource limitations are the determinant to action that there is complete transparency. Again, reflecting on the lack of trust in governance mechanisms within NI, and the OEP's Head Quarters being in England, any perceived partiality towards action in England could undermine confidence in the effectiveness of the OEP and foster an atmosphere of complacency within NI departments wherein they feel they can evade oversight. Concerns raised here are linked to our support for the OEP's first action on non-compliance to have a joint focus, where practicable, across England and Northern Ireland.

Contribution to Northern Ireland and England: we support the issue-based approach set out, in particular the ambition to utilise functions in combination and/or sequentially and in an integrated manner. Whilst recognising the complexity of including matters relating to Northern Ireland, we would welcome such issues being better integrated throughout consideration of prioritisation. Rather than being included at the end, discussion of similarities, and differences/nuances should be embedded throughout the body of text (here and throughout the strategy).

Enforcement

Question 7. Do you have any comments on our approach to determining whether a failure is serious?

We are largely supportive of the approach set out, but would like to raise the following matters:

Distinction between Environmental Review and Review Application: whilst we appreciate that the precise details e.g. court rules are still being considered, the enforcement policy should clearly identify the nuances between the two systems so as to ensure there is a better awareness of the processes through which the OEP will utilise its enforcement function.

Cumulative effect: The Strategy should set out clearly how multiple non-serious infractions that result in serious failure (environmental harm) will be dealt with. Cumulative impact is often not accounted for, especially when the decisions or actions of multiple departments are of relevance. Will the OEP carry out 'cumulative tracking'? Will the OEP inform complainants that if it is the case that the complaint falls below the threshold for action what may be done with such a complaint (i.e. logged and tracked). Clarity on these areas will help the OEP realise ambitions to be transparent and objective.

Action by European Institutions and transboundary effect: as mentioned throughout this response the complexities of transboundary matters have not been sufficiently included within the draft strategy. Whilst we appreciate without Assembly confirmation, consideration of NI could not be fully completed we hope that they now can be. With regard to the seriousness, the related questions arise of:

- (1) Will the OEP (whilst acting independently) consider actions taken by the EPA or EU institutions in the Republic of Ireland?
- (2) What effect or definition of serious will be given to transboundary failures?
- (3) How will the OEP work with institutions in the Republic of Ireland (e.g. EPA) or the EU in instances where a failure on one side of the border effects the other?

As mentioned above nature does not adhere to boundaries and as such the definition of serious must also – where practicable – not be limited by geopolitical distinctions. In order to achieve the mission to protect

and improve the environment in Northern Ireland, the OEP must be clear and objective in considering severity of transboundary failures.

Question 8. Do you have any comments on our approach to determining whether damage is serious?

Whilst the geographic scale of damage is important and can facilitate targeting efforts (i.e. across a whole water-basin or a single river), comparison must not be made on such matters between England and Northern Ireland in relation to scale. A proportionate approach to use of size of effect – i.e. direct comparison of hectares between countries would be inappropriate - must be utilised so as to ensure failures in England are not frequently prioritised over Northern Ireland.

Question 9. Do you have any other comments on our approach to enforcement?

No.

Scrutinising Environmental Improvement Plans (EIPs) and targets

Question 10. Do you have any comments on our approach to balancing our activities between monitoring overall progress and monitoring selected areas in more detail?

Generally we are supportive of the approach outlined. The Strategy provides a welcome explanation of how the OEP intends to engage with DAERA on matters of Northern Ireland's first EIP. Owing to the inadequacy of the draft EIPs targets and actions¹ we particularly welcome the intention to monitor overall progress in the environment in addition to specific aspects. There is, however, a need to clarify the proposed holistic approach, our response to which should be read in conjunction with concerns raised in Q21 around the definition of targets within the strategy.

Holistic approach to assessment of goals and targets: the Strategy should more clearly define what holistically means in this context. The definition provided to targets in the strategy relate to those set under the Environment Act which do not apply to Northern Ireland. If the intention is to include other targets set out with the EIPs within this holistic approach alongside the wider environment and aspects of society then that would be appropriate. If not, we would be concerned that there is an overreliance on targets in the EIPs as determinant of improvement. Wide ecological trends and evidence must be utilised so as to provide a fuller understanding of the state of nature.

¹ RSPB NI: [Open letter to First Minister and deputy First Minister calls out 'unambitious' Environment Strategy](#)

Question 11. Do you have any other comments on our approach to scrutinising EIPs and targets?

We welcome the approach in principle, however, the strategy should explicitly identify the nuances relating to targets within Northern Ireland's first EIP, namely that they are not legally binding and the consequence of such. Moreover, as there are commitments to matters subject of the NI Protocol (e.g. REACH and single-use plastic) and its respective governance mechanisms included within the draft EIP, clarity around how such areas of environmental law will be scrutinised is necessary to ensure that key aspects of environmental protections are not overlooked.

Scrutinising environmental law

Question 12. To what extent do you agree with our interpretation of how we will scrutinise the implementation of environmental law?

We largely agree with the approach outlined in this draft Strategy, but would welcome explicit intentions around matters relating to/interacting with the NI Protocol.

Question 13. Are there any other approaches to scrutinising the implementation of environmental law you think we should consider?

No.

Question 14. Do you have any other comments on our approach to scrutinising environmental law?

Scrutiny of environmental law in Northern Ireland necessitates consideration of those EU rules laid out within the NI Protocol and their interaction/effect on the natural environment. The Strategy should, therefore, be clear in setting out the intended approach to ensuring that aspects of environmental law do not go unscrutinised (noting the political sensitivity of the Protocol). We recognise the complexity of this, particularly where matters of regulations within the NI Protocol overlap with one of more of the OEPs functions (e.g. REACH in the EIP – scrutiny). The OEP must be bold and sure in its approach to such scrutiny because you have the potential to provide valuable independent advice on areas of the Protocol that are frequently overlooked due to the politics of it. Again our concerns here are intrinsically linked to those raised in response to Q16.

Advice

Question 15. Do you have any comments on our approach to advice?

The public provision of evidence based and independent advice to government will be a valuable tool in Northern Ireland given that currently NIEA cannot publicly comment on matters of environmental law. We welcome the commitment that advice and consultation responses will be published on the OEP website, however, owing to Northern Ireland's five-party system of government we would welcome clarity on how the OEP intends to interact/engage with the Executive in the context of the advice function. The environment is our greatest shared asset and in many cases cuts across other aspects of society (e.g. public health) and the economy (e.g. agri-food), any advice that is of relevance to multiple departments should be ensured of cross-Executive awareness. Such an approach would also be beneficial, we hope, in fostering support for the OEP as an independent organisation that is founded in and for Northern Ireland.

A similar concern around the need to be an independent advisory body is in relation to areas of environmental law that fall within the NI Protocol. Will the OEP provide advice on such? How will the OEP decide whether to advise (in addition to requests from the Executive)? We are already seeing areas of environmental law that cut across domestic and Protocol regulations – namely the UK and EU systems of due diligence on forest risk commodities. And concerningly, decision-makers appear to have insufficient understanding of how such complexities should/could be dealt with. Such a matter provides an early and valuable opportunity to explore and clarify how the OEP will seek to achieve its mission within Northern Ireland.

How we will work with others

Question 16. Do you have any comments on how we will work with others?

We welcome willingness and commitment to engage with others, and in particular committees within the NI Assembly. There are, however, a number of areas of cooperation relating to Northern Ireland that must be improved.

Northern Ireland Climate Commissioner: The [Climate Change Bill](#) that recently passed through the NI Assembly provides for the creation of a Northern Ireland Climate Commissioner (Part 5) that will oversee and report on the operations of the Act. When established the OEP will need to work with the Commissioner, the Strategy should, therefore, set out how the OEP will avoid any overlap between the exercise of our functions and those of the NI Climate Commissioner.

Working in Northern Ireland and with public authorities in the Republic of Ireland and the European Union: this section necessitates expansion and clarification.

- Comparison of transboundary issues in the context of Northern Ireland to Scotland and Wales (p.34) is unhelpful and misses the nuances and complexities of the circumstances of the Northern Ireland and Republic of Ireland boundary. The **specific challenges that arise in Northern Ireland will be unique** amongst the UK namely due to it being an international boundary, with a long and complex socio-political history.
- The Strategy should identify how the OEP will engage and **collaborate with the Environmental Protection Agency**¹ in the Republic of Ireland which has a remit over Local Authorities², five of which - Louth, Monaghan, Cavan, Leitrim, Donegal - are situated on the border with Northern Ireland.
- The OEPs advice function in Northern Ireland should involve/recognise the benefit from close engagement with the European Commission on matters of transboundary environmental matters including but not limited to those within the NI Protocol. The environment is our greatest shared asset and goes beyond political boundaries. The OEP should provide an independent voice identifying and advising on opportunities to significantly improve the natural environment - **achieving the OEP's principle objective - across the single biogeographic unit of the island of Ireland** to which Northern Ireland belongs. Therefore, the Strategy should outline clearly how the OEP intends to advise on proposed changes to environmental law and other matters related to the natural environment in a transboundary context.
- The draft Strategy **underplays the complexity of the NI Protocol**, namely the requirement for dynamic alignment. In addition to the continued application of certain EU environmental legislation is the potential addition of regulations and dynamic alignment with laws within Annex 2 of the Protocol. For example, it is our understanding that Northern Ireland will be subject to the EU's forthcoming system of due diligence on forest risk commodities, in addition to the UK system stemming from the Environment Act 2021. There remains a significant lack of clarity regarding the NI Protocol, but the OEP will have a key role to play in providing an independent voice on related environmental law.
- We recognise the need and rightful independence of the functioning of the OEP and the EU Commission. However, the Strategy should set out clearly how the OEP intends to work with the EU Commission in relation to matters such as legacy infraction cases, and potential for breaches with a transboundary consequence. Specifically, several infraction cases taken by the EU Commission have been/are being closed due to the UK's exit from the EU. Clarity regarding the approach of the OEP to such cases should be identified within the Strategy.

¹ <https://www.epa.ie/>

² https://www.epa.ie/publications/compliance--enforcement/licensees/performance/EPA_ComplianceandEnforcementPolicy.pdf

Objectivity, impartiality, proportionality and transparency

Question 17. Do you have any comments on our approach to objectivity?

We would again urge caution in relation to consideration of public concern (see Q6 response) and welcome clarification that the OEP will not be unduly drive by such concerns.

Question 18. Do you have any comments on our approach to impartiality?

The environment is our greatest shared asset however frequently its protection is overshadowed by Northern Ireland's complex socio-political history. Impartiality in operations, advice (incl. examples), and consideration of departmental views (recognising 5-party Executive) fundamentally underpin trust held by stakeholders of the OEP. Reflecting on the context of miss-trust in governance mechanisms, and political nuances, impartiality must be reflected in all aspects of the OEP's operations whether that is ensuring

clarity around resource limitations (see Q6 response) or directing towards examples of good/bad laws out with the UK.

Question 19. Do you have any comments on our approach to proportionality?

No.

Question 20. Do you have any comments on our approach to transparency?

Transparency in the OEPs establishment and operations will be crucial in Northern Ireland owing to the history of regulatory dysfunction and systemic non-compliance that has fostered an environment of distrust with environmental governance mechanisms, and the time-lag in establishment of the OEP in England and Northern Ireland.

General comments

Question 21. Do you have any other comments on our draft strategy?

We appreciate that the inclusion of matters relating to Northern Ireland within the draft Strategy was challenging due to the fact that the consultation opened prior to the Assembly's vote to approve commencement. We hope our response is helpful in providing several areas wherein the unique circumstance of Northern Ireland requires greater consideration and the OEP's related functioning greater clarification. There are additional general comments relating specifically to Northern Ireland that we wish to raise.

Positioning of DAERA and NI public authorities: Throughout the strategy the OEP's approach to functioning appears disjointed and asymmetric between Defra and DAERA. For example, on page 33 the strategy outlines how the OEP will work with ministers and government departments the detail is provided in relation to Defra, with interactions relating to DAERA added on at the end. To assist in ensuring that the OEP is understood to be a 'single, integrated organisation' (p.22) functioning equally and effectively across Northern Ireland and England (taking account of specific differences) we strongly suggest that the strategy discusses relevant functions in relation to Defra and DAERA collectively. Using page 33 as an example again, the statement would state that "we will work closely with Defra and DAERA, reflecting its role explained at section 1.3 above..."

Definition of Public Authority: there are several executive agencies within the Northern Ireland Executive – including the NI Environment Agency, NI Water – that will fall within the OEPs remit. Reference to such 'executive agencies' should be included within the definition.

Demarcation of the NI Executive rather than NI government: it is uncommon to refer to the Northern Ireland Government, rather the Strategy should reflect the OEP's functioning in relation to the NI Executive.

Definition of targets: p.11 whilst there is a target setting framework within the Environment Act 2021, the Strategy should clarify that this will apply only to England. Moreover, whilst Northern Ireland does not have an equivalent framework the Strategy should clarify how existing targets will be accounted for/monitored within the context of the OEP's functions.

Reserved matters imagery: p.11 whilst the geographic scope of reserved matters of course excludes the Republic of Ireland, we recommend that the Strategy, and indeed all OEP documents/texts, use imagery that delineates Northern Ireland rather than overlooks the entirety of the island of Ireland.

Question 22. Do you have any other comments on our draft enforcement policy?

Comments made in relation to Northern Ireland's position within the draft Strategy are largely applicable to the Enforcement Strategy. We would welcome explicit clarification on the nuances, and commitment to

account for them, relating to Northern Ireland be embedded – where practicable – throughout the strategy.

Question 23. Overall how satisfied are you that the draft strategy and enforcement policy provide a sound basis for the OEP to fulfil its remit?

We believe that subject to amendment in line with the comments made above – the better inclusion of Northern Ireland’s unique position - that the draft strategy and enforcement policy will provide a sound basis.

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

Consultee Feedback

Overall, how satisfied are you with the process of completing this consultation?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied