

Report of the 7th Advisory Committee of the Environmental Protection Agency to the Minister for Communications, Climate Action and Environment

INTRODUCTION

The 7th Advisory Committee of the Environmental Protection Agency (EPA) was appointed by the Minister for Communications, Climate Action and Environment (the Minister) on 5 December 2016 for a three-year term. The committee's membership is included in the Appendix to this report, as are the details of the 11 occasions on which the committee has met to date. As has been the practice with previous Advisory Committees, the 7th Advisory Committee has prepared a report on its activities for submission to the Minister.

This report records the main issues considered by the committee during its term of office. It sets out a series of recommendations to the EPA, and to the Minister, relating to the Agency's functions. These recommendations cover a range of key issues.

The specific recommendations made to the EPA cover the following areas: Communications Strategy; EPA Website; and Access to Information and Open Data (page 4).

The recommendations made to the Minister concern: Resources; Budgetary Matters; Climate Action; Waste Management; Air Quality; and Access to Information and Open Data (page 6).

The report also contains recommendations that may be of assistance to the work of the incoming Advisory Committee (page 10).

The report is based on three years of activity. It provides the Advisory Committee with an opportunity to reflect back on developments during that period, to take stock of EPA activity and achievements and to provide forward-looking insights based on its experience.

Background

Section 27 of the Environmental Protection Agency Act 1992 (the EPA Act) provides for the establishment of an Advisory Committee which is chaired by the Director General of the EPA and includes eleven other members. Seven members are appointed by the Minister from nominations received from a number of prescribed organisations under section 27(5) of the EPA Act, with the remaining four members appointed directly by the Minister.¹

Under section 28(1)(a) of the EPA Act, it is the duty of the Advisory Committee "to make recommendations to the Agency or to the Minister relating to the functions of the Agency." Section 28(1)(b) provides that the Agency or the Minister (as appropriate), "shall have regard to any recommendations made by the Advisory Committee". Under section 28(3), the Minister may consult the Advisory Committee on any matter arising in relation to his

¹ The Environmental Protection Agency (Advisory Committee) Regulations 2015 (SI No 613 of 2015) sets down the bodies prescribed for the purposes of section 27(5) of the EPA Act 1992.

functions with respect to environmental protection. The Minister did not consult the 7th Advisory Committee at any stage during its term of office.

The value of the Advisory Committee lies primarily in the diversity of views and the depth of expertise and experience in a wide range of environmental matters that its members offer. The Advisory Committee is an important resource for the Agency, particularly in relation to emerging issues and matters of scientific and public concern more generally. It also serves to provide an informed, independent perspective on the Agency's activities and is a useful "sounding board" for new ideas.

From the outset, and at each subsequent meeting, the Chair of the Advisory Committee, Laura Burke (Director General, EPA), invited committee members to suggest topics for discussion at future meetings. This approach ensured that committee members had a strong input in determining the agenda for meetings and that any issues of interest to the committee were discussed.

OVERVIEW OF THE 7TH ADVISORY COMMITTEE'S ACTIVITIES

Briefings

Over the course of its 11 meetings to date, the Advisory Committee received detailed briefings on the following topics:

- The functioning of the Environmental Protection Agency and the Advisory Committee
- State of the Environment Report 2016
- Overview of EPA Work Programmes 2017
- The EPA's Office of Environmental Enforcement
- The Strategic Framework for Sustainability
- Greenhouse Gas Emissions Inventories & Projections
- The National Mitigation Plan
- The EPA Research Strategy
- EPA funded research at the Environmental Research Institute (ERI), University College Cork
- The Network for Ireland's Environmental Compliance & Enforcement (NIECE)
- The Waste Enforcement Regional Lead Authorities (WERLAs)
- The National Waste Prevention Programme (NWPP)
- Local Authority Engagement on Air Quality
- Local Authority Engagement on Water Quality
- Citizen Science
- The National Dialogue on Climate Action
- Water Quality and the Water Framework Directive
- The regulation of Genetically Modified Organisms (GMOs)
- EPA communications with stakeholders
- State of the Environment Report 2020
- EPA Budget trends and fees
- Participation in the *Eisenhower Fellowship* programme (Dr Eimear Cotter)
- Draft Code of Practice for Septic Tanks

These briefings generally took the form of oral presentations accompanied by high quality papers and other materials. Briefings on particular topics were followed by discussion. This approach enabled committee members to engage in well-informed, high level discussion and exchange of views with the relevant EPA personnel and to provide feedback and suggestions directly to the EPA.

Updates

In addition to briefings on particular topics, Advisory Committee meetings included regular updates on emerging issues and on the following overarching topics:

- EPA's budgetary situation, staffing matters and current issues/challenges
- Strategic priorities for the EPA
- Relationships with the Department of Communications, Climate Action and Environment, the Department of Housing, Planning and Local Government and other Departments and agencies
- EPA publications and media/outreach strategy and impact
- Data protection law
- Organisation for Economic Co-operation & Development (OECD) Review of the EPA

Meeting Locations

The Advisory Committee met at a number of different locations during its term of office, including EPA Headquarters at Johnstown Castle, Wexford and the EPA Regional Inspectorates in Kilkenny, Castlebar, Dublin and Cork. The Advisory Committee meeting held on 27 November 2018 at the Regional Inspectorate at Inniscarra, Co. Cork was followed by a visit to the Environmental Research Institute (ERI) at University College Cork (UCC). Following the meeting held on 12 June 2019 at Cloughjordan Ecovillage, members of the Advisory Committee were given a presentation on and undertook a guided tour of the Ecovillage.

The Advisory Committee publishes detailed minutes of all its meetings on the EPA website. Full details of the 7th Advisory Committee's activities are provided in these minutes which are available at: www.epa.ie/pubs/reports/other/corporate/advcomm/

RECOMMENDATIONS

Introduction

The Advisory Committee is impressed by the activities and achievements of the EPA that were presented to it over the past three years. The EPA has established itself firmly as an effective advocate for the environment. It is also acknowledged widely as a trusted source of high quality, objective, reliable and timely scientific information and analysis concerning Ireland's environment.

The Advisory Committee is particularly impressed by the work undertaken by the EPA to develop and support ground-breaking frameworks for collaboration between State agencies, local authorities and regulatory bodies. These include, for example: the National Dialogue on Climate Action; the Climate Action Regional Offices (CAROs); the Local Authority Waters Programme; and the Waste Enforcement Regional Lead Authorities (WERLAs).

The Joint EPA/Geological Survey of Ireland (GSI) study of Soil Recovery Facilities Waste Acceptance Criteria is also a good example of a practical, cross agency scientific response to a pressing issue.

The National Priority Sites for enforcement initiative is another excellent example of effective leadership and innovation by the EPA in the specific field of environmental enforcement.

The Advisory Committee is also pleased to see that the Agency has a constructive relationship with Irish Water.

In accordance with its statutory mandate under section 28(1)(a) and section 28(2) of the Environmental Protection Agency Act 1992, the Advisory Committee makes the following recommendations.

Recommendations to the EPA

Communications Strategy

The EPA plays a key role in environmental governance in Ireland by providing high quality, objective, reliable and timely scientific information and analysis concerning Ireland's environment. This information is sought after by multiple audiences including regulators, policymakers and, of course, the public. Reliable data is critical to underpin informed debate, effective environmental decision-making and the policy initiatives necessary to support sustainable development. It is important, therefore, that the EPA becomes even more proactive in making the information it holds available in formats that are accessible to, and meet the needs of, multiple audiences. The EPA has been very successful in its role in educating the public on environmental matters to date, but there is room for improvement.

The Advisory Committee recommends that the EPA:

- Adopts a more proactive approach to dissemination of information, to communicating key messages (such as awareness of the consequences of illegal dumping) and to targeting multiple audiences (in particular ensuring that there is intergenerational dialogue on key contemporary challenges such as climate change, air quality, water quality and the circular economy);

- Prepares factual briefing documents which provide a summary of the current state of play on key issues relating to the environment in formats that are accessible to, and understandable by, multiple audiences, including the public. Briefing documents should include the latest scientific data presented in a user-friendly format (in so far as this is possible and depending on the nature of the data at issue);
- Pursues better segmentation of target audiences in its communications strategy, focusing in particular on reaching younger demographics in which the Agency has traditionally had fairly limited penetration;
- Conducts research on public attitudes to environmental protection, in particular key contemporary challenges such as climate change and illegal dumping;
- Develops capacity for 'citizen journalism' (which might include making data available in open, re-usable, and accessible formats) and, in particular, encourage contributions by young people;
- Considers how best to make events run by the Agency more accessible to the public, particularly through the deployment of technology, including for example live streaming or publishing edited highlights via video sharing services;
- Takes steps to facilitate greater involvement by civil society in Agency events.

EPA Website

The EPA website requires urgent redevelopment and redesign to make it more user friendly and to make the wealth of data held and managed by the Agency more accessible to the public and other interested parties. The Advisory Committee understands that a major website redevelopment and redesign process is currently in hand. It welcomes this important initiative and looks forward to seeing it come to fruition in early course.

Access to Information and Open Data

The Advisory Committee is particularly impressed by the work that has been done by the EPA on the sharing of its data and recommends that this work be further promoted. It also recommends that the EPA engages in capacity-building activities, to ensure that civil society can take full advantage of the wealth of information which is available via the EPA in order to participate fully in environmental decision-making.

Recommendations to the Minister

Introduction

It is beyond doubt that the EPA plays a vital and highly regarded role in environmental governance in Ireland. Its work brings enormous benefits to the Irish economy and to society. The Agency's role takes on even greater significance in the contemporary context of climate breakdown, the biodiversity crisis and national and international efforts to implement the Sustainable Development Goals (SDGs). Notwithstanding the fact that the EPA does not have a direct role in all aspects of environmental protection policy, it must, nevertheless, remain alert to potential unintended consequences in a complex and rapidly evolving policy domain involving multiple stakeholders.

The EPA must be supported and resourced adequately to enable it to deliver its mandate effectively. Without adequate resources, the EPA may become a potential block to economic development and its licensing, enforcement and other key functions will be undermined.

It is clear to the Advisory Committee that the development and coordination of bottom-up solutions to environmental challenges are gradually becoming more significant in the Irish context. The Agency plays a key partnership role here, working diligently to empower other agencies, local authorities and local communities to identify and develop solutions to particular environmental problems. The Agency is in a position to process data and convert it to knowledge which, in turn, supports effective engagement and action at different levels, including, for example, promoting behavioural change. It is important to recognise explicitly here that the EPA is far more than a regulator; it is also a coordinator and a partner that works closely with other stakeholders, in particular the local authorities.

Resources

The Advisory Committee understands that the EPA undertakes regular workforce planning exercises and has received sanction for additional staff in 2018 and 2019 (water related functions) to support it in carrying out its mandate. The Advisory Committee is aware that the EPA has a submission in with the Department of Communications, Climate Action and Environment (DCCA) for staff sanction primarily to address resource requirements associated with new functions (e.g. Peat Regulations, Medium Combustion Plant, National Ecosystem Monitoring and actions from the Climate Action Plan) and for resources required in the licensing and enforcement areas.

The Advisory Committee believes that a more flexible approach to resourcing of the EPA is required as the economy continues to grow. This flexibility is necessary in order to meet specific demands when and where they arise.

The Advisory Committee is aware that the sanctioning of new staff to enable the EPA to fulfil new statutory functions can, at times, prove to be a lengthy and uncertain process. The Advisory Committee notes with concern that there are currently situations where a lack of flexibility as regards staffing leads to a significant delay/time lag for particular EPA functions (e.g. applications from the construction industry on the classification of soil and stone). Any delay and inefficiencies in the regulatory process potentially undermines economic growth and may lead to reputational harm as regards the effectiveness of the environmental governance system in Ireland.

This lack of flexibility is likely to become an even more serious issue if and when the United Kingdom leaves the European Union, and especially in the event of a ‘no deal’ Brexit. There are particular environmental protection contexts, such as the transboundary transport of waste, in which it is very difficult to predict what will happen in the short to medium term and what specific resources will be required. Unforeseen problems may arise suddenly. There is, therefore, an obvious need to ensure that there is effective inter-agency co-ordination, including mechanisms for emergency co-ordination with An Garda Síochána, local authorities, and other bodies when required, and the ready availability of contingency funding.

With the aim of improved workforce planning, and to avoid any risk to economic progress and reputation, the Advisory Committee recommends that the Department of Communications, Climate Action and the Environment engages with the EPA as a matter of urgency with a view to resolving the staffing and resource issues noted above. It is essential that the EPA has the staffing, resources, and flexibility to carry out effectively the functions assigned to it.

Budgetary Matters

The Advisory Committee notes with concern that the EPA currently has multiple sources of funding, not all of which are certain, and that different funding sources are finalised at different times of the financial year.

This state of affairs is highly problematic in terms of governance and forward planning. For example, EPA activities in relation to enforcement, waste prevention and research are ongoing while the Agency is still awaiting approval of funding from the Environment Fund. This is very unsatisfactory. The budget should be settled and approved in good time to avoid uncertainty and any unnecessary delay in implementation of work programmes.

The problems identified above are particularly acute as regards the EPA’s research function. High quality, innovative research is a vital area of the EPA’s work programmes. The outputs from EPA funded research play an essential role in informing policy and underpinning sound decision-making. The funding stream underpinning the EPA’s research function should be assured and predictable.

As things stand, the funding stream for research depends heavily on the Environment Fund and is therefore uncertain and vulnerable to reductions depending on the sustainability of the fund. Furthermore, as noted above, there are delays in budget approval from the Environment Fund. The Agency’s research budget should be better protected and should be allocated as early as possible in the financial planning cycle and, ideally, through either the capital or current exchequer allocation. The Advisory Committee notes that there has been a recent move towards research being part-funded from the exchequer capital allocation to reduce dependency on the Environment Fund and considers this a more appropriate and sustainable approach than through the Environment Fund.

High quality and targeted research can and should provide the evidence base for and support policy making. High quality data and knowledge, which is fundamental to sound policy development, will not be available as required in the absence of the necessary basic research. For example, in the context of adaptation, excellent research that is geographically focused is vital to support policy development.

Given the importance of what is at stake here, these issues must be resolved as a matter of urgency.

The Advisory Committee recommends that, as a matter of priority, the Minister assigns a senior official within the Department of Communications, Climate Action and Environment to investigate the budgetary issues noted above and to develop a sustainable solution, in consultation with the EPA.

Climate Action

The Advisory Committee recognises the important role played by the EPA in relation to the National Dialogue on Climate Action. The committee recognises the National Dialogue as an important and timely opportunity to engage the public in climate action.

In order to deliver a more effective overarching structure for the National Dialogue, the Advisory Committee recommends that the Department of Communications, Climate Action and Environment should transfer the function of the Secretariat supporting the National Dialogue from the Department, where it is currently based, to the EPA.

Waste Management

Illegal dumping has become a significant problem which is proving very difficult to resolve. The Advisory Committee recommends that further resources are provided to the EPA as a matter of urgency to underpin additional enforcement activity. Additional resources are also required to expand the EPA's current efforts to inform the public about the significant costs to society that result from illegal dumping, including clean-up and remediation costs.

The Advisory Committee notes the Government's commitment in the *Climate Action Plan 2019* to the delivery of a new national policy on waste management.

The current regulatory framework governing waste management is highly fragmented and incomplete. The Advisory Committee recommends that the current framework is reviewed and revised as a matter of urgency to address this long-standing fragmentation and to provide much needed clarity on where specific areas of responsibility lie in the area of waste regulation and enforcement.

The Advisory Committee agrees with the recommendation made by the Competition and Consumer Protection Commission that an economic regulator for household waste collection be established.² The Advisory Committee recommends that this proposal be implemented without delay.

The Advisory Committee further recommends that the National Waste Enforcement Steering Committee, which is currently chaired by the Department of Communications, Climate Action and Environment, should be co-chaired by the Department and the EPA. The Advisory Committee understands that the EPA has already proposed this course of action to the Department in the context of national waste and circular economy policy development.

² *The Operation of the Household Waste Collection Market* (Competition and Consumer Protection Commission, September 2018).

Air Quality

Poor air quality, and the serious implications it entails for public health, is an issue that has only recently begun to attract the attention it deserves from Government, the media and the public. There is a strong and obvious link between climate change and air quality. Reducing fossil fuel consumption may lead to improvements in air quality, although research funded by the EPA does indicate that the shift to renewable solid fuels, which is already underway, may contribute to air pollution and therefore require regulation.

The Advisory Committee notes that the EPA in its report on *Air Quality in Ireland 2018* (2019), highlighted that levels of particulates (dust) are particularly high during the winter months when people's use of solid fuels such as coal, peat and wood impacts on air quality and on health, especially in small towns and villages, where the 'smoky coal ban' is not in place. The Advisory Committee would welcome the development by Government of a clear policy around this important issue, which should be based on the available scientific evidence.

Communication of reliable, real-time data on air quality is a vital function of the EPA, in association with the local authorities, particularly in order to avoid unintended secondary consequences from environmental initiatives. The Advisory Committee recommends that the Department of Communications, Climate Action and Environment works with the EPA and the local authorities to raise the profile of air quality as a pressing issue of serious public concern. The interlinkages between air quality and climate change should be explored specifically in terms of holistic future policy developments.

Access to Information and Open Data

Trusted mechanisms must be put in place to facilitate the sharing of data between agencies, Government Departments and civil society. The Advisory Committee recommends that the Minister continue to support: the national Open Data Strategy; implementation of European Union law on access to environmental information and the use of public sector information (including the INSPIRE directive and the Open Data and Public Sector Information Directive, which must be implemented in Irish law by 17 July 2021); and implementation of the Aarhus Convention, in particular the provisions of the Convention governing access to, and dissemination of, environmental information held by public authorities and the obligation on the State to make the public aware of their rights under the Convention and EU law. Accessible information and data are key to engaging and empowering civil society to become more involved in environmental decision-making, and to ultimately enable better informed and more acceptable outcomes.

Recommendations to the Incoming Advisory Committee

Timing of Advisory Committee's report to the Minister

The Minister appointed two new members to the Advisory Committee with effect from 1 July 2019 for a period of three years. These appointments filled two casual vacancies which arose in the membership of the 7th Advisory Committee. As a result of this new development, the committee now has, and will continue to have, a rolling membership. Previously, all committee members were appointed by the Minister *en bloc* and their terms of office expired *en bloc*.

A rolling membership is a positive development. It provides a welcome element of continuity and expertise in the committee's membership. The more experienced committee members can provide important insights to newer members as regards how the committee can make the most valuable and effective contribution in advising and supporting the EPA.

One aspect of the new rolling membership that will require attention, however, is the timing of the Advisory Committee's report to the Minister. The practice to date has been for the committee to prepare a report for the Minister on the expiry of the committee's term of office. This situation will no longer arise in practice with a rolling committee membership. Therefore, a new timeline for periodic reporting to the Minister will need to be determined by the new Advisory Committee as a matter of priority.

The incoming Advisory Committee may also wish to consider producing a 'mid-term' report or review, in addition to an 'end of term' report.

Making best use of the Advisory Committee's time

As things stand, the Advisory Committee meets quarterly. This arrangement has worked very well to date. With a view to freeing up more time for discussion at Advisory Committee meetings, consideration might be given to making some presentations available to committee members prior to the meeting. For example, certain presentations could be recorded in advance and made available for viewing online by committee members before the meeting.

Concluding Remarks

The outgoing Advisory Committee members would like to record that it has been an honour and a privilege for them to serve on the 7th Advisory Committee and to have had the opportunity to support the EPA in its activities.

The particular membership of the 7th Advisory Committee provided the EPA with the benefit of a significant diversity of views and an impressive depth of expertise and experience across a wide range of environmental matters. This range of expertise and experience enabled constructive and deep engagement with many complex issues over the three-year period.

It is essential that a wide range of expertise and experience is maintained in the composition of the incoming Advisory Committee.

3 October 2019

Appendix

7th Advisory Committee of the Environmental Protection Agency Members

	Nominated by	Appointed	Stepped Down	Meetings Attended
Ms. Laura Burke	Chairperson of the Committee and Director General EPA	5 December 2016		10
Dr. Cara Augustenborg	Irish Environmental Network	5 December 2016		9
Ms. Collette Byrne	County and City Managers Association	5 December 2016		5
Ms. Aebhín Cawley	Minister for Communications, Climate Action and Environment	1 July 2019		1
Mr. Frank Conlon	Minister for Communications, Climate Action and Environment	5 December 2016	3 April 2018	3
Mr. Seán Finan	Minister for Communications, Climate Action and Environment	5 December 2016		10
Mr. Seán Finlay	Minister for Communications, Climate Action and Environment	5 December 2016		9
Dr. Ina Kelly	Directors of Public Health of the HSE	5 December 2016		8
Dr. Rónán Kennedy	Irish Environmental Law Association	5 December 2016		10
Mr. Harold Kingston	Irish Farmers' Association	5 December 2016		10
Dr Laure Marignol	Irish Radiation Research Society	1 July 2019		0
Ms. Elaine Nevin	National Youth Council of Ireland	5 December 2016		11
Prof. Fiona Lyng	Irish Radiation Research Society	5 December 2016	31 August 2018	1
Dr. Áine Ryall	Minister for Communications, Climate Action and Environment	5 December 2016		10

Schedule of Meetings

The 7th Advisory Committee met on 11 occasions to date as follows:

- 27 January 2017
- 25 May 2017
- 4 September 2017
- 27 November 2017
- 2 February 2018
- 24 May 2018
- 3 September 2018
- 14 December 2018
- 21 March 2019
- 12 June 2019
- 2 September 2019

Minutes of Meetings

Approved minutes of Advisory Committee meetings are available via this link:

www.epa.ie/pubs/reports/other/corporate/advcomm/