

2018

Memorandum of Understanding

ENVIRONMENTAL PROTECTION AGENCY
AND THE OFFICE OF PUBLIC WORKS



Memorandum of Understanding

Environmental Protection Agency

and

Office of Public Works

The objective of this Memorandum of Understanding (MoU) is to identify and improve cooperation and coordination in areas of mutual responsibility and shared interest between the Environmental Protection Agency (EPA) and the Office of Public Works (OPW) to assist both organisations in delivering on their responsibilities.

Signed:

Maurice Buckley
Chairman
OPW

Date: 6 April 2018

Signed:

Laura Burke
Director General
EPA

Date: 6/4/2018,

1 Introduction

This Memorandum of Understanding (MoU) between the Office of Public Works (OPW) and the Environmental Protection Agency (EPA) is intended to provide a framework for enhanced cooperation in areas of mutual interest, leading to greater efficiency and effectiveness in the delivery of the respective work programmes of both organisations.

Environmental Protection Agency

The EPA is an independent public body established under the Environmental Protection Agency Act, 1992. The EPA has responsibilities for a wide range of licensing, enforcement, monitoring and assessment activities associated with environmental protection. Primary responsibilities of the EPA include:

- Drinking water and water quality regulation;
- Environmental licensing;
- Enforcement of environmental law;
- Environmental planning, education and guidance;
- Environmental research;
- Monitoring, analysing and reporting on the environment;
- Radiological protection;
- Regulating Ireland's greenhouse gas emissions;
- Strategic environmental assessment;
- Waste management; and
- Water Framework Directive coordination, characterisation, assessment and reporting.

Office of Public Works

The Office of Public Works (OPW) was established in 1831, and is one of the oldest State bodies in Ireland. The OPW is a central Government Office and the staff of the organisation comprises part of the civil service of the State. The legal entity of the Commissioners of Public Works comprise of a Chairman and two Commissioners.

The OPW's two core functional areas (supported by Corporate Services) are:

- Estate Portfolio Management, which encompasses Heritage Services; and
- Flood Risk Management.

Estate Portfolio Management - The OPW provides accommodation for Government Services and manages much of the State's property portfolio. It also has responsibility for the management and conservation of State heritage properties.

Flood Risk Management - The OPW is the lead agency for flood risk management in Ireland, with responsibility for coordinating Government policy on the management of flood risk and the flood relief capital programme. The OPW is also the Competent Authority for the implementation of the EU Directive on the Assessment and Management of Flood Risks [2007/60/EC] which was transposed into Irish law by S.I. Nos. 122 of 2010 and 495 of 2015 - European Communities (Assessment and Management of Flood Risks) Regulations 2010 and 2015.

2 Purpose of Memorandum of Understanding

The OPW and EPA jointly affirm their commitment to cooperate and coordinate on common work areas in the interest of protecting human health, society and the environment in Ireland. This commitment will facilitate the free and timely exchange of information and data, which will help support our respective responsibilities and provides a platform for promoting best practice in areas of common interest. The memorandum does not override the statutory duties and powers of either organisation, rather it expresses a convergence of will between the parties, indicating an intended common line of action to ensure that the best possible service is delivered.

In recognising each organisation's respective statutory responsibilities and obligations, the EPA and OPW shall endeavour to cooperate closely particularly in relation to the following:

- Continued coordination on the development of a national hydrometric programme and cooperation in the collection, processing, analysis and dissemination of hydrometric data;
- Continued cooperation associated with the implementation of the Water Framework Directive and 'Floods' Directive, particularly with regard to coordinating and establishing good processes for coordination on measures established under these Directives;
- Cooperation and knowledge sharing on the potential impact of climate change on sea levels, rivers and other water bodies and how this information may be integrated into water, flood risk, coastal protection, and climate adaptation management strategies and plans;
- Cooperation in the areas of Green Procurement, whereby the OPW and the EPA shall share knowledge on best environmental practice with respect to Estate Portfolio Management and cooperate/align procurement practices to the green procurement principles;
- Cooperation and knowledge sharing on matters relating to radon and other environmental management issues in public workplaces and visitor spaces for which the OPW is responsible.

On an operational level, the EPA and OPW shall endeavour to work closely in relation to property management and any capital works programmes that are required for the EPA's offices.

3 General Principles of Cooperation

The purpose of this MoU is to record the agreement that has been reached by the Parties. A summary of the key areas of both existing and future potential cooperation is presented below. The parties agree to:

- Continued representation on the National Hydrometric Working Group, using this group as a forum to discuss and agree issues, coordinate hydrometric activities nationally and to explore/formalise arrangements for the exchange of hydrometric data and information between both organisations;
- Where required, collaborate on operational hydrometric activities to ensure that the work programmes of both organisations can be effectively and efficiently implemented;
- Continue to cooperate on operational hydrometric activities, such as collaborative training on software and equipment calibration, with the aim of sharing and exploiting existing expertise to the betterment of both organisations;
- Continued representation by the OPW on national Water Framework Directive implementation groups and by the EPA on Floods Directive working groups and continued bi-lateral coordination to ensure that common goals and potential areas of conflict are managed effectively;
- Continue to cooperate on research and information exchange in relation to climate change;
- Exchange of data and advice relating to the assessment and management of radon in public workplaces and visitor spaces for which the OPW is responsible;
- Where applicable, identify opportunities for and coordinate cross organisational training;
- Where possible, promote scientific/technical cooperation and linkages between both parties.

4 Memorandum of Understanding Review

This MoU will come into force on the date of signing and shall remain in force until replaced or withdrawn by mutual consent.

The effective operation of this MoU may be subject to change or revision following annual review of progress by the Liaison Group, with recommendations for change made to, and accepted by, the respective signatories.

5 Operational Liaison

The OPW and EPA will appoint designated contacts for implementation of the MoU and they shall meet jointly on an annual basis (minimum) to monitor and review the implementation and effectiveness of this MoU. This forum shall be known as the **OPW/EPA Liaison Group** and it shall be held in either the OPW or EPA offices or by teleconference, as appropriate. The members of the Group shall as a minimum be a Programme Manager of

the EPA and an Assistant Chief Engineer / Principal Officer of the OPW with additional members included as work programmes require.

The Liaison Group will coordinate the operation of any sub-working groups that are established in relation to common areas of interest, including the existing National Hydrometric Working Group. The Liaison Group shall report on an annual basis for submission to the Board of the EPA and the Management Board of the OPW outlining the effectiveness of the implementation of the MoU and setting out recommendations for further opportunities for cooperation if relevant.

6 Confidentiality

Both parties shall maintain full right title and interest in any intellectual property right in any work product developed solely by them under this memorandum.

The rights of the two organisations to restrict information regarded as confidential under each organisation's relevant legislation will be respected at all times.

Specific Arrangements

The two main areas of common interest are:

1. Hydrometric monitoring, assessment and reporting; and
2. Water Framework Directive and Floods Directive interactions.

These areas are described in more detail in Appendix 1 and may involve engagement in Working Groups either on a bi-lateral basis or in conjunction with other stakeholders.

Additional areas of common interest include:

- Utilising the EPA's and OPW's data on climate change to assist with water, flood risk, coastal protection and climate adaptation management strategies and plans;
- Agreement and alignment of procurement procedures with general green procurement principles and standards as set out in the National Action Plan for green public procurement *Green Tenders – Action Plan on Green Public Procurement* (DECLG and DPER, 2012), guidelines published by the EPA *Green Procurement Guidance for the Public Sector* (EPA, 2014), and any procurement guidance published by OPW;
- Liaison and provision of training on the statutory environmental obligations and good environmental management practices for OPW estate portfolio managers;
- Assisting OPW in identifying, and where necessary, addressing radon levels in public workplaces and visitor spaces for which the OPW is responsible.

Working Groups

The OPW and EPA may agree to establish working groups or make other arrangements to examine matters of common interest. Such groups may examine matters of a technical, legal or administrative nature where cooperation may provide opportunities for more effective operations between both organisations. Such working groups as may be established from time to time will operate under Terms of Reference agreed by the OPW/EPA Liaison Group.

Appendix 1: Main Areas of Common Interest

1. National Hydrometric Monitoring, Assessment and Reporting Programmes

EPA Role

Section 64 of the Environmental Protection Agency Act, 1992 outlines the role of the EPA in the hydrometric area. This role includes the preparation and periodic review of a national hydrometric programme for the collection, analysis and publication of information on the levels, volumes and flows of water in rivers, lakes and groundwater. The EPA also has a duty to take appropriate steps to ensure that the national hydrometric programme is implemented.

At an operational level the EPA, jointly with Local Authorities, has responsibilities and a network oriented towards measurement of medium and low flows. To this end, the primary function of the EPA is the provision of 95 percentiles, 50 percentiles and Dry Weather Flows, to aid water resources management, particularly licensing of discharges and water abstractions. In addition, the EPA collects data on flooding events at the EPA–Local Authority stations to enable station calibration and as a means of assisting the OPW. The EPA is also the lead body in collecting and analysing groundwater level data.

The EPA also collates data collected by organisations such as the OPW, Met Éireann and the ESB to satisfy statutory EU and European Environment Agency reporting requirements.

OPW Role

The OPW has been collecting water level and river flow data on a systematic, nationwide basis for over 75 years. The OPW Hydrometric Section is responsible for the provision, operation and maintenance of an extensive network of water level and flow gauges on rivers and lakes throughout Ireland.

The primary function of the OPW hydrometric network is to provide data for effective flood risk management in Ireland. Such data (water levels and river flows) are required for the design, construction and monitoring of flood risk management infrastructure, and the operation of certain control structures. The data are also important at a national level in environmental and climate monitoring, and water resource management.

The core operations of the Hydrometric Section are the collection, processing, archiving, analysis, and dissemination of hydrometric data. In addition to being used by the OPW, the

data collected are also made available to external organisations and persons who require the data (either on-line or on request).

Areas of Common Interest

National Hydrometric Working Group

The OPW and the EPA are the two main organisations in the country involved in the collection, processing, analysis and dissemination of hydrometric data. The EPA hydrometric programme was reviewed in 2011 and the review highlighted the need for a national representative group comprising of relevant stakeholders. The OPW and EPA jointly chair the National Hydrometric Working Group, which was established in 2013. Membership of the group comprises of representatives of the EPA, OPW, Marine Institute, ESB, Waterways Ireland, Inland Fisheries Ireland, Teagasc, River Basin District coordinators, County and City Managers' Association, Irish Water, GSI, and (in an observer capacity) DfI Rivers, Northern Ireland.

The core purpose of the National Hydrometric Working Group is to improve the overall monitoring, processing, availability and use of good quality hydrometric data. The overall aim of the Working Group is to strengthen the collaboration between the various organisations responsible for, or directly involved in, the collection, analysis and dissemination of hydrometric data in Ireland, and to provide a forum to discuss and agree issues relating to the operation of sustainable hydrological networks and exchange both scientific and technical expertise while advocating the development of best hydrometric practices. The National Hydrometric Working Group will also seek to establish improved mechanisms for shared services, including creating links to make good quality up to date hydrometric data more accessible to all interested parties.

Hydrometric Data Collection

There are existing informal arrangements that the hydrometric sections of the EPA and the OPW will assist each other by taking flow measurements, where necessary, across the network of stations during periods of extreme events such as floods and low flows. Each organisation can also be contacted at regional level to investigate problems with the other's monitoring equipment, provided their hydrometric field personnel are scheduled to be in the region and it is convenient to their work programme. In order for both organisations to carry out work on each other's stations, on request, both organisations have agreed to ensure, as far as practicable, that there are comparable Health and Safety standards being adopted for hydrometric field work.

It has also been agreed that both organisations will minimise duplication of monitoring stations by, where possible, developing each station's calibrations to its full potential, i.e. to cover the full range of flows. Overlapping stations will only be installed for operational purposes where no alternative is available.

Cooperation in relation to Hydrometric Data Dissemination

Both organisations agree to continue to provide hydrometric data to each other in a timely manner, on request, to support elements of the Water Framework Directive, EU reporting (OSPAR, Elonet), Flood Studies, or any other hydrological investigations carried out by either body. Both parties agree to work towards an agreed approach to the definition and provision of data quality codes and summary water level and flow statistics. In addition, as agreed through the National Hydrometric Working Group, both the EPA and OPW will continue to manage a hydrometric area on a common web portal (<http://www.gov.ie/services/access-hydrometric-data/>).

Hydrometric Staff Training

Both organisations have agreed, where possible, to cooperate on joint training activities to make the most effective use of resources and to facilitate data quality, comparability, and sharing between the two organisations.

2. Water Framework Directive/Floods Directive Interaction

Water Framework Directive and the EPA

The River Basin Management Plans aim to provide a comprehensive overview of the water environment in Ireland. They include a review of the impact of human activities on the status of water, the environmental objectives for each water body and identify any associated programmes of measures that are required to achieve these objectives. The plans provide an integrated platform to identify existing and emerging water management issues in Ireland, which will inform decision making on future strategies, work programmes and investment in the area of water in Ireland. Following a period of consultation and revision, the plans are submitted to the Minister for Housing, Planning and Local Government for publication and enactment and are reported to the European Commission on a six yearly cycle.

Under the European Communities (Water Policy) Regulations, 2003 (S.I. No. 722 of 2003), as amended under the **European Union (Water Policy) Regulations, 2014** (S.I. No. 350 of 2014) the EPA has been given responsibility to undertake a number of tasks for the purposes of implementing the Water Framework Directive [2000/60/EC]. These tasks include advising and supporting the Minister and acting as the national lead public authority on *“Technical Implementation and Reporting”*. The lattermost task includes management of the monitoring programme, assessment and reporting; drafting environmental objectives and common programme of measures; developing a template for River Basin Management Plans; and monitoring of enforcement activities and environmental outcomes.

Floods Directive and the OPW

The OPW is the lead State body for the coordination and implementation of Government policy on the management of flood risk in Ireland. The OPW is also the Competent Authority for the implementation of the EU Directive on the Assessment and Management of Flood

Risks [2007/60/EC] that was transposed into Irish law by the EU (Assessment and Management of Flood Risks) Regulations S.I. Nos. 122 of 2010 and 495 of 2015.

The EU Directive on the assessment and management of flood risks [2007/60/EC], often referred to as the 'Floods' Directive, was adopted on 23 October 2007. Its aim is to reduce and manage the risks that floods pose to human health, the environment, cultural heritage and economic activity. Its approach is based on a six-year cycle of planning, subject to the application of transitional arrangements. The Floods Directive is to be implemented in three stages:

First Stage: During the first stage, Member States carry out Preliminary Flood Risk Assessments (PFRA) for river basins and for coastal zones, to identify areas of existing or foreseeable potentially significant flood risk (Areas for Further Assessment, or 'AFAs').

Second Stage: Member States prepare flood hazard maps and flood risk maps for the AFAs identified in the first stage. These should identify areas prone to flooding during events with a low, medium and (optionally) high probability of occurrence.

Third Stage: The third stage requires the production of catchment-based Flood Risk Management Plans (FRMPs).

Both stage one and two are technical assessments that incorporate hazard and risk based on the physical setting and potential impact on society and the environment. The third stage identifies a management programme to mitigate the risk, which is an appropriate stage to discuss flood risk management in the context of the Water Framework Directive River Basin Management Plans.

The OPW has completed the PFRA and has undertaken the National Catchment-based Flood Risk Assessment and Management (CFRAM) Programme. This Programme has delivered the required flood maps and a series of Flood Risk Management Plans (FRMPs) for the first cycle of implementation of the 'Floods' Directive. The FRMPs set out a series of proposed measures, both structural and non-structural, to manage flood risk within the AFAs and elsewhere in the country, which underpin the development of OPW's investment and expenditure programme in the medium term.

Areas of Common Interest

Interaction between the Directives

Coordination of Water Framework Directive and the Floods Directive activities, in particular in the area of strategic planning and programmes of measures, offers the opportunity to optimize the mutual goals of the Directives and to minimise conflicts between them. There are a number of reasons why better coordination is required. These include:

- The overlap of legal and planning instruments in Ireland;

- **Planning and management under both Directives generally use the same geographical unit, e.g. river catchments, which act as natural “reference areas” for both water quality and flood risk management;**
- **Measures taken under one Directive may have an influence on the objectives under the other, including causing potentially conflicting outcomes with respect to flood alleviation and environmental flows objectives. Coordination provides an opportunity to identify where such conflicts exist or where dual benefits can be achieved through the identification of cost-effective measures which serve multiple purposes; and these areas of conflict/dual benefit can subsequently be addressed and highlighted as appropriate in the management plans that are developed under the respective Directives;**
- **A coordinated and integrated approach will serve to meet stakeholder expectations for cooperation between public bodies to achieve integrated catchment management.**

There are also series of references to the Water Framework Directive set out by the Floods Directive to support coordination and possible integration between the two Directives, as part of a holistic approach to water management. Article 9 of the Floods Directive explicitly states that Member States shall take appropriate steps to coordinate the application of the Floods Directive and Water Framework Directive, focusing on opportunities for improving efficiency, information exchange and for achieving common synergies and benefits with respect to the environmental objectives of the Water Framework Directive in particular such that:

- **Flood hazard and risk maps contain information that is consistent with relevant information in the Water Framework Directive (in particular from Water Framework Directive Article 5 analysis);**
- **Development of Flood Risk Management Plans (FRMPs) should be carried out in coordination with and may be integrated into reviews of River Basin Management Plans (RBMPs);**
- **The active involvement of all interested parties should be coordinated as with those of the Water Framework Directive.**

Strategic Implementation Groups

National Strategic Groups have been established for both Water Framework Directive and Floods Directive implementation, including technical sub-groups on specific themes. Currently the OPW is represented on the Water Framework Directive Water Policy Advisory Committee and National Technical Implementation Group, as well as some of the technical sub-groups, and the EPA is represented on the national Floods Directive Steering Group and (for the duration of the CFRAM Programme) on the National Technical Coordination Group. These groups offer the potential to identify common themes and potential areas of conflict between the Water Framework Directive and Floods Directive and provide a platform for achieving an agreed approach to deal with issues that can be included in any subsequent programmes or plans developed under the respective Directives. In addition, both the OPW and EPA are national public authorities for consultation on any national, or sub-national, plans that are developed for the Floods Directive and Water Framework

Directive respectively. Consequently, this cross-representation and associated bi-lateral coordination offers an opportunity to identify potential synergies in consultation and implementation activities and for any dialogue on these plans by the respective organisation.

End.

