



Local Authority Enforcement Audit Report

Fingal County Council

Date of audit 26 09 2024 Audit report Ref: LAET 2024/10/21

PURPOSE OF AUDIT

This audit was carried out in accordance with **Section 63(2)** of the **Environmental Protection Agency (EPA) Acts 1992 & 2003** and aims to assess the performance by the local authority of its statutory functions in relation to environmental protection. This report contains advice and recommendations for the local authority in accordance with **Section 63(3)(a) of the EPA Acts 1992 & 2003**.

1. SUMMARY OF FINDINGS

Observations were raised in relation to complaint handling and progress with the National Enforcement Priorities (NEPs) 2022-2024 in the areas of waste, water, air, and noise, which will require actions to be taken, as specified in the report.

Local authorities are expected to meet the required standard in 100% of the NEPs by the end of the 2022 – 2024 three-year cycle. Fingal County Council met the required standard of a Strong or Excellent result for 65% of the National Enforcement Priorities (NEPs) which is a notable decline from 85% achieved in 2022. The national average was 71% in 2023. The local authority must focus on the following work areas which did not meet the required standard:

- Agriculture Farmyard;
- Discharge Licences/Misconnections;
- Solid Fuel;
- Air Quality Monitoring;
- Noise – ENDS;
- Air & Noise Controls (Including Planning), and
- Ongoing Air & Noise Enforcement Work.

Fingal County Council stated that resource constraints have impacted on the performance of its statutory environmental protection functions. Fingal County Council should, therefore, continue to review the staff resources in its environmental section and ensure that this vital work is appropriately prioritised and that adequate resources are deployed to deliver its statutory functions in environmental protection.

2. SCOPE OF AUDIT & ATTENDEES

The scope of the audit included a review of Fingal County Council’s enforcement plan under Recommendation 2001/331/EC providing for minimum criteria for environmental inspections (RMCEI), environmental complaint handling, progress in relation to the National Enforcement Priorities (NEPs) under the Local Authority Performance Framework, and resources. During the audit a number of local authority staff were interviewed in relation to statutory environmental functions, NEPs, complaints and RMCEI inspection plans.

Representing the Council:

<u>Name</u>	<u>Position</u>
David Storey	Director of Service
Alain Kerveillant	RMCEI Co-Ordinator (Acting Senior Executive Scientist)
John Daly	Senior Engineer
David Byrne	Senior Executive Engineer
Rebecca Walsh	Executive Scientist
Grainne Carroll	Administrative Officer
Edel Bohan	Clerical Officer
Mortimer Loftus	Executive Scientist
Jim Kavanagh	Water Pollution Officer

Representing the Environmental Protection Agency:

Aoife Loughnane	Inspector I
Anne Laffan	Inspector II
Maria Lenihan	Inspector I

3. AUDIT OBSERVATIONS & RECOMMENDATIONS

3.1 Environmental Complaints Handling

Observations:

- Fingal County Council informed the audit team that the complaints system currently in place is a CRM based system that is being updated next month to the latest version and should improve the functionality of the system. The current system does not allow for correspondence with complainants via the system or for tracking of documents. A separate SharePoint based system is used concurrently to keep complaint files.
- Fingal County Council showed the audit team a “Fix your Street” link on their website that a member of the public can use to make a complaint but acknowledged that it is more for operational management and does not cover all environmental complaints.
- Fingal County Council have received 281 complaints via the “See it Say it App” to date in 2024.
- Where a number of complaints are received regarding a particular site/location, it is counted as one complaint for RMCEI data reporting purposes.

Table 1: Sample complaints reviewed				
	Reference	Subject	Finding	Action
1.	EPA Ref. No. COM019345 FCC Ref. No. 133538/24	Backyard burning	Investigated and no evidence of backyard burning found, householder had an active waste collection account.	Complaint closed.
2.	EPA Ref. No. COM017328	Oil in a river that feeds into Balbriggan Harbour.	Issue with stormwater outfall from a housing estate was identified and addressed. Issue with vessels leaking oil in the harbour. Contract in place to put booms in the harbour when required.	On-going investigation.
3.	EPA Ref. No. COM0189787 FCC Ref. No. 128320	Illegal dumping at a site.	A company with a Waste Collection Permit was using the site to hold and separate waste. A Section 14 Notice and a Section 18 Notice were issued. The site has been cleaned up and further enforcement action is being considered.	On-going investigation.
4.	EPA Ref. No. COM019465 FCC Ref. No. 136596/24	Sewage fungus in a river.	Under investigation, identified possible misconnection from a hotel, CCTV to be arranged as the next step in addressing this issue.	Investigation on-going.
5.	FCC Ref. No. 131877/24	Black bags dumped on a grass verge.	No evidence found when investigated by the litter warden, the area was cleaned up and the complaint was closed. The date that the litter warden went out and when the waste was picked up was not detailed in the complaint.	Records of when the litter warden investigated the complaint and when the waste was picked up should be included in the complaint file.
6.	FCC Ref. No. 121146/24	Black spot for illegal dumping at night time.	The site is cleaned up when complaints are received. It has been identified as a site requiring covert CCTV.	Investigate the option of installing covert CCTV to address this issue.

Actions Required:

1. Ensure that records of dates that complaints are investigated and when areas are cleaned up are kept on complaint files where relevant.
2. Consider the use of the NEMIS system for complaint handling when it is rolled out to local authorities.
3. Review Fingal County Council's website with a view to facilitating a member of the public to make a complaint on-line. A clear link that allows a person to make a complaint on-line is recommended.

3.2 Waste National Enforcement Priorities

Observations:

- Fingal County Council met the required standard across all five waste NEPs for 2023, scoring strong or excellent. The extractive industries register was discussed and Fingal County Council informed the audit team that they will review and update this register.

Tackling significant illegal waste activity and Multi-Agency Sites of Interest

- Fingal County Council have completed eight checkpoints this year to date focussing on the border areas with Dublin City Council.
- 77 man in the van patrols have been carried out this year to date focusing on areas of concerns/blackspot areas where illegal dumping has been an ongoing issue.
- Fingal County Council outlined the progress and enforcement actions at an unauthorised tyre site and an unauthorised site where skip waste is being processed.
- Fingal County Council stated that they are keeping the waste convictions register up to date.

Construction & Demolition Waste

- Fingal County Council informed the audit team that there are no active C&D permitted facilities in the local authority area.
- Fingal County Council outlined the activity taken around the Resource Waste Management Plan (RWMP) reviews and their collaboration with the planning department, 127 RWMPs have been reviewed to date.
- Fingal County Council informed the audit team that they have carried out 13 C&D site inspections to date and outlined the site selection methodology used. A sample inspection of a housing development dated 14/02/24, as well as supporting documentation, was reviewed at the audit. The WERLA inspection template was used for the inspection.
- Fingal County Council outlined the site selection methodology, how they are carrying out Article 27 inspections and the issues that they are finding. Fingal County Council informed the audit team that they have received 67 Article 27 notifications to date this year and that they have carried out 33 Article 27 inspections. Sample inspections, as well as supporting documentation, were reviewed at the audit for A273649 and A273594. The WERLA inspection template was used for these inspections.

ELVs and Metal

- Fingal County Council stated that they have three permitted ELV Authorised Treatment Facilities (ATFs) within their functional area. Fingal County Council informed the audit team that each site is inspected at least once a year and that two out of the three have been inspected in 2024. Sample inspections, as well as supporting documentation, were reviewed at the audit for WFP-FG-13-002-03 and WFP-FG-18-001-02 dated 06/09/24. WERLA inspection templates were used for these inspections.
- There are two illegal ELV sites in the area. Fingal County Council informed the audit team that enforcement action is underway at both and directions have been given to clear the sites. Follow up inspections are planned.

Household & Commercial Waste

- Fingal County Council stated that they have two permitted sites collecting household and commercial waste. Sample inspections dated 23/08/24 for WFP-FG-17-001-04 and NWCP0-09-01190-05 (WERLA in attendance), as well as supporting documentation, were reviewed at the audit. Fingal County Council have developed their own inspection templates for these types of inspections.
- Fingal County Council understand that the brown bin compliance rate is 98%, based on intelligence from the reverse register and inspections are being focused on apartments that are not serviced with a brown bin. Fingal County Council informed the audit team that there has been some follow

up with management companies of apartment blocks but lost the resource doing this work so more planned follow up has not been completed to date.

- Fingal County Council informed the audit team that they have completed their AR validations for 2024, there are three WFP validations with data outstanding to be completed by the permit holders.
- A reverse register has been developed; they have found some miss reporting of households from another Dublin functional area by waste collectors. The next step is to analyse the data to identify areas of non-compliance for inspection.
- The 80 planned commercial waste inspections have been reduced to 60 for 2024 due to resource constraints. 44 inspections have been carried out this year to date. A sample inspection dated 04/0724, as well as supporting documentation, was reviewed at the audit.
- Fingal County Council stated that they have not carried out the 126 planned inspections in relation to the household and commercial kerbside waste collection regime and are carrying out reactive inspections in response to complaints.

PRIs and Local Priority

- Fingal County Council have reduced the planned number of inspections in all of the PRI's due to resource constraints.
- Follow up enforcement actions with three non-compliant tyre retailers are outstanding from 2023.
- Fingal County Council outlined the enforcement actions that have been carried out with the Suspected Major Producers in packaging.

Actions Required:

1. The validation of the AR validations for all authorised facilities and collectors, with the exception of household waste collectors which will be managed by WERLA, is required to be completed by the end of September and any outstanding AR validations should be completed without delay.
2. Review and update the extractive industries register.
3. Carry out the follow up enforcement actions with the three non-compliant tyre retailers outstanding from 2023.

3.3 Water National Enforcement Priorities

Observations:

- Fingal County Council met the required standard in three Water NEPs in 2023; Pressures from Agriculture (Farmland), Domestic Wastewater Treatment Systems (Septic Tanks) and Local Priorities and Water Quality Monitoring. The Council failed to meet the required standard in two Water NEPs; Pressures from Agriculture (Farm Yards) and Discharge Licences/Misconnections.

Pressures from Agriculture – Farmyards & Farmlands

- Fingal County Council informed the audit team that they failed to employ an Assistant Scientist from an existing panel of 6 earlier in the year for the purpose of farm inspections. Redeployment of a staff member from another department is being considered to fill that role.
- Fingal County Council has an assigned allocation of 41 agricultural inspections in 2024 under the National Agricultural Inspection Programme. 7 inspections have been completed to date in 2024 and four cross reports have been made to the Department of Agriculture (DAFM).
- Detail was provided on enforcement work carried out in relation to the pollution of a culverted stream from farmyard runoff, including five separate inspections encompassing water sampling in 2024 and the positive environmental outcome demonstrated via the reduction in chemical oxygen demand in the receiving water following enforcement work undertaken.

Septic Tanks

- The number of inspections carried out in 2023 met the requirements of the National Inspection Plan (NIP) for Domestic Waste Water Treatment Systems. Fingal County Council had a 97% closure rate of advisory notices at the end of 2023.
- To date in 2024, 8 out of 13 NIP inspections have been completed.

Discharge Licences / Misconnections

- The register of Section 4 discharge licences was examined during the audit. There are 18 discharge licences on the register. None are identified as significant pressures on receiving waters under the Water Framework Directive, however there are some known non-compliances that need to be followed up by Fingal County Council.
- The vacant sampling post was filled in Q1 2024 and since September 2024 there is a staff member dedicated to assessing Section 4 discharge licence compliance.
- Misconnections investigations are being carried out to address pressures on bathing water quality at Balbriggan and Loughshinny.

Local Priorities & Water Quality Monitoring:

- Two bathing waters in Fingal were classified as having poor water quality in 2023 (Balbriggan Front Strand and Loughshinny Beach) and two were classified as having sufficient water quality in 2023 (Claremont Beach and Skerries South Beach). Fingal County Council outlined their actions to address these bathing water quality issues, with a particular focus on identifying and rectifying misconnections impacting on water quality.
- Fingal County Council's programme of WFD investigative monitoring is continuing in 2024 in the River Bracken (Matt) and Delvin River.
- The Private Water Supplies Register and 2024 Compliance Monitoring Programme was not available to review during the audit. This area of work is currently being transferred from Fingal County Council's Water Services Department to the Environment Section.

Actions Required:

1. Carry out 41 farm inspections and take appropriate enforcement action where required, in accordance with the allocations assigned by the EPA under the National Agricultural Inspection Programme (NAIP).
2. Ensure that non-compliant Section 4 discharges are being followed up with enforcement actions where necessary.
3. Submit a copy of the Private Water Supplies Register and 2024 Compliance Monitoring Programme to the EPA.

3.4 Air and Noise National Enforcement Priorities

Observations:

- Fingal County Council did not meet the required standard for any of the five Air & Noise NEPs in 2023.
- A new Air & Noise Pollution Control Unit was set up in Fingal County Council in 2024, with three executive scientists appointed in Q1.

Solid Fuels

- In 2023, Fingal County Council carried out no inspections of solid fuel retailers, no fuel sampling or multi-agency operations to investigate the sale of unapproved fuels. One inspection of a solid fuel retailer has been carried out to date in 2024 to investigate the sale of wet wood, in response to a complaint.
- Two staff members attended solids fuel training run by the Local Authority National Services Training Group in September 2024.

- Fingal County Council has established a list of solid fuel retailers, which was reviewed during the audit, and has an inspection plan in place for the Q4 2024 winter season. The inspection template was also reviewed during the audit.
- Fingal County Council is collaborating with Dublin City Council, South Dublin County Council and Dun Laoghaire Rathdown County Council on a solid fuel sampling programme to be carried out in Q4 2024.
- Fingal County Council plans to undertake two multi-agency checkpoints along with their Waste Enforcement Section and An Garda Síochána.

Air Quality Monitoring & Data Use

- Fingal County Council engages with the EPA Ambient Air Quality Monitoring Unit in relation to the monitoring stations at Swords and Blanchardstown.
- The PM₁₀ exceedance at the Blanchardstown monitoring station on 26/01/24 was discussed. Fingal County Council carried out an investigation and has attributed the cause of the exceedance to equipment malfunction during an EPA contractor maintenance visit to the NOx monitor in the same kiosk on that day.
- Fingal County Council's website does not provide public access to real-time local air quality data.

Environmental Noise Directive (ENDs)

- Fingal County Council's website provides public access to the strategic noise map for Fingal.
- Fingal County Council submitted their 2023 Noise Action Plan (NAP) Progress Reports to the EPA (one for Fingal County and one for Dublin Airport). The progress report for Dublin Airport outlined some progress on the measures in the NAP. The progress report for Fingal County did not provide any information on progress of the measures in the NAP.
- Fingal County Council submitted their Round 4 Noise Action Plan 2024-2028 to the EPA as required in July 2024. Fingal County Council's Round 4 Noise Action Plan for Dublin Airport was delayed and is currently undergoing public consultation.

Air & Noise Controls (Including Planning)

- The objective and activities for focus under this NEP were discussed. The new Air & Noise Pollution Control Unit liaises with the Planning Section to ensure appropriate air and noise controls are in place and being complied with.

Ongoing Air & Noise Enforcement Work

- An inspection campaign of dry cleaners has been carried out under the Solvents Regulations in 2024, targeting uncertified operators. Fingal County Council intends to carry out an inspection campaign of vehicle refinishers before the end of 2024.
- The Solvents and Decorative Paints registers are published on Fingal County Council's website and are up-to-date. The website also provides links to best practice guidelines and vehicle refinishers information leaflet.

Actions Required:

1. Carry out solid fuel inspections, fuel sampling and multi-agency investigations in Q4 2024 to investigate compliance with the Solid Fuel Regulations.
2. Provide public access via the local authority website to real-time ambient air quality data for the monitoring stations at Swords and Blanchardstown.
3. Submit the Round 4 Noise Action Plan for Dublin Airport 2024-2028 to the EPA as soon as possible following the completion of public consultation. Ensure there is collaborative effort between the Environment, Roads and Planning Sections of Fingal County Council and with transport infrastructure bodies, to implement the Noise Action Plans for Fingal County and Dublin Airport, with a focus on the priority areas identified using strategic noise mapping.

4. Ensure that Environment staff assess environmental impacts from air and noise emissions and liaise with Planning staff on appropriate air and noise controls.
5. Take necessary measures to improve performance under the Ongoing Air & Noise Enforcement Work NEP.

3.5 Resources

Observation:

- A reduction of planned inspections in the waste section in 2024 is attributed by Fingal County Council to resource constraints. A number of positions are vacant including an Assistant Scientist position for farm inspections and redeployment of a staff member from another department is being considered to fill that role. Fingal County Council outlined difficulties in recruitment.

Action Required

Fingal County Council should regularly review the staff resources in its environmental section and ensure that this vital work is appropriately prioritised and that adequate resources are deployed to deliver its statutory functions in environmental protection.

4.0 FOLLOW-UP ACTIONS

Fingal County Council shall take action to address the observations raised in this report and submit a report to the EPA within **2 months** from the date of issue of this report. The report should provide details of the actions taken (or planned) to address the various recommendations, including timeframes where appropriate. These actions may be checked and verified by the EPA during future audits/inspections. This report is issued without prejudice to the right of the EPA to take any further action which it may in future decide is appropriate, whether under Section 63 of the EPA Acts 1992 and 2003 or otherwise.

Report prepared by:


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Reviewed by:


Valerie Doyle

Date:

21/10/24

Date:

21/10/24