



Local Authority Enforcement Audit Report

Wicklow County Council

Date of audit 21 03 2024 Audit report Ref: LAET 2024/04/09

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:

- Environmental Complaints Handling; and
- Progress with the National Enforcement Priorities (NEPs) 2022-2024 in the areas of waste, water, and air/noise.

Actions in relation to the above are required 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.

2. SCOPE OF AUDIT & ATTENDEES

The scope of the audit included a review of Wicklow 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>
Breege Kilkenny	Director of Service
Michael Boland	RMCEI Co-Ordinator
Marc Devereaux	Senior Engineer
Robert Kelly	Senior Executive Technician
Tom Griffin	Senior Executive Chemist
Jonathan Sexton	Executive Scientist
Michael Mc Namara	Administration Officer
Carmel Canterbury	Administration Officer
Marian Doyle	Complaints Co – Ordinator
Paul Brophy	Air and Noise Complaints. Environmental technician
Merlin Ovington	Administration Officer

Representing the Environmental Protection Agency:

Isabel Valera	Inspector II
Michael Martin	Inspector I
Maria Lenihan	Inspector I

3. AUDIT OBSERVATIONS & RECOMMENDATIONS

3.1 Environmental Complaints Handling

Observations:

- The water section of Wicklow County Council does not have access to the CRM system. Wicklow County Council informed the Agency that they are awaiting the roll out of the National Environmental Management Information System. NEMIS and will move to this system when it is rolled out nationally.
- All complaints reviewed were addressed to the satisfaction of the Agency.

	Reference	Subject	Finding	Action
1.	COM017751	Water pollution	Wicklow County Council have engaged with the developer of the site and with Inland Fisheries Ireland on the matter and the stream is being monitored during development.	On-going
2.	COM017680	Illegal burning of waste	Area cleaned up. No evidence of who dumped the waste	No further action
3.	WW-32595-L5X5	Illegal dumping of >5 bags of waste	Area cleaned up. No evidence of who dumped the waste.	No further action
4	WW-28935-Z5W1	Flies and rats in an unoccupied social housing property	Property investigated, no household waste found, no flies or rats noted. Wicklow County Council arranged for a cleaning contractor to clean the house.	No further action
5	WW-32401-B5J0	Illegal dumping of waste	Arranged for someone from the PURE project to remove the waste.	No further action

3.2 Waste National Enforcement Priorities

Observations:

Illegal waste

- Wicklow County Council has had successful prosecutions in court over a number of years and Wicklow County Council has attributed the hard work of staff and very good relationship with their legal department to this success. Wicklow County Council had two successful prosecutions in 2023 against unauthorised waste collectors.

In one case a warehouse filled with waste was notified to Wicklow County Council via a complaint in 2022. The operator had a collection permit, but not for the material found. The material included WEEE, batteries, oil and hazardous waste. The operator had no waste facility permit. A section 14 notice was issued to clean up the warehouse and the clean up was completed. The operator was prosecuted under section 32, section 34 and section 39 of the Waste Management Act and the court issued a fine of 7,500 euros to the operator.

The other case involved several loads of Construction and Demolition (C&D) waste being discovered by a litter warden on leased land. A successful prosecution was undertaken in 2023. The landowner removed all the waste and sent the waste for appropriate disposal. The operator had been prosecuted previously and was given the probation act at that time, in the case the court fined the operator 750 euros and awarded costs to Wicklow County Council.

The legal case files for both prosecutions were reviewed and the detailed investigation undertaken by Wicklow County Council for each of these cases was evident.

- 37 waste management files were created in 2023 in response to complaints. One of the waste management files was reviewed (Ref. No. WM.18.23) where a lorry load of waste was dumped at the entrance to a wooded area and an attempt had been made to burn the waste. There was clear evidence that the matter was being followed up by Wicklow County Council.
- Wicklow County Council stated that they have a good relationship with An Garda Síochána (AGS) and conducted 14 roadside check points with AGS and other agencies in 2023.

Construction & Demolition waste

- Wicklow County Council has 20 waste facility permits (WFPs) and conducted 62 inspections at these WFPs in 2023. A site inspection form from one of these inspections was reviewed (Ref. No. WW-17 0003.4) and no issues were noted in the form. The detection, follow up and outcomes of these inspections were not detailed in the 2023 NEP progress report. Wicklow County Council explained that minor issues such as dirt on the access road may be found but detections of non compliance are not generally found at these sites, apart from one waste concrete recycler in 2023. Wicklow County Council explained that due to close scrutiny of these sites, the sites maintain compliance and this is a clear example of an environmental outcome. In addition, many of the hauliers own the sites and are invested to ensure that only authorised material enters their sites. Wicklow County Council informed the Agency that some WFP holders contact Wicklow County Council at different stages to discuss material entering their sites to ensure that the material is authorised to enter their sites.
- 34 inspections of construction sites and 12 planning applications for large construction sites were reviewed and commented on in 2023.
- 23 article 27 notifications were received by Wicklow County Council in 2023, were assessed and site inspections were undertaken at the source and/or destination sites.
- The compliance rates at authorised sites and construction sites were not provided in the 2022 and 2023 NEP progress report. This should be provided and analysed with previous years.

ELVs and the metal sector

- Wicklow County Council informed the Agency that the authorised Treatment Facilities are mainly compliant, with minor issues sometimes found at these sites. An inspection form for the largest ATF (WFP WW21 0064-01) in 2023 was reviewed and no issues were noted in the inspection form. The form also included photographs of the site.
- Wicklow County Council investigated three small sites where minor accumulations of vehicles were either noted or reported. Following consultation with the landowner of one of the sites, the cars were removed. Engagement with the two remaining landowners is ongoing but Wicklow County Council confirmed that there is no environmental impact from the storage of cars at these sites.
- Wicklow County Council has a metal recycling facility, and this was audited in conjunction with the Regional Waste Management Office and the Waste Enforcement Regional Lead Authority in 2023. Wicklow County Council informed the Agency that this facility does not generally take metal from the public.
- Wicklow County Council is working closely with a local authority in Dublin regarding individuals who are based in Wicklow, that are selling of large volumes of scrap metal to a WFP in the south Dublin area.

Household and Commercial waste

- Wicklow County Council confirmed that there are no household and/or commercial Waste Collection Permit (WCP) holders in Wicklow. Wicklow County Council informed the Agency that they had contacted the WCP holders in 2023 with varying degrees of success in obtaining information on brown bin roll out. Wicklow County Council are working on this again in 2024 to establish a register under section 34C of the Waste Management Act.
- 19 households were surveyed with waste questionnaires in 2023, 8 confirmed that they had a waste collection service and the remaining 11 are subject to follow up enforcement action.
- Wicklow County Council confirmed that there is one WFP where one WCP holder uses a shed to bulk up waste on a daily basis for removal by a larger truck. The waste is tipped in the morning and the floor is clear at the end of every working day. The site has a clean floor policy and was visited four times in 2023. No issues were found during these site inspections.
- A lot of work was undertaken in the commercial sector, 143 commercial food inspections were undertaken in 2023 and 26 of those inspections were follow up inspections. 98% of these sites were compliant at the end of 2023.
- Under the RMCEI returns for 2023, 107 first time inspections of waste collectors compliance with waste collection permit conditions were reported under 6.1.12. Wicklow County Council confirmed that this refers to AR validations and that the AR validations are being recorded under 6.1.16 in the RMCEI returns for 2024.

PRIs and local priorities

- Seven inspections were undertaken at three suspected major producers in 2023. 18 Waste Electrical and Electronic Equipment (WEEE) and battery inspections were completed at 10 commercial businesses in 2023 (8 were follow up inspections) and two supermarkets remained non compliant at the end of 2023. Wicklow County Council informed the Agency that These supermarkets will be followed up in 2024.
- Waste Enforcement Officers (WEOs) conducted 73 patrols to address dog fouling along popular walking routes by and met with campers on weekends to address littering by weekend camping in the Glenmalure valley. This proactive work is commended.

Actions Required:

1. The audit of Wicklow County Council has provided clarity on the work outlined in the waste NEP progress report in 2023. Compliance rates and comparison to previous years, site selection, detection and follow up and clear examples of environmental outcomes were not detailed across sections of the waste NEPs. Take necessary measures to improve reporting under the five waste NEPs to ensure that all the work undertaken by Wicklow County Council is clearly demonstrated and that the NEP assessment criteria are addressed.
2. Endeavour to undertake focussed enforcement work in the household waste sector. WCP holders and WFP holders, who are not based in the local authorities functional area, take and hold waste respectively from Wicklow County Council's function area. Wicklow County Council should interact with the local authorities where these permit holders are based to better understand compliance levels with these permit holders.

3.3 Water National Enforcement Priorities

Observations:

Agriculture

- In 2022 the number of planned farm inspections carried out was inadequate when compared to the number of waterbodies at risk from agricultural pressures in the county. There was an increase in farm inspection and awareness activity for 2023 and this is welcomed. Further

resourcing has now been assigned to this area for 2024 and the EPA expects that Directors of Services will ensure those resources are used effectively to achieve the aims of the National Agricultural Inspections Programme (NAIP), carry out agricultural inspections and implement associated actions.

Section 4 discharge licences

- There is one section 4 discharge licence identified as a significant pressure on receiving waters under the Water Framework Directive Cycle 2:
 - Ballyronan Stream_010 (waterbody code IE_EA_10B080500) – nutrient pollution.

This section 4 discharge licence is associated with a 600 p.e treatment plant in place for a development of 200 houses. The treatment plant is not adequate and on review of monitoring results emission limit values are exceeded intermittently for Biological Oxygen Demand and Suspended Solids. Developer Provided Water Services Infrastructure (DPI) funding has been allocated to connect this housing development to the foul sewer. Wicklow County Council have been engaging with Uisce Eireann and the Department of Housing, local Government and Heritage on the matter but connection to the foul sewer has not been completed to date.

Private water supplies

The private water supplies register and 2024 compliance monitoring programme was reviewed and appeared to have all relevant information included. However, for a number of private Group Water Schemes sampling is planned at the same location in 2024. The use of the same location for sampling in a Group Water Scheme was raised previously in section 2.2 of an EPA audit report issued on 04/10/2023.

Actions required

1. Wicklow County Council shall effectively use the assigned resources to achieve the aims of the NAIP farm inspection plan. Wicklow County Council are reminded to seek sanction for the new post of agriculture inspector recently notified to them by the DHLGH.
2. Engage with Uisce Eireann and the Department of Housing, local Government and Heritage to progress the connection of the housing development outlined above to a foul sewer as a matter of priority.
3. Review the temporal and spatial distribution of sampling for compliance monitoring for water supply zones such as Group Water Schemes. The spread of locations within a monitoring programme should be as wide as possible to ensure that compliance samples are representative of water quality consumed throughout the year as required by Regulation 13(8) of the European Union (Drinking Water) Regulations 2023 (S.I. 99 of 2023). The frequency of sampling should also be undertaken as required under the regulations.
4. Ensure the Private Water Supplies Register is kept up-to-date and the data entered into the EPA's database, EDEN, is accurate and updated annually.

3.4 Air and Noise National Enforcement Priorities

Observations:

Solid Fuel

- The register for solid fuel retailers was reviewed. The register was first established in 2020 and is updated regularly. During 2023 the local authority carried out extensive work to identify firewood solid fuel producers and added to the register. Retailers and producers are risk rated based on compliance. Details of non-compliances were provided during the audit. Wicklow County Council successfully identified the host of a local website advertising the sale of turf and the page was subsequently removed.

- It is recommended that the local authority engages with the Local Authority Implementation Group (LAIG) in relation to solid fuel sampling methodology and future sampling activities planned by the group.

Air Quality Monitoring Activities and Data Use

- The location of the air quality monitoring station at Bray, Co. Wicklow was discussed. This station detected two PM10 exceedances during 2023: 19/04/23 and 22/05/23. Wicklow County Council explained that the station is located near a fire brigade station site where training takes place. During training fire is lit and extinguished which could tamper with the air quality readings of the near station. Wicklow County Council confirmed that no air quality complaints were received around the time where the PM10 exceedances occurred and argued that the high values may be related to weather events or training in the fire brigade station. This issue was highlighted to the EPA Ambient Air Quality Monitoring Programme (AAMP) Team in the past.
- Links to www.airquality.ie and Northern Ireland air quality website are available at www.wicklow.ie, however the website requires an update to avail of a clearer path to access information by the public.

Environmental Noise Directive (ENDs)

- Wicklow County Council submitted the 2023 Noise Action Plan (NAP) Progress Report to the Office of Radiation Protection and Environmental Monitoring Team in the EPA by the required date. Wicklow County Council explained that the Roads Section in the local authority prepares and submit the Report with prior input and review from the Environmental Section. The submission of the 2023 NAP Report was not reviewed by the Environmental Section, and the local authority required that information included in the 2023 NEP Progress Report was forwarded to the EPA team in the Office of Radiation Protection and Environmental Monitoring.
- Wicklow County Council gave an account on resurfacing projects carried out during 2023 to reduce noise in sensitive areas.

Air & Noise Controls (including Planning)

- Wicklow County Council has a set of standard conditions adapted to air and noise impacts from different developments. The standard conditions were reviewed during the audit. The 2023 NEP Progress Report was discussed which was greatly improved from 2022.

Ongoing Air & Noise Enforcement Work

- The 2023 NEP Progress Report was discussed. Extensive work (150 site inspections) was carried out during 2023 to identify unauthorised operators under the Deco Paints Regulations. Wicklow County Council has developed a noise complaints procedure; however it has not been included in the local authority website.
- The registers under Solvent and Deco Paints Regulations are up-to-date in the local authority website however they are not easily accessible by the public.

Actions required

1. Information relating to Solid Fuels information in Wicklow County Council website should be updated with current Air Pollution Act 1987 (Solid Fuels) Regulations 2022 (S.I. No. 529 of 2022).
2. Wicklow County Council should carry out solid fuel sampling individually or jointly with other local authorities.
3. Exceedances on particulate matter captured by the Air Ambient Monitoring Programme stations should be investigated and addressed.
4. Ensure proactive engagement between the Roads and Environment Sections in the preparation and submission of NAP Progress Reports.
5. Ensure specific examples where assessment of planning was critically reviewed for air and noise impacts and/or examples of specific industries causing local air and noise problems are

included in the NEP Report. Outcomes from air and noise complaints dealt with within the relevant year should be included in the NEP Progress Report.

6. The noise complaints procedure should be uploaded to the local authority website to provide information to the public in relation to how the Council deals with air and noise complaints. Registers under Solvents and Deco Paints Regulations should be easily accessible by the public.

4.0 FOLLOW-UP ACTIONS

Wicklow 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. This audit report will be published on the EPA's website, www.epa.ie, following the deadline for the local authority response to the report.

Report prepared by:

Maria Lenihan
Maria Lenihan

Reviewed by:

Valerie Doyle
Valerie Doyle

Date:

08/04/24

Date:

08/04/24