



# Local Authority Enforcement Audit Report

## Tipperary County Council

Date of audit 17 10 2024 Audit report Ref: LAET 2024/11/05

### 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. Tipperary County Council met the required standard of a Strong or Excellent result for 75% of the National Enforcement Priorities (NEPs) in 2023 which is a notable increase from 45% achieved in 2022. The national average was 71% in 2023. Local authorities are expected to meet the required standard in 100% of the NEPs by the end of the 2022 – 2024 three-year cycle. The local authority must focus on the following work areas which did not meet the required standard:

- Discharge Licences/Misconnections;
- ELVs and metals;
- Air Quality Monitoring, and
- Noise – ENDS.

Tipperary County Council stated that resource constraints have impacted on the performance of its statutory environmental protection functions. Tipperary 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 Tipperary 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>
Eamon Lonergan	Director of Service
DJ Buckley	RMCEI Co-Ordinator
Denis Holland	Senior Engineer
David Corbett	Executive Scientist
Dermot Leahy	Executive Scientist
Oliver Naughton	Executive Engineer
Grace Casey	Environmental Technician Grade I
Andrew Carroll	Executive Engineer
Gillian Delehanty	Agricultural Scientist
Lisa Hickey	Environmental Technician Grade I
Paula O'Dwyer	Executive Scientist

### Representing the Environmental Protection Agency:

Isabel Valera	Inspector II
Thomas Wallace	Inspector II
Maria Lenihan	Inspector I

## 3. AUDIT OBSERVATIONS & RECOMMENDATIONS

### 3.1 Environmental Complaints Handling

#### Observations:

- Tipperary County Council has functionality on their website to allow a member of the public to make an environmental complaint.
- Tipperary County Council has a CRM based environmental complaints handling system that was developed in-house and is committed to move to the NEMIS complaints system when it goes live.
- Tipperary County Council informed the audit team that an email goes out quarterly to all inspectors with an excel spreadsheet of all outstanding complaints and who they are assigned to, to follow up, update and close out as needed.
- On review of open complaints, there are 17 waste complaints, 7 air complaints and 10 noise complaints currently open on the system.
- The audit team were informed that if a case file is created the complaint is closed, however on review of some complaints e.g. ENV-09567 in relation to odour, the complaint remained open after a case file was created. Further clarity was provided in that for waste complaints if a case file is opened the complaint is closed. This procedure is not necessarily followed for water, air and noise complaints.
- On a requested review of a complaint forwarded by the EPA to Tipperary County Council EPA Ref. No. COM019291, despite a dedicated folder on a computer drive for EPA complaints, this complaint was not in the drive, however it was found in another computer folder by the Water Section.

<b>Table 1: Sample complaints reviewed</b>				
	<b>Reference</b>	<b>Subject</b>	<b>Finding</b>	<b>Action</b>
1.	EPA Ref. No. COM019291	Raw sewage	Section 12 Notice issued on 21/02/24 and 25/07/24. A site inspection carried out on 05/09/24 confirmed that the Section 12 Notice had not been complied with.	On-going investigation.
2.	EPA Ref. No. COM016741 ENV-06501	Storage of tyres	Tyre wholesaler, no waste activity being undertaken, member of CIRCOL ELT, had applied for planning retention, referred to the Planning Section.	No further action.
3.	ENV-06958	Multiple issues, including fly tipping and planning	A multiagency approach is required to address this site.	On-going investigation.
4.	ENV-08029	Noise	Complaint open since 15/11/23, no evidence of any action undertaken on CRM.	Investigate this complaint without further delay.
5.	ENV-09567	Odour from farmyard	Farmyard was inspected on 23/09/24 and a warning letter was subsequently issued. A case file was created.	On-going investigation.

#### **Actions Required:**

1. Ensure that at minimum detailed quarterly reviews are undertaken of open complaints, incorporating quality control checks, to ensure that all open complaints are being actioned.
2. Take measures to ensure that a consistent approach is taken across the Environmental Department in relation to the creation of case files and closure of complaints.
3. Take measures to ensure that the recording and management of complaints, forwarded by the EPA, are held in a central location that can be retrieved by the Environmental Department without difficulty.

### **3.2 Waste National Enforcement Priorities**

#### **Observations:**

- Tipperary County Council met the required standard in four Waste National Enforcement Priorities (NEPs) in 2023; Tackling significant illegal waste activity and Multi-Agency Sites of Interest, Construction and Demolition waste, Household & Commercial Waste and Producer Responsibility Initiatives and Local Priorities. The Council failed to meet the required standard in one Waste NEP; End-of-Life Vehicles and Metal Waste.
- The waste enforcement team currently has one vacant position, with four enforcement inspectors currently active.
- Timely and thorough annual return validation of the permitted waste collectors and facilities was demonstrated by Tipperary County Council during the audit. The waste data validation process was initiated by Tipperary County Council on the 1st April, letters were issued to the operators if the annual return was overdue and fines of €500 were issued when the annual return was not submitted by the collector/facility within 14 days of notification. Tipperary County Council left comments on the National Waste Collection Permit Office (NWCPO) portal where waste reporting anomalies were identified with operators based in other local authority areas for that local authority to interrogate.

- The WERLA inspection templates were being utilised for all of the waste sector inspections reviewed.

### **Illegal waste**

- A legal proceedings register is being maintained in Tipperary County Council, with 65 waste cases recorded between 2021-2024. A good level of escalated enforcement action was demonstrated by Tipperary County Council, with legal action being taken where necessary including progressing to the high court.

### **Construction and Demolition Waste**

- The enforcement team are receiving and reviewing resource and waste management plans from construction and demolition projects, as it is a condition in planning. Local intelligence, scale of the operation and risk, such as if demolition activity is involved, are considered when targeting the construction and development site inspections. At the time of the audit 18 site visits had been carried out, with a good level of compliance demonstrated. A lack of prescription in the plans to eliminate waste from projects was highlighted by Tipperary County Council as a trend. The review of building commencement notices was raised with Tipperary County Council as another data stream to consider.
- The cradle to grave data verification of a C&D Waste Permitted Facility was reviewed, Ref No. WFP-T-19-002-2. No non-compliances were identified during the site visit. A detailed inspection report, including NWCPO data findings, was issued to the permit holder.
- A Regulation 27 declaration Ref. No. ART27-3560 was reviewed. The destination site, which was a Tipperary County Council permitted facility WFP-T-16-0004-02 was inspected. In this instance the material was road planings. Review and risk assessments of all the Regulation 27 source and destination declarations undertaken for Tipperary County Council were not available. A 2022 declaration was also reviewed where a Section 14 notice was issued as the material was determined to be waste.

### **End-of-Life Vehicles and Metal**

- Tipperary County Council have 12 End-of-Life Vehicle Authorised Treatment Facilities currently and 10 in-person site visits had been completed at the time of the audit. Data validation at the 12 sites has been carried out and collaborative inspections with the RWMPO and WERLA had been undertaken. A number of sites were identified that had discrepancies with the reported waste quantity movements. The desktop validation of one of these sites was marked as inconclusive but a follow-up inspection is planned before the end of the year to determine the sites progress with the issues identified.
- The issuing of the findings and following up on actions was well demonstrated throughout the authorised waste inspections. A review of the inspection file was carried out for a Waste Facility Permit Ref. No. WFP-T-16-0001-02, where all correspondence and follow-up was available. The site was considered compliant on the 12th August 2024.

### **Household & Commercial Waste**

- At the time of the audit 274 household surveys were issued in 2024, with 83 not compliant with the use of a 3-bin waste segregation system. Although approx. 80% compliance is being identified from the household surveys, Tipperary County Council indicated that a Fixed Penalty Notice has never been issued for these types of non-compliances under the presentation of waste bye-laws.
- For commercial site waste segregation inspections 34 site inspections were carried out at the time of the inspection. A spread of site types, such as retailer and nursing homes are being inspected. The site inspection report for ECA/EC/034 was reviewed, where dates were set for follow up. A multi-sector inspection template, which Tipperary County Council have developed, is being used where multiple regulations are being assessed during one site visit.

### **Producer Responsibility Initiatives (PRIs)**

- The multi-sector inspection template developed by Tipperary County Council is being used to facilitate the inspection of multiple regulations during one site inspection, such as WEEE, Battery and packaging regulations at commercial sites.

#### **Actions Required:**

1. Desktop reviews of all Regulation 27 Source and Destination notifications should be considered, including the national registrations, to inform the targeted site visits. This activity should be recorded by Tipperary County Council.
2. The waste enforcement team should review the building register commencement notice updates to guide the targeted construction and development sites visits.
3. For household and commercial waste activity a proportionate escalated enforcement approach should be taken. Where non-compliances are not being resolved, the issuing of a Fixed Payment Notice (FPN) and further action as required should be considered under the presentation of waste bye-laws.
4. Desktop inspections should be taken into account when planning for the year and for the reporting the inspection activity carried out. An accurate resource time should be reported for inspections such as the Resource and Waste Management Plan assessments and for the desktop data validation inspections being carried out.
5. Tipperary County Council are reminded that for 2024, focused action is expected under the WEEE Regulations, the Waste Management Packaging Regulations and the Separate Collection (Deposit Return Scheme) Regulations, as well as where local issues persist.

### **3.3 Water National Enforcement Priorities**

#### **Observations:**

- Tipperary County Council met the required standard in four Water NEPs in 2023; Pressures from Agriculture (Farmyard), 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 one Water NEP; Discharge Licences/Misconnections.

#### **Pressures from Agriculture – Farmyards & Farmlands**

- Tipperary County Council informed the audit team that they have a vacancy for an Assistant Scientist for the purpose of farm inspections. Interviews for that post were held recently and the position has been offered to the successful candidate.
- Tipperary County Council has an assigned allocation of 250 agricultural inspections in 2024 under the National Agricultural Inspection Programme. 145 inspections have been completed in 2024 and a high level of non-compliance has been observed. At most 200 inspections will be completed by the end of the year.
- Tipperary County Council are confident that will a full complement of staff assigned in this area, the target of 350 inspections in 2025 will be met.
- Tipperary County Council shared photographs on screen of the scale of non compliances being found during farm inspections.

#### **Septic Tanks**

- Tipperary County Council confirmed that the 40 inspections allocated under the National Inspection Plan for 2024 (NIP) have been completed.
- Properties with older Advisory Notices have been contacted twice this year. The next step will be re- inspection where there is failure to engage with Tipperary County Council.

## **Discharge Licences / Misconnections**

- The register of Section 4 discharge licences was examined during the audit. There are 42 discharge licences on the register. Tipperary County Council informed the audit team that until 2023 sampling was undertaken 3-4 times a year but due to resource constraints 1-2 samples were taken in 2023 and the plan is to ensure that one sampling event is undertaken for each Section 4 discharge in 2024. 5 out of 42 are left to be sampled in 2024 and a number of Section 4 discharge licences have had samples taken twice this year.
- A Section 4 discharge licence Ref. No. WP/W0101/08 was reviewed and the following was noted:
  - Tipperary County Council recently sampled the discharge and the results have not been reported yet.
  - On review of analysis results for the one sample taken in 2023, all parameters were compliant, however analysis for Fats, Oil and grease (FOG) was not undertaken. FOG is required to be monitored quarterly in accordance with the Section 4 discharge licence.
  - Self-monitoring results were not available for 2023 or 2024 to date. A letter was issued by Tipperary County Council on the 06th September 2024 requiring the submission of these results without further delay.
- A number of Section 4 discharge licences are identified as significant pressures on receiving waters under the Water Framework Directive i.e. CLOVER\_010, MULTEEN\_050, MULTEEN (EAST)\_040, BUNOW\_020, DEAD\_010. Tipperary County Council informed the audit team that actions to address the waterbodies where Section 4 discharge licences are identified as significant pressures have not been undertaken to date due to resource constraints.
- An effective system for trending analysis results for Section 4 discharge licences in South Tipperary have been set up and the plan is to set up a similar system for Section 4 discharge licences in North Tipperary.
- Misconnections investigations and remedial works have been undertaken for one particular housing estate and one house is left for completion of required remedial works.
- Tipperary informed the audit team that via verbal communication with Uisce Eireann in Q2 2023, Uisce Eireann committed to investigating the source of the contaminated stormwater entering Cashel WWTP. Tipperary County Council had no update on this outcome of this investigation.

## **Local Priorities & Water Quality Monitoring**

- Tipperary County Council informed the audit team that the WFD monitoring programme will be completed in 2024.
- WFD investigative monitoring has not been undertaken due to resource constraints.
- The Private Water Supplies Register and 2024 Compliance Monitoring Programme was reviewed during the audit and was found to be satisfactory.
- Tipperary County Council informed the audit team that they are not actively looking for private water supplies and that they meet with the HSE two to three times a year to discuss private water supplies.

### **Actions Required:**

1. Carry out the farm inspections in 2024 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 self monitoring reports for all Section 4 discharges are submitted, reviewed and that for any non compliant results follow up enforcement actions is undertaken where necessary.
3. Ensure that for all Section 4 discharge licence samples taken, the full suite of parameters are analysed.
4. Actions are required to be undertaken to address the waterbodies where Section 4 discharge licences are identified as significant pressures.
5. Follow up with Uisce Eireann on the outcome of investigations into contaminated stormwater entering Cashel waste water treatment plant.

6. Ensure that the remedial work required at the one remaining house in the housing estate is completed by the end of 2024.
7. Actively look for private water supplies and engage further with the HSE on obtaining intelligence on private water supplies.

### **3.4 Air and Noise National Enforcement Priorities**

#### **Observations:**

Tipperary County Council met the required standard for work carried out under the Solid Fuel, Planning Controls and Ongoing air and Noise Work NEPs. Improvement is required on the reporting under the Quality Monitoring NEP and further progression is needed on the measures identified within the County's Noise Action Plan under the Environmental Noise Directive NEP.

#### **Solid Fuel**

- The register for solid fuel retailers was reviewed. Further update of the register will take place in Q4 of 2024. Tipperary County Council gave an account on enforcement actions taken following results from sulphur testing results from carried out in 2023 and 2024. Tipperary County Council continues to engage with the EPA and the Department of Environment, Climate and Communications in relation to non-compliances found under the Solid Fuel Regulations.
- Enforcement actions under the Solid Fuel Regulations were discussed during the audit. Further inspections on solid fuel retailers by the local authority will take place in Q4 of 2024.

#### **Air Quality Monitoring Activities and Data Use**

- Tipperary County Councils website includes up to date information on air quality monitoring within the functional area including direct links to the air quality monitoring stations in Clonmel, Tipperary Town and Nenagh.
- The daily limit exceedance of PM10 on the 02/12/2023 at the air monitoring station in Clonmel was reviewed and discussed. Tipperary County Council informed the EPA that this exceedance could have been a potential recording anomaly by the air monitoring station, however the exceedance has been confirmed as genuine by the EPA Air Ambient Monitoring Programme team (AAM).
- Reporting under this NEP was discussed. There is proactive engagement between Tipperary County Council and the EPA AAMP team in relation to calibration and maintenance of the stations, however recommendations were made in relation to the reporting under this NEP to better reflect the work carried out by the local authority.

#### **Environmental Noise Directive (ENDs)**

- Tipperary County Council indicated that the Road's Section in the Council coordinates the implementation of measures within the Noise Action Plans. The Environmental Section liaises with the Road and Planning Sections in relation to noise complaints from traffic. This information is considered within the Noise Action Plans for the development of strategic noise mitigation measures. Tipperary County Council noted that the number of noise complaints received regarding traffic noise is low.
- Progress to implement some measures under the Noise Action Plan has been made in the cycle from 2018 to 2023, however DRAFT Noise Action Plan (NAP) 2024-2028 highlights that Covid-19, resourcing and budgetary constraints limited the ability of staff to engage in the implementation of planned measures contained within the 2018-2023 cycle. The Road's Section in the Council confirmed that budgetary constraints may also impact the implementation of measures within the NAP 2024-2028 cycle.

### **Air & Noise Controls (including Planning)**

- The set of standardised conditions for air and noise impacts for different developments were reviewed during the audit. The standard conditions were developed in 2018 are adapted by the Environment Section according to the air and noise impacts of the specific development and include standards for air and noise levels to be adhered to by developers. Planning applications are assessed having regard to the County's Noise Action Plan and round 4 noise maps.
- Reporting under this NEP was discussed.

### **Ongoing Air & Noise Enforcement Work**

- Tipperary County Council provided detail on the enforcement work carried out under the Solvents, Deco Paints and Petroleum Regulations. Proactive enforcement work has been carried out to identify new sites under the Petroleum Regulations including engagement with the Revenue Commissioners.
- Enforcement actions in relation to unauthorised operators advertising services via social media was discussed.
- Registers under Solvent and Depo Paints Regulations are updated in the local authority's website. Tipperary County Council has also compiled a list of operators under the Petroleum Vapours Regulations.
- Reporting on outcomes from air and noise complaints under this NEP was discussed along with the licensing status of one of the two sites licensed sites under the Air Pollution Act, 1987.

### **Actions Required:**

1. Review the air quality data in the functional area and investigate daily exceedances when relevant.
2. Report on the outcomes of air and noise complaints investigations in the NEP progress reports.
3. Engage with the EPA Air Enforcement team in relation to potential unauthorised operators under the Deco Paints Regulations, operating in the functional area.
4. Prioritise resourcing and address budgetary constraints to progress the implementation of planned measures contained with the new Noise Action Plan 2024-2028.

### **3.5 Resources**

#### **Observation:**

- Tipperary County Council informed the audit team that they have 23 technical staff and that there is a vacancy for an Assistant Scientist and a Waste Enforcement Officer.

#### **Action Required**

Tipperary 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

Tipperary 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.

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**Date:**

05/11/24

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