

## 2 Governance of Ireland's Environmental Protection Agency

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The Performance Assessment Framework for Economic Regulators (PAFER) was developed by the OECD to help regulators assess their own performance. The PAFER structures the drivers of performance along an input-process-output-outcome framework. This chapter applies the framework to the governance of Ireland's Environmental Protection Agency (EPA) and reviews the existing features, the opportunities and challenges faced by the EPA.

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## Role and objectives

Ireland's Environmental Protection Agency (EPA) was established in 1993 as a public regulatory body with administrative and technical independence to protect and improve Ireland's environment. Over time, the EPA's functions have expanded beyond those originally set out in its founding statute – the Environmental Protection Agency Act, 1992 – in step with new regulations, EU directives and following the merger in 2014 with the Radiological Protection Institute of Ireland (Box 2.1).

Upon its creation the EPA took over responsibility for many functions previously carried out by local authorities. The EPA's founding was in part a response to the difficulty Ireland's local authorities faced in consistently implementing increasingly complex environmental legislation across the country. Local authorities still however retain significant responsibilities for environmental protection, and the EPA has a supervisory role in this regard.

The establishment of the EPA was also a political response to restore public trust in the state's environmental protection functions. Previously, local authorities were responsible for the potentially conflicting functions of local development and environmental protection. Faced with the growth of complex sectors, such as the pharmaceutical industry, the public had lost confidence in local authorities' abilities to protect the environment (Shipan, 2006<sup>[1]</sup>).

### Box 2.1. Legislation

The main legal instruments pertaining to the EPA are:

- Environmental Protection Agency Act 1992
- Waste Management Act 1996
- Protection of the Environment Act 2003
- Radiological Protection Acts 1991 to 2014
- Amendments to the above Acts
- Regulations made under the above Acts and the European Communities Act

The full list of legislation is:

- Bathing Water Quality Regulations 2008
- Air Quality Standards Regulations 2011
- Carriage of Dangerous Goods by Road Act 1998
- Chemicals Act 2008 and 2010
- Containment of Nuclear Weapons Act 2003
- Control of Substances that Deplete the Ozone Layer Regulations 2011
- Dumping at Sea Acts 1996 to 2009
- Emissions of Volatile Organic Compounds from Organic Solvents Regulations 2002 (as amended)
- Environmental Protection Agency Act 1992 (as amended)
- Environmental Protection Agency Act 1992 (Control of Volatile Organic Compound Emissions resulting from Petrol Storage and Distribution) Regulations 1997
- European Communities (Water Policy) Regulations, 2003-2014

- European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 to 2011
- Planning and Development (Strategic Environmental Assessment) Regulations 2004 to 2011
- European Communities (Access to Information on the Environment Regulations) 2007 to 2014
- European Communities (Birds and Natural Habitats) Regulations 2011 and 2013
- European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 to 2011
- European Communities (Environmental Liability) Regulations 2008
- European Communities (Foodstuffs Treated with Ionising Radiation) Regulations, 2000
- European Communities (Good Agricultural Practices for the Protection of Waters) Regulations 2010
- European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2010, as amended
- European Union (Batteries and Accumulators) Regulations 2014 as amended
- European Union (Drinking Water) Regulations 2014
- European Union (Fluorinated Greenhouse Gas) Regulations 2016
- European Union (Paints, Varnishes, Vehicle Refinishing Products and Activities) Regulations 2012
- European Union (Radioactive Substances in Drinking Water) Regulations 2016
- European Union (Waste Electrical and Electronic Equipment) Regulations 2014
- European Union (Fluorinated Greenhouse Gas) Regulations 2016
- Freedom of Information Act 2014
- Genetically Modified Organisms (Contained Use) Regulations 2001
- Genetically Modified Organisms (Deliberate Release) Regulation 2003
- Kyoto Protocol Flexible Mechanisms Regulations 2006
- Limitation of Emissions of Volatile Organic Compounds Due to the Use of Organic Solvents in Certain Paints, Varnishes and Vehicle Refinishing Products Regulations 2007
- Nuclear Test Ban Act 2008
- Persistent Organic Pollutants Regulations 2010
- Planning and Development Regulations 2001, as amended
- Radiological Protection Act, 1991 (as amended)
- Radiological Protection Act, 1991 (Ionising Radiation) Order, 2000
- Radiological Protection Act 1991 (Ionising Radiation) Regulations, 2019
- Radiological Protection Act 1991 (Non-Ionising Radiation) Order, 2019
- Waste Management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008
- Waste Management (End-Of-Life Vehicles) Regulations 2006
- Waste Management (Facility Permit and Registration) Regulations 2007
- Waste Management (Hazardous Waste) Regulations 1998
- Waste Water Discharge (Authorisation) Regulations 2007
- Water Services Act 2007 (as amended)

Today EPA's licensing, permitting and enforcement activities cover waste, wastewater, industrial emissions (emissions to air, water and land, generation of waste, noise), greenhouse gases, contained use and controlled release of genetically modified organisms (GMOs), sources of ionising radiation, dumping at sea, and volatile organic compounds (VOCs). EPA is also an environmental authority for strategic environmental assessments.

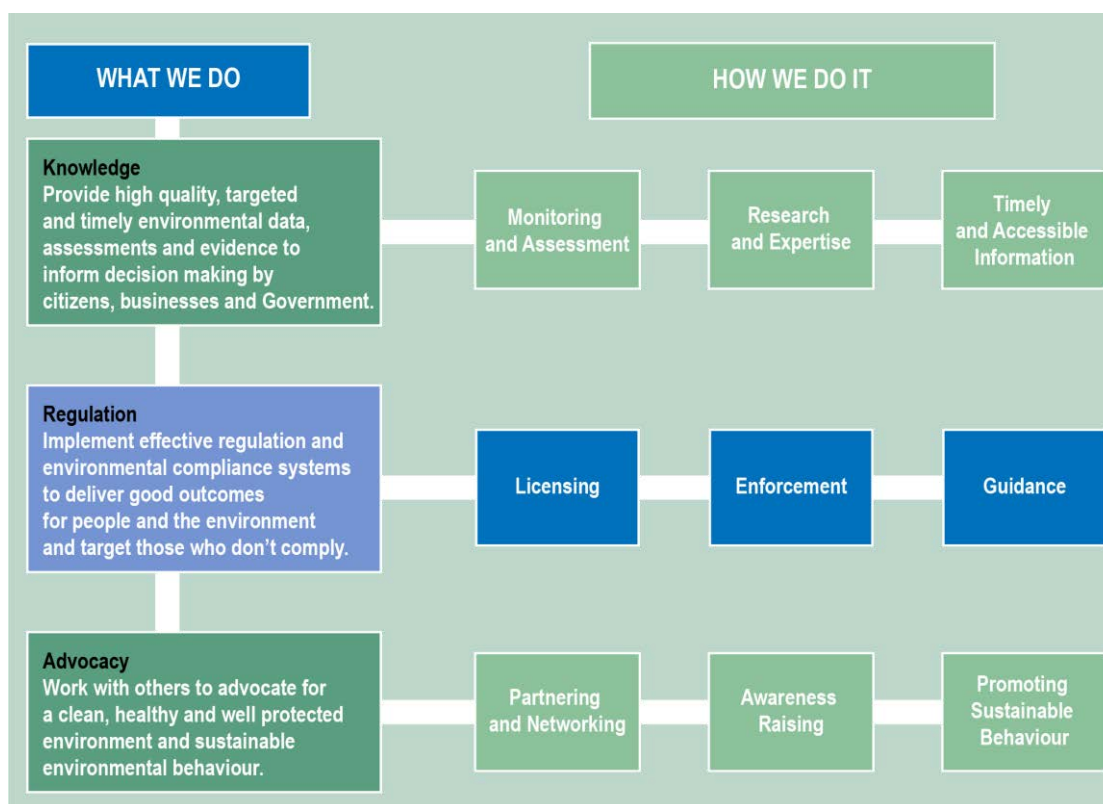
Its monitoring, analysing and reporting functions span a broader range of environmental areas. These include air quality, water quality (rivers, lakes, bathing water, drinking water...), radiation levels, biodiversity, species and habitats (reporting only), greenhouse gases, waste generation and management, and land and soil.

In addition to its regulatory, monitoring and reporting functions, the EPA has statutory responsibility for co-ordinating and funding national research on environmental protection.

## Functions

The EPA's functions can be divided into "regulation, knowledge and advocacy" (Figure 2.1).

Figure 2.1. EPA's functions



Source: (EPA, 2017<sup>[21]</sup>), EPA Annual Report and Accounts 2017, [http://www.epa.ie/pubs/reports/other/corporate/EPA\\_AnnualReport\\_2017\\_EN\\_web.pdf](http://www.epa.ie/pubs/reports/other/corporate/EPA_AnnualReport_2017_EN_web.pdf).

### Regulatory functions

Licensing, permitting, inspections and enforcement form the core of the EPA's regulatory work. The EPA's stated goal is "to implement effective regulation and environmental compliance systems to deliver good environmental outcomes and target those who don't comply."

EPA is responsible for licensing, permitting, consenting or certification of activities that could have an impact on the environment or on human health. EPA is responsible for the licensing and permitting of:

- Waste facilities
- Large-scale industrial activities
- Intensive agriculture
- Peat extraction
- The contained use and controlled release of GMOs
- Sources of ionising radiation (e.g. x-ray and radiotherapy equipment, industrial sources)
- Large petrol storage facilities (VOCs)
- Wastewater discharges
- Dumping at sea activities
- CO<sub>2</sub> emissions from large industrial facilities and the aviation sector through the EU Emissions Trading Scheme
- Medium combustion plants
- By-product and end-of-waste decisions

Additional licensing responsibilities are due to come into force in 2019. Ireland's River Basin Management Plan (2018-2021) commits to a new legislative framework for the management of water abstractions by 2019 that will include a requirement for the licensing of larger abstractions (>250m<sup>3</sup>/day) by the EPA.

EPA's enforcement responsibilities include:

- Conducting an annual programme of audits and inspections of EPA-licensed facilities.
- Supervising and reporting on local authority environmental performance, including investigating complaints from the public about local authorities.
- Supervising the supply of drinking water by public water suppliers. As well as auditing, inspecting and monitoring water services in Ireland, the EPA sets priorities for Irish Water to improve the national water infrastructure and uses its enforcement powers when these priorities are not being implemented satisfactorily.
- Working with local authorities and other agencies, including the National Waste Enforcement Steering Committee, to tackle environmental crime by co-ordinating a national enforcement network and targeting offenders and the Network for Ireland's Environmental Compliance and Enforcement (NIECE).
- Investigating failures to meet quality standards.
- Producing guidance on best practice for industry.

In addition to its supervisory role, the EPA has a statutory role to provide advice and assistance to local authorities.

The EPA is an environmental authority for strategic environmental assessments (SEAs) that assess the impact of plans and programmes on the Irish environment (e.g. major development plans, FoodWise2025, climate plans). The EPA has compiled guidance to help planning authorities when carrying out SEAs (EPA, 2018<sup>[3]</sup>). In certain situations the EPA carries out SEAs itself, for example, when it is leading the development of national plans (e.g. the National Hazardous Waste Management Plan). The EPA is also the competent authority for Environmental Impact Assessments for the activities it regulates.

The EPA is often responsible for developing national plans in relation to environmental protection, for example, the National Hazardous Waste Management Plan and the Persistent Organics Pollutions (POPs) Management Plan.

### *Knowledge functions*

The EPA's stated goal is to "provide high-quality, targeted and timely environmental data, information and assessment to inform decision-making at all levels." The EPA is responsible for monitoring, assessment and reporting on a wide range of environmental outcomes and co-ordinates and funds a significant research programme to advance knowledge on environmental protection.

The EPA assesses and reports on:

- The State of Ireland's environment: the EPA must publish a State of the Environment Assessment every four years. The next report is due for publication in 2020.
- Water quality: rivers, lakes, transitional and coastal waters, groundwater, bathing water; drinking water.
- Hydrometrics: water resource and flows assessment and modelling.
- Catchments: to support river basin management planning and implementation.
- Air quality: ambient air quality monitoring, modelling and forecasting.
- Greenhouse gases: inventories and projections.
- Radiation: ambient radioactivity levels in air, foodstuffs and drinking water, marine environment and maintains a national dose register.
- Waste: collects and reports national statistics on waste generation and management, including Ireland's progress towards EU waste targets.

The EPA's monitoring and assessment programmes help fulfil several statutory reporting duties to the EU and national government. The EPA also makes data accessible to the public through the national open data portal ([data.gov.ie](http://data.gov.ie)), its reports such as the State of the Environment report, annual reports on drinking water, urban waste water, bathing water, water quality, air quality, greenhouse gas emission inventories and projections and waste statistics, and its websites such as [catchments.ie](http://catchments.ie) and [beaches.ie](http://beaches.ie).

The EPA, unlike many of its sister organisations in Europe, has statutory responsibility for co-ordinating a national research programme in the area of environmental protection. This function involves an annual call for proposals from universities and other institutions for research in areas identified by the EPA and others (including government departments) as being of national priority. In 2018, EPA invested almost EUR 10 million in research.

The overarching objective of the research programme is to use knowledge to protect and improve the natural environment and human health. The research strategy for 2014-2020 is built around three pillars: climate, water and sustainability (which includes radiological protection). In each of these pillars, the focus of the research is to:

- Identify pressures: by providing assessments of current environmental status and future trends to identify pressures on the environment;
- Inform policy: by generating evidence, reviewing practices and building models to inform policy development and implementation; and
- Develop solutions: by using novel technologies and methods that address environmental challenges and provide green economic opportunities.

The research programme has three National Research Co-ordination Groups, one for each pillar of research, that convene national stakeholders including government departments, agencies and NGOs. The EPA also invites government department staff and experts from other bodies to participate in research steering groups. Information on EPA-funded research is disseminated via several channels, including DROPLET (a database on water research), social media platforms such as Twitter (> 5 000 followers) and LinkedIn, research platforms such as ResearchGate, as well as newsletters, events and webinars. The

EPA also co-funds research with other funding agencies and links up Irish researchers to relevant Horizon 2020 funding, EU Joint Programme Initiative funding and other EU funding streams.

### *Advocacy functions*

The EPA strategic plan sets out the goal to be an effective advocate and partner. The EPA aims to “work with others to advocate for a clean, productive and well protected environment and for sustainable environmental behaviour”. Advocacy functions are split between several offices but some directors lead on behalf of the Board with organisations that interface with many offices within EPA (such as Irish Water, Bord Bia (the Irish Food Board)). The EPA does not have an overarching advocacy strategy but has guidelines for staff on advocacy and partnering.

Examples of this function include:

- A number of advocacy campaigns under the framework of the National Waste Prevention Programme. The EPA delivers the programme through partnerships with local authorities, regional waste offices, government agencies and public bodies as well as sectoral groups and bodies to promote the circular economy and enable waste prevention actions by business, public sector and communities. Campaigns to improve resource efficiency have included Smart Farming, in partnership with the Irish Farmers’ Association, and StopFoodWaste.ie.
- The EPA has a key role in the development and implementation of the National Radon Control Strategy and through this has undertaken a range of advocacy campaigns and activities to minimise the exposure of members of the public to radon gas in their homes and workplaces. The EPA has also created a dedicated website (<http://www.radon.ie/>) which provides customised information for different groups (such as homeowners, medical professionals and local authorities). This website was launched in 2016 and received almost 100 000 views in both 2017 and 2018.
- Publicising data and reports, such as the State of the Environment Report, through media interviews, press releases and public events.
- Dedicated websites, such as <http://www.catchments.ie/> that shares science and stories about Ireland’s water catchments and people’s connections to their water.
- Conferences, public lectures (e.g. Climate Lecture series) and workshops.
- “Citizen science” initiatives to increase awareness and involvement of the public in the areas of clean air, clean water and sustainability.
- Competitions targeting youth, such as “The story of your stuff” (<http://www.thestoryofyourstuff.ie/>).
- Co-ordinating the National Dialogue on Climate Action.

The EPA has a corporate communications strategy 2017-2020 that identifies target audiences, desired behaviour changes, corporate messages, risks, and communications channels. In 2015 the EPA commissioned an external communications audit to gather information about perceptions of the EPA and the effectiveness of its communications with target audiences. The audit found that the EPA is viewed as a high-calibre and trusted source of information but recommended that the EPA address the issue of ‘infobesity’ in its communications (use of acronyms and technical terminology) and the lack of clear champions and clear voices on EPA issues. Additional polling commissioned by the EPA revealed that awareness of the EPA and its work was relatively lower among younger audiences and so are exploring way to reach this target group.

In addition to its regulatory, knowledge and advocacy functions, the EPA provides the secretariat to the Climate Change Advisory Council as well as technical and administrative support to the National Dialogue on Climate Action.

## ***Institutional co-ordination***

The EPA liaises with many government bodies, regulatory authorities and other stakeholders (Table 2.1). Formal arrangements, in the form of Memoranda of Understanding (MoU), are in place with 23 organisations (in 21 MoUs) from Ireland, the United Kingdom and the European Union (Box 2.2). The Board receives an update on all MoUs annually. MoUs are published on the EPA website where agreed with the other party.

Several co-ordination mechanisms that are not statutory requirements or defined under formal arrangements are also in place. For example, the EPA's water team meet with the Commission for Regulation of Utilities (CRU) on a quarterly basis to exchange and update each other on their respective regulatory roles in relation to Irish Water. Personal relationships appear to be an important factor in the degree of co-ordination between the EPA and other institutions, supplementing formal arrangements.

### **Box 2.2. Memoranda of Understanding**

The EPA has MoUs in place with the following organisations:

- An Bord Pleanála
- ASN (*Autorité de sûreté nucléaire*) – French Nuclear Safety Authority
- Bord Gais Networks
- Commission for Regulation of Utilities
- Central Statistics Office
- Climate Change Advisory Council
- Department of Agriculture, Food & the Marine
- Department of Communications, Climate Action & Environment, Kilkenny County Council and Galmoy Mines
- European Atomic Energy Community
- Food Safety Authority of Ireland
- Health & Safety Authority
- Health Service Executive
- Marine Institute
- Met Eireann
- National Directorate for Fire and Emergency Management
- National Parks & Wildlife Service of the Department of Arts, Heritage and the Gaeltacht
- Sustainable Energy Authority of Ireland
- UK Drinking Water Regulators
- Office of Public Works
- Irish Coast Guard
- Office for Nuclear Regulation (United Kingdom)

Source: Information supplied by EPA.



The EPA co-ordinates with Ireland's 31 local authorities, which have significant environmental protection responsibilities. Since 2004, the EPA and local authorities have operated an administrative network – the Network for Ireland's Environmental Compliance and Enforcement (NIECE) – which provides the framework for both oversight and support.

Several interviewees referred to an inherent tension in the relationship between the EPA and local authorities. Upon its establishment, the EPA assumed many of the responsibilities for environmental protection previously held by local authorities and over time has taken over additional functions. The dual role of regulator and provider of advice and assistance can create tensions as the EPA moves between the different roles.

Legislation also empowers the EPA to co-ordinate with relevant European institutions. Section 52 of the EPA Act 1992 lists liaison with the European Environment Agency among the primary functions of the EPA, provided for under Council Regulation 1210/90/EEC.

**Table 2.1. Co-ordination with other state and regulatory bodies**

Authority	Area/sector of co-ordination	Formal co-ordination arrangement in place?
Department of Communications, Climate Action and Environment (DCCAE)	Climate action & greenhouse gas emissions Circular economy & waste prevention Chemicals and market surveillance Ozone depleting substances (ODS) and F Gas Environmental licensing including GMOs and Dumping at Sea Noise (environmental noise policy) Radiation Waste Waste statistics Research	Oversight Agreement and associated Performance Delivery Agreement The Network for Ireland's Environmental Compliance and Enforcement (NIECE) Research covered by Memorandum of Funding for Research Programme Research Co-ordination Group
The Department of Housing, Planning and Local Government (DHPLG)	Drinking water Urban waste water Water quality Microbeads Water quantity Water Abstractions Noise (local authority-controlled roads; planning and development policy, guidance and standards Strategic Environmental Assessments Emergency Planning EIA legislation/environmental licensing Research	Covered under DCCAE Oversight Agreement and associated Performance Delivery Agreement Water Framework Directive established co-ordination structures: Water Policy Advisory Committee (WPAC); National Co-ordination & Management Committee (NMC); National Technical Implementation Group (NTIG); Memorandum of Funding for WFD related work NIECE  SEA Governance Forum Research Co-ordination Group
Department of Business, Enterprise and Innovation (DBEI)	Radiation (carriage of radioactive materials by road) Chemicals/Market Surveillance Research	Research co-ordination through national committees for Innovation 2020 and Horizon 2020 Research Co-ordination Group
Department of Transport, Tourism and Sport	Noise (airport, rail, motorway and primary road network) EPA comments on SEAs Research	Research Co-ordination Group
Central Statistics Office (CSO)	Climate Action (Greenhouse gas emissions)	MoU Research Co-ordination Group

Authority	Area/sector of co-ordination	Formal co-ordination arrangement in place?
	Waste/ Circular Economy Research	
Department of Agriculture, Food and the Marine (DAFM)	Climate action & greenhouse gas emissions Intensive agriculture Chemicals Waste Water quality EPA comments on SEAs Research	MoU WPAC NTIG National Pesticides in Drinking Water Action Group (NPDWAG) NIECE Research Co-ordination Group
Local authorities	EPA has supervisory role Circular economy and waste prevention Air quality (smoky coal, and air quality monitoring) Chemicals Drinking water Industrial emissions Waste Wastewater Water quality (catchment protection) Research	NIECE WFD governance structures (WPAC, NCMC, NTIG and five regional committees) Research Co-ordination Group
An Bord Pleanála (ABP)	Environmental Impact Assessments Consultations on environmental licensing Projects of Common Interest – large scale energy infrastructure projects with cross border aspects	MoU
Commission for Regulation of Utilities (CRU)	Climate action Energy safety Drinking water	MoU
Health Service Executive (HSE)	Drinking water Bathing water Health and environment Environmental licensing Research	MoU NIECE Health Advisory Committee Research Co-ordination Group
Health and Safety Authority (HSA)	Chemicals Radiation (radon in workplaces; carriage of radioactive materials by road) Seveso Directive/Industrial licensing	MoU Research Co-ordination Group
Health Information and Quality Authority (HIQA)	Radiation (regulation of medical exposures)	MoU in prep
All other plan-making government departments	EPA comments on SEAs	No
An Garda Síochána	Radiation (security of radioactive sources) Waste (waste crime) Emergency planning & response (radiation)	Formal work plan and policy statement National Waste Enforcement Steering Committee NIECE
Inland fisheries Ireland	Water quality (where pollution incidents impact fish) Environmental licensing	WFD governance structures: NIECE, WPAC, NTIG and five regional committees
Marine Institute	Water quality Chemicals Research	MoU WFD Governance Structures Research Co-ordination Group
Office of Public Works	Water quality Research	MoU Research Co-ordination Group
Revenue (Customs)	Chemicals	NIECE

Authority	Area/sector of co-ordination	Formal co-ordination arrangement in place?
Regional Waste Management Planning Offices	Circular economy & waste prevention Waste	NIECE
Waste Enforcement Regional Lead Authorities (WERLA)	Waste	NIECE National Waste Enforcement Steering Committee
National Transfrontier Shipment of Waste Office (NTFSO)	Waste	NIECE
National Waste Collection Permit Office (NWCPO)	Waste	NIECE
Food Safety Authority of Ireland (FSAI)	Emergency planning & response (radiation) Radiation monitoring Chemicals Research	MoU Health Advisory Committee Research Co-ordination Group NIECE
Met Eireann	Emergency planning & response (radiation) Radiation monitoring Air quality, monitoring, modelling & forecasting	MoU Research Co-ordination Group
Teagasc	Climate action & greenhouse gas emissions Research	Data provider named in Ireland's National Inventory System, Research Co-ordination Group, Steering committee for the Agricultural Catchment Programme
Sustainable Energy Authority of Ireland	Climate action & greenhouse gas emissions Research	Data provider named in Ireland's National Inventory System, Research Co-ordination Group
Department of Culture, Heritage and the Gaeltacht - Built Heritage and Architectural Policy Unit, Irish Research Council, Irish Water, National Parks and Wildlife Services, National Transport Authority, Science Foundation Ireland, Enterprise Ireland, Geological Survey of Ireland, National Economic and Social Council	Research	Research Co-ordination Group

Source: Information provided by EPA.

### ***Relations with executive***

The Department of Communications, Climate Action and Environment (DCCAE) has been the EPA's sponsor in government since 2016. Prior to this, the EPA had been under the aegis of the Department of the Environment, Community and Local Government (now re-named the Department for Housing, Planning and Local Government, DHPLG). DHPLG retains responsibility for water policy, however, and so the EPA has an important relationship with DHPLG in this policy area.

A tripartite Oversight Agreement and associated Performance Delivery Agreement is in place between DCCAE, DHPLG and the EPA. This Oversight Agreement recognises that DHPLG has responsibility for a number of areas of direct relevance to the EPA's remit (for water and planning related issues). The Oversight Agreement addresses the following:

- Legal framework
- Operational environment of the EPA
- Purpose and responsibilities of the EPA
- Compliance with the *Code of Practice for the Governance of State Bodies 2016* (DPER, 2016<sup>(4)</sup>)
- Arrangements for oversight, reporting and monitoring
- Mutual commitments
- Performance Delivery Agreement
- Duration of agreement

The EPA also engages with other government departments including the Department of Agriculture, Food and Marine; the Department of Health; the Department of Business, Enterprise and Innovation; the Department of Culture, Heritage and the Gaeltacht; the Department of Transport, Tourism and Sport; and the Department of Public Expenditure and Reform.

### ***Input into policy development***

The EPA does not set government policy but aims to support and influence the policy development process through its scientific data, evidence and knowledge. The EPA Act 1992 empowers the EPA to advise “of its own volition” the government on environmental protection and related matters. This function encompasses giving advice to the government on any proposals for legislative change or other policy matters, as well as reporting and making recommendations on particular environmental issues or problems.<sup>1</sup> The EPA’s strategic action plan 2016-2020 sets out specific actions related to policy development, notably: co-ordinating EPA scientific expertise to support the development of new policy (e.g. clean air); ensuring that new legislation is implementable (e.g. the transposition of EURATOM BSS); and using the opportunities to build competence in engaging on legislative development. The EPA gives particular emphasis to its role in providing the evidence base to inform policy, drawing on its well-respected data and reports. Results of EPA-funded research also contribute to the body of evidence that can inform policy.

The EPA informs the policy-making process through a number of channels. The EPA makes formal submissions on draft legislation put out for public consultation; presents to committees of parliament on a wide range of topics that then informs debate and discussion; and responds to requests, often informal, from government departments on the development of policy and draft legislation, particularly where technical or scientific input is required. Comments on policies or plans that are released for public consultation are published and available to the public. Where the EPA comments on EU matters, such as drafts of directives, the comments are considered by the departments and incorporated into the official Irish response. Informal consultations are not made public.

The EPA is also involved in a number of European and other international structures which feed policy development, providing technical and scientific advice while department officials address policy issues. These include EU policy fora to develop the *acquis* (in support of various departments and permanent representations); EU scientific working groups that inform the implementation of EU legislation and standards; and EU committees in which the EPA acts as technical expert to support department officials who are responsible for formal voting. The EPA also represents Ireland at international negotiations in support of the government, including the UNFCCC COPs, the IPCC and the Kyoto, Stockholm, Basal, Rotterdam and Montreal Conventions.

There is a more direct link into supporting the policy-making process on nuclear and radiological issues. DCCAE relies primarily on the EPA for input into this policy area as there is no dedicated technical team within the parent department. The EPA advises on policy and provides technical input and support for the

negotiation of international agreements and conventions sponsored by the International Atomic Energy Agency (IAEA) and Euratom.

The amount of time and resources dedicated to policy work varies across offices and over time. At times a significant workload is associated with revising legislation. For example, 20% of staff time in the Office for Radiation Protection and Environmental Monitoring was dedicated to supporting the transposition EU legislation in 2017 and 2018. This contrasts with input to the policy process for air quality, for example, which requires an estimated three person days per year. To a large extent the resource requirements reflect the policy priorities of the government department at any particular time.

The EPA can request changes in legislation where implementation challenges are faced or market failures identified. The most recent instance was in May 2016 when, at the request of DCCAE, the EPA provided proposals for legislative change in several areas. On that occasion, some minor suggestions related to administrative anomalies or unclear drafting were incorporated into the draft legislation, but more significant suggestions were not. There is limited evidence that the EPA has influenced changes in legislation where there is not an overriding policy imperative e.g. fees for licence reviews or technical amendments. However, there is evidence where there are requests from government departments to the EPA when there are new policy or amendments to legislation.

### ***Strategic objectives and planning***

EPA operates in the framework of a strategic plan 2016-2020, *Our Environment, Our Wellbeing*, which sets out the EPA's goals to be:

- a trusted environmental regulator
- a leader in environmental evidence and knowledge
- an effective advocate and partner
- responding to key environmental challenges
- organisationally excellent

It is the EPA's fifth strategic plan and was published when Ireland was seeing the signs of an economic recovery. It is designed to deliver on the EPA's vision of "a clean, healthy and well protected environment supporting a sustainable society and economy" and its mission "to protect and improve the environment as a valuable asset for the people of Ireland; to protect our people and the environment from the harmful effects of radiation and pollution" (Figure 2.2). Under each goal, the plan identifies the main objectives, expected outcomes, the actions that the EPA will take to achieve these outcomes and an owner responsible for each action (Table 2.2).

The Director General, in consultation with the senior management team and staff of the EPA, sets the objectives. Input from the EPA advisory committee is also considered. A draft of the 2016-2020 strategic plan was published on the EPA website for public consultation. The EPA published a summary on its website ([http://www.epa.ie/pubs/reports/other/corporate/occs/Consultation\\_Issues\\_Response.pdf](http://www.epa.ie/pubs/reports/other/corporate/occs/Consultation_Issues_Response.pdf)) of the major issues that were raised through the consultation and an explanation as to how the EPA can respond to them.

The 2016-2020 strategic plan was submitted to the former Minister for Environment, Community & Local Government. The EPA corporate governance manual states that "a copy of the draft strategic plan should be sent for views from the Minister or Department who should have up to 12 weeks to comment".

Figure 2.2. Linking EPA's vision and mission with its annual work programme



The action plan is translated into annual work programmes that are also informed by a number of other documents. In the last quarter of each year, each office prepares a work programme identifying a number of defined work areas and outputs. These work programmes are informed primarily by statutory functions, new legislation and commitments arising from the Public Sector Reform Plan. In addition to the strategic plan, the following organisational strategies are considered in the preparation of the EPA's annual work programme:

- Oversight Agreement & Performance Delivery Agreement
- Corporate and Office Risk Registers
- ICT Strategy
- Communications Strategy
- Human Resources & Development Strategy
- Annual Communication Plan.
- Annual Internal Audit Plans
- Internal Audit Implementation Plans
- Annual Budget

The annual work programme focuses on outputs linked to the strategic goals and objectives, target dates and ownership and is submitted to the Board for approval. Monthly progress reports on the work programme KPIs are submitted to the Board by the relevant director.

In 2018 the EPA carried out a mid-term review of the 2016-2020 strategic plan through a collaborative process involving over 40 members of staff. The review resulted in amendments to the objectives – to include references to the circular economy and waste management – and to the outcomes – to include “a climate resilient society and economy” and “strengthened national waste enforcement structures”. A number of actions were also revised.

**Table 2.2. EPA's strategic plan 2016-2020**

Goal	Objectives	Outcomes by 2020
Trusted Environmental Regulator	Ensure the on-going development of a proportionate and effective regulatory approach Align EPA resources to target interventions and reduce environmental risk	A risk-based, responsive regulatory approach that engages stakeholders and protects the environment and people. Reduced environmental risks at EPA regulated facilities through tailored interventions and by ensuring appropriate financial provisions are in place. Driven the improved delivery and management of water and waste infrastructure.
Leader in Environmental Evidence & Knowledge	Realise the full potential of the EPA's knowledge, skill, expertise and regional presence as key national resources in the protection of the environment and human health. Accelerate the provision of timely and tailored information to meet the specific needs of stakeholder groups.	More timely evidence-based environmental assessments to inform policy and decision making at national, regional and local levels. Better provision of online, up-to-date and accessible information on the environment to stakeholders. A research programme that addresses knowledge gaps and helps identify solutions to emerging and complex environmental problems.
Effective Advocate and Partner	Strengthen the EPA's capability and capacity to influence, advocate and partner to help achieve a clean, healthy and well protected environment. Engage the public in the protection and improvement of the environment. Promote a greater awareness of the impact of environment quality on human health.	Targeted opportunities to integrate environmental priorities and sustainability into sectoral, economic and social policies. Developed public participation programmes to increase awareness of environmental issues and support the engagement of the public in environmental protection. Collaborated with health agencies and other bodies to realise the benefits of a good environment for health and wellbeing.
Responding to Key Environmental Challenges	Tackle the challenges to deliver improved water quality in Ireland. Engage with other strategic partners to promote the development of a holistic national response to climate change. Enhance air and radiation protection in Ireland.	Effective and resilient structures in place to deliver better outcomes for water quality. Established a climate change secretariat in the EPA as a centre of excellence that supports the national transition to a low carbon economy. Strengthened the air quality and radiation protection frameworks to further protect people and the environment.
Organisationally excellent	Develop our staff and align our organisation to deliver best environmental outcomes. Focus on the development and promotion of organisational health, wellbeing and safety at work. Promote a culture of leadership, reform and innovation.	Our functions and resources aligned to be responsive and adaptable to meet emerging challenges. Engaged all staff to foster a supportive workplace environment. Enhanced capacity in the area of organisational change and in the use of ICT to support reform and innovation.

Source: (EPA, 2018<sup>[5]</sup>), EPA Strategic Plan 2016-2020 Our Environment, Our Wellbeing.

[http://www.epa.ie/pubs/reports/other/corporate/EPA\\_StrategicPlanWeb\\_2018.pdf](http://www.epa.ie/pubs/reports/other/corporate/EPA_StrategicPlanWeb_2018.pdf).

## **Independence**

The Oversight Agreement between DCCA, DHPLG and the EPA states that the EPA “operates as a non-commercial, regulatory body. It has independence in the performance of certain functions as set out in the 1992 Act, and other relevant legislation”.

The EPA Board makes operational decisions, such as licensing decisions, without the involvement of government departments or other bodies. Furthermore, Section 40 of the EPA Act states that a person may not communicate with any individual within the EPA, its Advisory Committee or any committee established by the EPA, for the purpose of influencing improperly their consideration of any matter that falls to be considered or decided by the EPA, committee or consultative group. There has never been a formal complaint to the EPA in this regard.

Similarly, strategic decisions do not require approval by the legislature or the executive although EPA's strategic plan is submitted to DCCAE for comment. The updated *Code of Practice for the Governance of State Bodies* (DPER, 2016<sup>[4]</sup>) published in 2016 stipulates that the strategy of non-commercial state bodies should align with the specific objectives in the parent department's strategy (to the extent relevant). It allows the minister twelve weeks to revert with views on the EPA's draft strategy.

The EPA can make recruitment decisions within its headcount, publish reports and set enforcement charges for regulated entities independently.

The EPA is largely dependent on the government for budget and staff (Box 2.3). The EPA negotiates its budget with its parent departments on an annual basis. In 2018, around 79% of the EPA's income came from government sources (DCCAE, DHPLG and the Environment Fund). The EPA also requires the agreement of DCCAE and subsequently the Department of Public Expenditure and Reform (DPER) to make any changes to staff numbers and grades.

The Government appoints the EPA Director General after selection by a committee whose members are defined in statute (Section 21 of the EPA Act, 1992), namely: the Secretary to the Government; the Secretary of DCCAE; the Chair of the National Trust of Ireland; the Managing Director of the Industrial Development Authority; the General Secretary of the Irish Congress of Trade Unions; and the Chief Executive of the Council for the Status of Women. The function of the Director General is to ensure the efficient discharge of the business of the agency and to arrange the distribution of the business of the agency among its directors (Section 23, EPA Act).

The government also appoints directors of the EPA (Section 24), who form the Executive Board alongside the Director General. A director of the EPA is a full time position, based at the EPA's headquarters in Wexford, with a five-year term of office. Appointment follows from a recommendation made by an independent selection committee convened in accordance with the EPA Act, 1992. The independent selection committee conducts a public recruitment competition to select candidates suitable for recommendations to Government. A director may be reappointed by government for a second or subsequent term of office for five years or less. Directors report to the Director General, as specified in the advertisements for director posts.

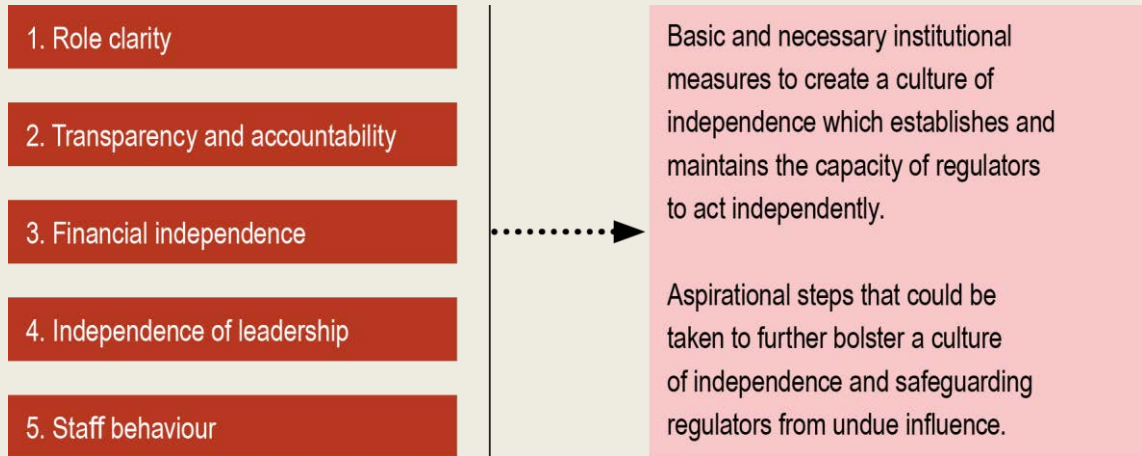
According to statute, the government may remove the Director General or directors from office "if, in their opinion, [they] have become incapable through ill-health of effectively performing [their] duties, or for stated misbehaviour, or if [their] removal appears to the Government to be necessary or desirable for the effective performance by the Agency of its functions" (Sections 21:16 and 24:12). In such cases, the government must provide a written statement of the reasons for removal to each House of the Oireachtas.



### Box 2.3. Creating a culture of independence

(OECD, 2017<sup>[6]</sup>) explores how to establish and implement independence with regulators. Independence comes in two forms: de jure independence refers to the formal independence granted by law, whereas de facto independence promotes practical independence as shown by actions, decisions and behaviours.

**Figure 2.3. The five dimensions of independence identified by the Guidance**



Each of the five dimensions includes practical guidelines that can be considered as the basic and necessary institutional measures to create a culture of independence which establishes and maintains the capacity of regulators to act independently, based on an analysis of regulators' institutional processes and practices within the OECD Network of Economic Regulators (NER). The guidelines also include a set of aspirational steps that could be taken to bolster a culture of independence and safeguarding regulators from undue influence.

Source: (OECD, 2017<sup>[6]</sup>), *Creating a Culture of Independence: Practical Guidance against Undue Influence*, The Governance of Regulators, Paris, <https://doi.org/10.1787/9789264274198-en>.

## Input

### **Financial resources**

The EPA obtains the majority of its funding from government sources. The majority of government funds are appropriated through DCCAIE, while DHPLG has provided between 10.5% and 13% of the yearly budget over the last three years to deliver on priorities related to the Water Framework Directive (WFD).

The budget is allocated by major spending category (i.e. pay, pension, and research) or for specific deliverables (i.e. WFD delivery, emergency response, research, and the climate secretariat and climate dialogue). The budget takes into account funds necessary to finance agreed upon programmes of work, but the budget lines are not presented according to the priorities listed in the strategic objectives.

EPA receives funding from four sources:

- Exchequer income: funds provided by DCCAIE and DHPLG. These funds require yearly support from DCCAIE and are approved by the DPER. Funds from DHPLG can only be used for water-related activities – including the operation of regional laboratories for monitoring under the WFD – according to a Memorandum of Funding, and not for staff costs without sanction. Research is also partly funded by exchequer income.
- Environment Fund: levies collected by the national government from the plastic bag levy and landfill levy. The allocation of this fund is determined and approved by DCCAIE. In each of the last three years in the estimates letters, the EPA has signalled its concern about the sustainability of using this fund for non-pay, non-discretionary expenditures (i.e. operational costs related to light, heat, rent, insurance, etc.). In 2018, EUR 4.6 million of the fund was allocated to these non-discretionary expenditures, falling to EUR 1.4 million in 2019. This has been accompanied with requests each year to move these expenditures off the fund. Research is also partly funded by the Environment Fund.
- Earned income: levies from licensing fees, radiological income and enforcement (prosecution) income. Licensing fees are set in legislation, requiring an amendment by the Oireachtas to change, and generally cover 10-15% of the cost of licensing. Losses are covered by Exchequer funding. Enforcement income is calculated in the first instance via a cost model that costs each section of activities, including staff time and overhead costs. Each team then calculate the cost associated with their activities that are chargeable. These charges are then applied to the activities and charged out accordingly. Most of the enforcement activities achieve full cost recovery, while the EPA is making efforts to move those that do not towards full cost recovery. Each year a memo is prepared by each of the teams responsible for charging to outline how they propose to charge for their activities in the coming year. Maximum fines from prosecution are set by the Oireachtas in the governing legislation (see Enforcement section). The fines imposed in each case are specific to the case and at the discretion of the judge. Execution of earned income is approved by the EPA Board.
- Other income: earned from emission trading units costs recovery, staff pension contributions and other/sundry income. Execution of other income is approved by the EPA Board.

**Table 2.3. EPA Budget by category, real (EUR millions) and percentage of total income**

	2015	2016	2017	2018
<b>Total income</b>	59.0	59.8	63.0	65.0
<b>Exchequer income</b>	26.9 (45.7%)	33.5 (56.1%)	39.9 (63.4%)	42.3 (65%)
<b>Environmental Fund income</b>	16.1 (27.3%)	12.8 (21.4%)	9.8 (15.5%)	9.0 (13.8%)
<b>Earned income</b>	13.3 (22.5%)	10.7 (18.0%)	10.8 (17.2%)	10.9 (16.7%)
<b>Other income</b>	2.6 (4.5%)	2.7 (4.6%)	2.5 (3.9%)	2.9 (4.5%)
<b>Total STATE Income</b>	43.1 (73.0%)	46.3 (77.5%)	49.7 (78.8%)	51.3 (78.8%)
<b>Total EARNED &amp; OTHER Income</b>	15.9 (27.0%)	13.5 (22.5%)	13.3 (21.2%)	13.8 (21.2%)

Source: Information provided by the EPA, 2019.

### ***Managing financial resources***

Budgets are decided on a yearly basis. The EPA provides budget estimates to its parent departments for that year. In 2018, the EPA was asked to provide a high-level three-year estimate for the first time, but has not been requested to do this again. The EPA operates a “business partnering approach”, whereby EPA managers responsible for each programme area are tasked with negotiating their portfolio of funds for the following year, supported by the Finance and Organisational Services Programme within OCCS. The

Performance Delivery Agreement, a high-level tripartite agreement between the EPA, DCCAE and DHPLG, provides an opportunity for the three bodies to come together and discuss common challenges, including funding.

For Exchequer funds, the EPA provides an estimate of its budget requirements for the following year in July/August to DCCAE and DHPLG via an estimates letter. After reviewing the request, which includes an option to potentially adjust the request, DCCAE and DHPLG include the EPA requirements in their overall estimates requested to DPER. DPER review and present to the Dáil for approval in October, with formal notification being received in December/January for the one-year estimate. The three-year estimate in 2018 did not receive any signal or commitment from government. EPA funding requirements from the Environmental Fund are included in the estimates letter submitted to DCCAE and are subject to approval by the Ministry. Ring fenced budgets for specific areas such as the Office of Environmental Enforcement, research, the National Waste Prevention Programme and the Climate Dialogue are also assigned. These are all governed by memoranda of funding agreed with the relevant departments.

The estimates process is underpinned by the regular interaction and planning between the different offices and programme areas in the EPA and the relevant government department, on programme activities such as research, the National Waste Prevention Programme and the WFD. This planning information is referenced by DCCAE and DHPLG when reviewing the EPA estimates letter and is key to obtaining approval.

The EPA requires approval for budget allocation and spending on items funded from either the Exchequer or the Environment Fund. Approval is required from the relevant government department prior to drawing down funds to cover actual expenditure from these two budgetary sources. Funds from the Exchequer or Environment Fund cannot be carried forward. The EPA can and does carry forward earned income, amounting to on average 1% yearly over the three years. The EPA communicates the predicted carry forward figures to DCCAE and publishes the overall actual year end carry forward position in the EPA annual report.

The Budget is communicated to all budget holders and electronic reports on expenditure versus budget are available to all budget holders on the Integra system. Expenditure against Budget is reported to the EPA Board on a monthly basis via the Financial Management report. The internal budget is subject to two internal revisions in June and September, which are subject to EPA Board approval. DCCAE are provided monthly updates on actual expenditures.

Section 50 of the EPA Act requires the EPA to keep proper accounts of all funds it receives or expends. The EPA Board is responsible for preparing financial statements. As part of this duty, the Annual Report must contain an Annual Financial Statement. This Statement is audited by the Comptroller and Auditor General (C&AG) of Ireland, who then reports the audit to the Public Accounts Committee (PAC). The EPA can be called to appear before the PAC to report on how it managed the resources at its disposal and on any other matter of interest to the Committee. The EPA is rarely called to attend the Public Accounts Committee (PAC) to defend its annual reports, having only occurred three times since it was established. When it was last called in April 2019, the chair of the PAC noted the EPA's excellence in preparing its annual reports. The EPA C&AG audited accounts are also presented to the Minister, who then reports on these accounts to the Oireachtas. Under the *Code of Practice for the Governance of State Bodies* (DPER, 2016<sup>[4]</sup>), the EPA has a duty to provide draft unaudited annual accounts to DCCAE and DPER within two months of the end of the financial year.

In accordance with Section 7.3 of the *Code of Practice for the Governance of State Bodies*, the EPA Board is responsible for ensuring that effective systems of internal control are instituted and implemented, including for financial management.

For procurement, the EPA is required to adhere to the *Public Procurement Guidelines for Goods and Services*, published by the Office of Government Procurement in 2017. It is the responsibility of the Board to ensure these procedures are adhered and fully conversant with the current value thresholds for the application of EU and national procurement rules.<sup>2</sup> In 2008, a Procurement Officer role was established, who developed guidelines and templates for budget holders who are involved in procurement and publishes a quarterly Procurement Bulletin to all staff.

### **Human resources**

The EPA approved staff complement is currently 420 staff members. As of September 2019, 416 posts were filled, of which 262 (63%) are technical staff (i.e. engineers, scientists, specialised researchers) and 154 (37%) are considered management or support (Table 2.4).

**Table 2.4. Staff by category, 2018**

Staff category	Female	Male	Total
Management	31	36	67
Technical staff	139	123	262
Support staff	76	11	87
Total	246	170	416

Notes: Management includes all managers (senior, technical and administrative) at a Level 2/3 and upwards. Total reflects staff as of September 2019, which totals 416. The remaining posts are currently in competition to be filled.

Source: Information provided by the EPA, 2019.

The 416 posts are filled by permanent employees of the EPA. In addition, the EPA hires contractors to provide certain services or support project areas where expertise is not developed or required in-house. Contractors are used in different parts of the EPA and to different extents. The list below includes areas of significant contractor use, but contractors can be used from large projects to small support projects (< EUR 5 000). Areas of high contractor use include:

- ICT programme: 21 staff and 38 contractors. The most heavily dependent areas on contractors and external consultants are Development (1:8.6 staff to contractor ratio), Service Desk (1:7.8 staff to contractor ratio) and Data management (1:2.2 staff to contractor ratio).
- Chemicals work stream within the OES programme: four staff members and up to a maximum of five external contractors/consultants engaged at project intervals per year, in accordance with Framework Agreements.
- Pollutant Release and Transfer Register (PRTR) work stream within the OES programme: one staff member (4.5 days/week) and one full-time contractor
- Legal services: Fully procured via third party law firms, equivalent to five full time employees. Outside counsel is used to ensure skills and knowledge of environmental law are kept up-to-date.

The EPA has developed a Human Resources Development (HRD) Strategic Framework and Action Plan 2017-2021 (Table 2.5). The aim is for EPA to “become a role model for the stewardship and development of our people and organizational resources”. The overarching theme for the HRD strategy is “Engaging, Enabling, Empowering” and is supported by four strategic goals:

- Foster a healthy, engaged, and resilient workforce
- Develop our people and organisational resources
- Empower our managers as experts and leaders
- Evolve our HR delivery model

Each of the four goals is supported by four to five strategic priorities, as well as a high level outcome that the EPA intends to achieve by 2021. The KPIs are the actions noted in the plan. Each strategic priority is supported by four to six actions in the action plan, which are prioritised for the 2017-19 period of the strategy.

The HRD strategy was developed through extensive collaboration with staff from across the EPA. The first cycle focused on the development of an initial strategic framework through a series of workshops with the Board, the Human Resources Learning and Development team and the Senior Management Network (SMN). The second cycle focused on refining the strategic framework and developing a supporting action plan through a series of four one-day workshops focused on the emerging strategic themes followed by a full peer review by the SMN and project team members. Wider staff consultation and engagement was maintained throughout the process directly with staff as well as a series of presentations delivered throughout the roadshows.

**Table 2.5. EPA Human Resources Development Strategic Framework 2017-2021**

Goal	Strategic priorities	Outcome
1. Foster a healthy, engaged, and resilient workforce	<ol style="list-style-type: none"> <li>1. Foster a workplace in which the health and wellbeing of our people remains a key priority.</li> <li>2. Nurture a highly-engaged and resilient culture that promotes effective collaboration across organisational boundaries.</li> <li>3. Strengthen the change management capabilities of individuals and teams.</li> <li>4. Promote and embed a spirit of innovation throughout the workplace.</li> </ol>	By 2021, we will have a healthy, engaged and resilient workforce that thrives on innovation and change.
2. Develop our people and organisational resources	<ol style="list-style-type: none"> <li>1. Implement an approach to strategic resource management that incorporates staff and contractors.</li> <li>2. Develop an updated competency framework to support every stage of the employee life-cycle.</li> <li>3. Amend our approach to recruitment to take account of changing competencies, ensure equity and fairness, and address changing needs in current recruitment processes.</li> <li>4. Introduce a new approach to career planning and development for all staff.</li> <li>5. Use a broader range of approaches to people development that are better aligned with the updated competency framework and the needs of individuals and teams.</li> </ol>	By 2021, we will have a workplace that encourages individuals and teams to excel in realising EPA's strategic goals and objectives.
3. Empower our managers as experts and leaders	<ol style="list-style-type: none"> <li>1. Develop and implement the expert as leader framework in support of people management and development.</li> <li>2. Promote the practice of developmental conversations between managers and their staff.</li> <li>3. Realign internal systems, procedures, and practices to support the new focus on people management and development.</li> <li>4. Refine the EPA's system of incentives to support the expert as leader framework.</li> </ol>	By 2021, we will have empowered our managers as technical experts and leaders in people management and development.
4. Evolve our HR delivery model	<ol style="list-style-type: none"> <li>1. Strengthen strategic HR leadership across the EPA.</li> <li>2. Build a unified HR team that is a role model for excellence in HR practice across the EPA.</li> <li>3. Execute a root and branch review of our HR process model with a view to simplifying and streamlining our work system.</li> <li>4. Develop a network of middle managers as a principal means to strengthen the adoption of HR practices.</li> <li>5. Cultivate a strong responsive culture to support the adoption of modern HR practices.</li> </ol>	By 2021, we will have a HR delivery model that promotes sound stewardship and development of our people and organisational resources.

According to Section 29 of the EPA Act, the EPA is empowered to appoint staff subject to the numbers and grades sanctioned by DCCAIE with the consent of DPER. Therefore, increases in the headcount require approval from DCCAIE and DPER. The EPA usually advocates for an increase in headcount when it takes on new functions or there is a growth in existing functions, but not outside of these occasions.

DCCAIE, in turn, makes the case for a general head count for all government agencies under its purview. DCCAIE engages with DPER with regards to EPA staff numbers.

The EPA submits an annual workforce plan to the Assistant Secretary General of DCCAIE, which is produced by HR in conjunction with the directors of the EPA and makes the business case for staffing. In preparing the most recent workforce plan, each office in the EPA was tasked with a review of existing resources and functions to ensure that staff were used to best effect across the organisation. This included a review of skills and competencies required to maintain EPA's standard of service to the parent departments and stakeholders. The EPA also looked at a range of options including outsourcing of certain business services, streamlining of existing processes and use of integrated digital technology platforms and partnering. The review highlighted a number of skills gaps that are emerging in light of new and emerging legislative functions. Business cases were prepared to advocate for new posts in the EPA, with the majority to provide more resources for processing licensing applications and for water-related functions.

**Table 2.6. Workforce movement at the EPA, 2016-18**

Category	2016	2017	2018
Recruitments	44	19	47
Promotions	25	21	31
Resignations	10	9	14

Source: Information provided by the EPA, 2019.

### *Recruitment*

Generally, the EPA does not feel it has difficulty attracting talent. Twenty-seven recruitment campaigns were run during 2018. Over 1 200 applications were received, of which 1 030 were from external applicants and the remainder from EPA internal staff.

The EPA has a policy of open recruitment and maintains itself as an equal opportunities employer. The EPA considers its workforce to be diverse, and the recruitment model allows for access for disabled groups. The EPA does not have a specific gender policy for recruitment, but rather relies on its equal opportunities policy to promote opportunities for women.

All roles are publicly advertised but the final decision on staff appointments following the competition are not published outside of the EPA. Job descriptions are created based on a skills model and competency framework, which identifies four core competencies that prospective employees must demonstrate experience and achievements: team player, communication, customer/stakeholder focus, and concern for quality and clarity of work. A review of competencies was completed in 2019 and will be implemented in 2020. The revised competencies are:

- Customer/Stakeholder Focus
- Interpersonal & Communication Skills
- Delivery of Results
- Analysis & Decision Making
- Team working/Leadership
- Specialist Knowledge & Expertise/Self Development.

There are no post-employment restrictions in place, nor is there any cooling off period following employment for any staff member. However, there is a cooling off period for directors who need to advise and seek approval of the Minister if there is a potential conflict. Any restrictions for staff are governed by

the Staff Code of Conduct and, for directors, within their contracts. In addition, Ethics in Public Office declarations must be completed by all Staff.

### *Remuneration*

The EPA follows central government salary rates, as sanctioned by DPER, and are at parity with similar positions in other government agencies. Staff are not eligible for additional benefits or exceptions for performance-based pay.

### *Talent retention and training*

Turnover is very low at the EPA (see Table 2.6). However, staff retention rates of lower grades in Dublin is more difficult due to higher costs of living, longer commute times and opportunities for other employment due to higher economic activity. Of the 32 staff who resigned from the EPA between 2016 and May 2019, 22 moved to government or state agencies, six took up employment in the private sector and the remainder resigned while on career break.

The annual Performance Management and Development System (PMDS) is used to identify development opportunities with the staff member. The objectives of the PMDS are to ensure alignment of the performance and development of all staff with organisational goals and strategies. Staff and their line managers identify the learning and development actions required for effective performance in their current roles and to enable future career development, such as essential management and leadership programmes. The formal recording of this information is done through the PMDS.

The EPA also has a lateral mobility policy, which is intended to develop skills and fill vacancies. In general, EPA staff are assigned upon appointment but may be transferred to new assignments for organisational and/or development purposes. Managers review individual work assignments periodically to determine if an individual should be transferred to a new work assignment. This is ideally accomplished through the PMDS system, except for when new work arises between PMDS evaluations where the new work is incorporated into subsequent PMDS evaluations. The programme has two streams:

- Voluntary lateral moves: allows employees to apply for jobs via the PMDS system, which requires the manager to support the application and then the employee is placed into a central list for consideration.
- Management-initiated lateral moves: Are intended for employees who have been in posts for several years and are nominated for movement by HR, programme managers or directors to develop their skills in other areas. In some cases, this system has been criticised as being abrupt or lacking consent by the employee in question, as well as being poorly communicated. However, these moves have also been seen to be of benefit to staff development and to the organisation. Management initiated lateral moves cannot be between regions or grade levels.

While core competencies are identified for recruitment purposes, these competencies are not used for the life cycle of the employee in regards to determining probation, learning and development, promotion, development or training.

An annual Learning and Development Plan is approved by the Board. Its purpose is to link learning and development activities systematically with business needs and to establish priorities and plans for activities and resources. The development needs of the employee are also taken in to account, identified through the PMDS. The EPA allocates around EUR 600 000 per year to learning and development.

EPA is pursuing a “Keep Well” workplace wellbeing accreditation as a process to help the EPA achieve and sustain standards in workplace health, safety and wellbeing.

### *Performance assessment*

The EPA has an online PMDS in place. The manager and employee set personal objectives at the beginning of the year, as well as when people change roles. These can sometimes happen months after the fact. A mid-year review is conducted, followed by an annual review at the end of the year. Objectives are supposed to be linked to strategic actions, as indicated in the strategic action plan. This link is stronger at the senior level than it is at the more technical level.

The PMDS does not rank the staff member, nor does it provide a bonus for staff members as the EPA is not permitted to provide bonuses. Salary step increases are also not linked to the PMDS system.

PMDS is intended to provide an opportunity for upward feedback as part of the interim and year-end review and constructive discussion is encouraged. However, some questions have been raised about the consistency in which upward feedback is utilised. A new staff engagement survey was conducted in 2018 as part of the HRD strategy.

## **Process**

### ***Decision making and governance structure***

The EPA is managed by a full-time Executive Board that fulfils both management and strategic duties. The Executive Board comprises the Director General and five directors. The Director General serves as Chair of the Board and operational chief executive of the EPA. Each director also leads an office and provides day-to-day oversight of the EPA. Legislatively, the Board has responsibility for the management of the EPA but it is empowered to delegate responsibility to other staff for operational purposes. Currently twelve programme managers are delegated operational responsibility for carrying out the work of the EPA. The Corporate Governance manual gives guidance on this issue stating: "It is essential that there is a clear understanding of the role of the senior managers and the role of Board members – there is often a fine line between the two. The role of the Board is to approve strategies, policies and plans for the organisation and to monitor and review performance. It is the role of the senior managers to implement those strategies, policies and plans." The Board is appointed by the Government and accountable to the Oireachtas for the implementation of policy.

As defined in the Corporate Governance manual, the role of the Board is to provide strategic leadership, direction, support and guidance and promote commitment to EPA core values, policies and objectives. In addition to the special Board responsibilities set out in the *Code of Practice for the Governance of State Bodies* (DPER, 2016<sup>[4]</sup>) and in the EPA Act, the Board holds specific governance and management responsibilities as the Board of a State body which include:

- to ensure that the body carries out its responsibilities as set out by statute or by ministerial order;
- to define the mission of the body, decide its strategic goals and develop the policies required to achieve those goals;
- to ensure good management, to monitor the achievements of management and to ensure that a proper balance is achieved between the respective roles of board and management;
- to set performance targets, including key financial targets and, in particular, to agree and closely monitor the budget;
- to ensure that the body behaves ethically and in a manner that accords with the core values of the body; and
- to define and promote the body's role in the community by developing mechanisms for gathering the views of customers and stakeholders and by keeping people informed in an open, accountable and responsible way.



The Board has a set of decisions reserved to it to meet with its governance responsibility for the direction and control of the EPA, in compliance with Section 1.7 of the *Code of Practice for the Governance of State Bodies* (DPER, 2016<sup>[41]</sup>) which states that such functions should include the following:

- significant acquisitions, disposals and retirement of assets of the State body or its subsidiaries; the schedule should specify clear quantitative thresholds for contracts above which Board approval is required;
- major investments and capital projects;
- delegated authority levels, treasury policy and risk management policies;
- approval of terms of major contracts;
- assurances of compliance with statutory and administrative requirements in relation to the approval of the number, grading, and conditions of appointment of all staff;
- approval of annual budgets and corporate plans; and
- approval of annual reports and financial statements.

The Code stipulates the requirement for a Board Secretary. The Code's 2016 update expands the functions of the Secretary beyond secretariat duties to include reporting to the Director General on all governance matters and assisting in ensuring relevant information is made available to the Board and its committees. The EPA has assigned the roles and responsibilities of a Board Secretary to two individuals, as follows:

- Statutory duties, duty to exercise due care, skill and diligence, and duty of consulting the Executive Board through the Director General in all matters of governance: Programme Manager of the Corporate Governance Unit
- Duty of disclosure and administrative duties: Board Secretary

Legislatively, the Board has responsibility for the management of the EPA, but for practical purposes it is empowered to delegate responsibility to other staff for operational purposes. Section 25(6) of the EPA Act provides that the EPA may perform or exercise any of its functions through or by any director or other person or body who has been duly authorised by the EPA in that behalf. The twelve Programme Managers in charge of various functions are delegated operational responsibility for carrying out the work of the EPA. The Board delegates discretionary powers to various levels in the EPA. The delegation of powers has continued to grow as the EPA has acquired legislation over time. These powers have now been consolidated, are reviewed on an annual basis and are available on the EPA's intranet page.

The Board meets on a weekly basis. Meetings are classed either as General Board Meetings to consider organisational matters (once per month) or Technical Board Meetings (three times per month). General Board meetings cover items that are non-technical in nature such as the work programme; office operational reports; corporate governance items (e.g. internal audits; finance; human resources; communications; IT; organisational services); and strategic (e.g. organisational strategy; communications strategy). Technical Board meetings consider all items of a technical nature including all significant licensing and enforcement matters (e.g. approval of licences and legal Actions); other technical/scientific matters such as climate change and emission trading; environmental research; national waste prevention programme; legal actions; strategic environmental assessment update; EPA reports; etc. For both technical and general decisions, the relevant professional staff may attend meetings in order to answer queries and questions to inform the board in its decision making. On occasion the Board will discuss items amongst members only, depending on the nature of the topic.

Some licensing and enforcement decisions are delegated to director-level. Directors take the decision based on the submission made by the inspector or programme manager and records of these decisions are submitted for noting to a General Board Meeting. Legislation prohibits licence decisions below director-level. More complex licensing/enforcement decisions in terms of scale or technical complexity are dealt with by the Board during Technical Board meetings.

Guidelines for Board procedures are set out in the corporate governance manual, board meeting guidelines, procedures and timelines for Board papers, and Board meeting standing orders. The standing orders (guided by Sections 25 and 26 of the EPA Act) provide the set of formalised rules for the conduct of Board meetings, covering: organisation of Board meetings (location, timing, notice, Secretary responsibilities, validity); the quorum, set at three (although directors may decide to suspend Standing Order No. 8 to allow for the quorum to be set at not less than two, in accordance with Section 26(1) of the EPA Act 1992); lists decisions requiring a resolution of the EPA and EPA seal; minutes of meetings; and procedural decisions. Any of the standing orders may be suspended, amended or added to at any meeting provided that a majority of directors vote in favour. Papers are required in advance for all Board items for decision or for noting and must be submitted in a particular format and within pre-defined timelines.

The EPA Act 1992 states that every question at a meeting of the EPA Board shall be determined by a majority of votes of the directors present and, in the event that voting is equally divided and there are more than two directors present, the person chairing the meeting (usually the Director General) shall have a casting vote. In practice, decision making is by consensus rather than by vote and in the last fourteen years no vote has been taken by the Board.

Minutes are produced for all Board meetings. Extracts relating to licensing or enforcement issues are circulated to licensing and enforcement staff to be placed on the public file following approval by the directors. Extracts relating to all other issues are circulated to the author(s) of the Board paper following approval by the directors. The Director of OCCS circulates a 'highlights' report of Board meetings to all staff every two months in the internal staff newsletter. According to the Standing Order, the EPA may decide that any matter at a meeting will be confidential and not for public comment, unless specifically approved by the Chairperson. In the case of licensing issues, the Board Secretary may consult with a director before issuing extracts of minutes.

On occasion, the Board may discuss topics in an open way outside of official Board meetings, for example, discussing strategic challenges within a particular office or approaches to ICT management, as an opportunity for discussion prior to or separate from formal decision by the Board.

The Board has established the following committees to deal with specific issues:

- Audit & Risk Committee;
- Executive Risk Committee;
- Safety, Health & Welfare Board Sub-Committee, set up in December 2012 to provide leadership and visibility in relation to safety, health and welfare at work;
- ICT Board Sub-Committee, established in August 2015 to oversee the governance of all information management and technology related work and also to oversee the deployment of all staff and contractors working in this area;
- Ad hoc committees, as required, that are project work groups established by the Board for specific purposes. Normally, these groups report to a director in his or her operational role.

The Audit and Risk Committee (ARC) consists primarily of external members and is externally chaired. The role of the ARC is to provide independent assurance to the Board on the effectiveness of the control environment, risk management and the internal audit function. The Chair of the ARC attends the Board of the EPA at least once per year and prepares an annual independent report which is presented to the Board.

The EPA is advised by a number of other external committees, the primary such body being the Advisory Committee. The EPA is also advised by the following external committees: GMO Advisory Committee, National Waste Prevention Committee, Radiological Protection Advisory Committee, Dumping at Sea Advisory Committee and the Health Advisory Committee.

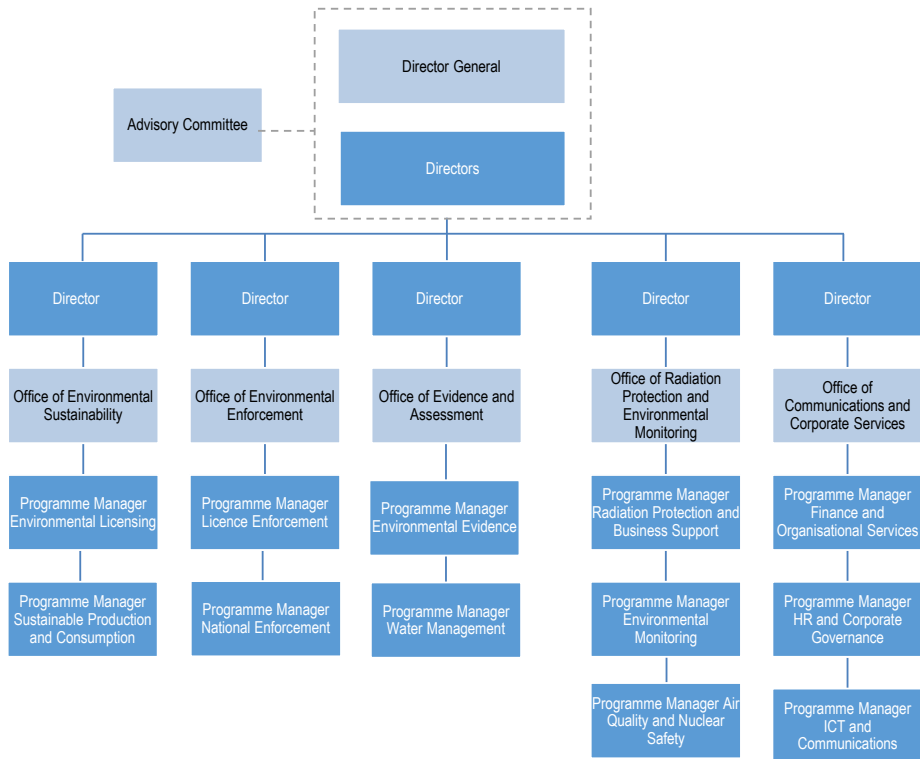
## Internal organisation and management

The work of the EPA is divided into five offices, each reporting to a director:

- Office of Environmental Sustainability (OES)
- Office of Environmental Enforcement (OEE)
- Office of Evidence and Assessment (OEA)
- Office of Radiation Protection and Environmental Monitoring (ORM)
- Office of Communications and Corporate Services (OCCS)

In addition to the director, each office has two or three programme managers responsible for the implementation of the work programme of that office (Figure 2.4).

**Figure 2.4. EPA organisational structure**



Source: EPA website, <https://www.epa.ie/about/org/>.

Functions are split across offices, for example: licensing activities are carried out by ORM and OES; enforcement activities by ORM, OEE and OES; data compilation and analysis by OEA, OEE, ORM and OES; advocacy activities are undertaken by all offices.

The Office of Environmental Sustainability (OES) has 81 staff and is divided into two programmes on environmental licensing and sustainable production and consumption that are responsible for licensing and some enforcement, compiling and reporting of national statistics, and advocacy functions.

- The environmental licensing programme is divided into six areas, covering: i) EU emissions trading; ii) Waste water/IE/IPC/Waste/Dumping at Sea iii) IE/IPC/Waste iv) Circular Economy & GMOs; v) Future legislation and EIA; vi) Administrative, support and improvement projects. In addition to

these licensing functions, the EU emissions trading and GMO teams also carry out enforcement activities.

- The Sustainable Production and Consumption Programme carries out some activities in the area of climate change (compiling national data on greenhouse gas emissions and projections) and a broad range of activities in the areas of resource efficiency including: compiling national data for waste; leading the National Waste Prevention Programme; enforcing producer responsibility schemes for tyres, batteries and electronic equipment; and applying behavioural interventions, for example for food waste prevention. In addition, a small team within the programme provide a chemical regulatory service that includes enforcement functions.

The Office of Environmental Enforcement (OEE) counts 98 staff divided between five locations. OEE's work is organised into a national enforcement programme and a licence enforcement programme. Across both programmes, the OEE investigates failures to meet quality standards, prosecutes for significant failures, and produces guidance on best practice.

- The licence enforcement programme regulates large industrial and waste sites, dumping at sea and VOC permits through compliance promotion, inspection, monitoring and enforcement activities. Licence enforcement is organised into five regional enforcement teams, a financial provision and waste team, and an air team.
- The national enforcement programme regulates quality for drinking water and wastewater and produces the EPA annual reports on drinking water and wastewater quality. This programme also carries out the dual role of assisting and supervising local authorities' environmental performance. It advises and assists local authorities through its Network for Ireland's Environmental Compliance and Enforcement (NIECE). It also investigates complaints from the public about local authorities. The EPA's legal team is located in the national enforcement programme.

OEE organises conferences on topics under its remit. For example, the Water, Waste and Air conferences in 2018 were organised by the OEE with significant input and participation from OEA and ORM.

The Office of Evidence and Assessment (OEA) has 75 staff across seven locations divided between two programmes: evidence and assessment and water management. OEA provides the core of the EPA's knowledge functions and is also active in advocacy and public information.

- Evidence and assessment programme: Many of this programme's functions are derived from the EPA Act 1992, including the state of the environment reporting, co-ordinating Ireland's environmental research and liaising with the European Environment Agency. Other functions, such as the EPA role in strategic environmental assessment, were introduced later in line with new EU directives. Climate services is one of the newest functions housed in OEA. The office provides the secretariat for the National Climate Change Advisory Council and the National Dialogue on Climate Action as well as scientific advice to support Ireland's engagement in international climate negotiations. The analytics team within the evidence and assessment programme provides services to the EPA as a whole, using data science and visualisation to facilitate the work of different teams across the organisation.
- Water management programme: This programme provides national co-ordination and technical oversight for the Water Framework Directive (WFD) that includes: co-ordinating and engaging with around 50 organisations including state bodies and local authorities; managing the national WFD monitoring and reporting programme; and monitoring and assessing water bodies at over 4 000 sites (rivers, lakes, estuaries, coastal waters...) for WFD and national purposes. The water management programme also carries out hydrometrics monitoring and manages the National Hydrometrics Programme. In 2014, the catchment science and management team was added to the programme to develop and manage the scientific evidence base and integrated assessment tools used for river basin management planning and WFD reporting. Finally, the programme is

responsible for reporting and communicating to the public on the quality of bathing waters and overall water quality in Ireland.

- As part of its advocacy functions, the OEA organises conferences, public lectures and workshops, sometimes in conjunction with other offices (e.g. conferences on climate change, health and environment, and water), and manages a number of dedicated websites – such as <https://www.beaches.ie/> for bathing water quality information and [catchments.ie](https://www.catchments.ie/) which provides information and data on Ireland's 46 water catchments and Ireland's Environment, the web portal for information and indicators on the state of Ireland's environment.

The Office of Radiation Protection and Environmental Monitoring (ORM) was created in 2014 upon the merger of the Radiological Protection Institute of Ireland (RPII) and the EPA. ORM is divided into three programmes – air quality and emergency preparedness, radiation protection and environmental monitoring – which between them span all three core EPA functions of regulation (licensing and enforcement), knowledge and advocacy. Its 82 staff are distributed across six locations, including four water laboratories in Kilkenny, Dublin, Monaghan and Castlebar.

- The radiation programme is responsible for regulating the use of ionising radiation in industry and medicine (licensing and enforcement), for regulating occupational exposure to natural radioactivity and for providing a number of radiation protection support functions, such as a national dose register and approval or radon services and product certification. The programme also advises the government and informs the general public on non-ionising radiation.
- The air quality and emergency preparedness programme has five main areas of work. It is responsible for ambient air quality monitoring, modelling and forecasting and engages with the public around this theme by providing information and supporting citizen science initiatives. It leads the EPA's involvement as a key agency in the National Radon Control Strategy, provides advice and support to the government and local authorities and runs public information campaigns on radon. It leads the EPA's involvement as a key agency in the National Emergency Plan for Nuclear Accidents (acting as the national competent authority and providing technical support) and has more recently taken on a national support role for environmental emergencies. It advises the government on nuclear safety and supports the government in complying with international obligations. This programme also oversees the EPA's "citizen science" activities covering the themes of clean air, clean water and sustainability.
- The environmental monitoring programme oversees radiation monitoring and research carried out through the EPA funded research programme and water monitoring. The four water laboratories provide the physico-chemical monitoring required by the WFD and national programmes (the reporting of which is shared with OEA) and support the OEE by monitoring water at EPA licensed facilities, auditing waste water treatment plants, and supporting OEE investigations.

The Office of Communications and Corporate Services (OCCS) is organised into three programmes covering human resources and corporate governance (12 staff), ICT and communications (21 staff), and finance and organisational services (21 staff).

The EPA's headquarters is located in Wexford (150 staff) and it operates five regional inspectorates located in Castlebar (30), Cork (50), Dublin (120), Kilkenny (20) and Monaghan (14) and two smaller offices located in Athlone (2) and Limerick (2). Some national programmes are led from regional offices, for example, strategic environmental assessments are led out of Cork.

Structures have been put in place to improve co-ordination and communication between offices and regions. Given the decentralised nature of the EPA, a perennial challenge to meetings is the travel time and distances between sites.

- A senior management network (SMN) comprising directors and programme managers meet every two months. A key function of the SMN is the development and implementation of the EPA's strategy. The SMN has been running for three years examined in (McDonagh, Burke and O'Leary, 2018<sup>[7]</sup>). On occasion regional managers also attend.
- A leadership network was established in 2019 for middle-level managers (Levels 2 and 3).
- Meetings of technical functions take place three to four times per year and convene staff from regional offices.
- Cross-office groups convene staff to discuss particular topics, for example climate, waste, air quality working groups.

There have been a number of reviews of the EPA carried out in the last ten years:

- 2011 Review of the Environmental Protection Agency (EPA Review Group, 2011<sup>[8]</sup>) by the Environmental Protection Agency Review Group, an independent expert group appointed by the Minister for the Environment
- 2015 strategic review of EPA's regional presence
- 2015-16 External communications audit
- 2015 IAEA Integrated Regulatory Review Service Mission to Ireland
- 2011-2018 several value for money reviews on EPA programmes:
  - Environmental technologies and cleaner production research programme (2011)
  - The enforcement of the European Communities (Drinking Water) (No. 2) Regulations, 2007 (2011)
  - Water Framework Directive (2014)
  - National Waste Prevention Programme (2014)
  - Air enforcement activities (2015)
  - Learning & development programme (external review, 2016)
  - IMT support and maintenance arrangements (external review, 2017)
- 2018 mid-term review of Strategic Plan 2016-2020
- 2018 independent review of the National Waste Prevention Programme
- Annual reviews of Executive Board effectiveness
- Reviews or audits carried out as part of the Audit Plan, in addition to standard annual auditing programme:
  - Internal Audit of IM&T Security (2013)
  - Internal Audit of Licensing Activities (2014)
  - Review of Kerdiffstown Remediation Project (2014)
  - Review Management of Programmes funded by the DOECLG (2015)
  - External Review of Compliance with the 2016 *Code of Practice for the Governance of State Bodies* (2017)
  - Strategic Review of Emergency Response/Emergency Arrangements in the EPA (2017)
  - Internal Audit of Fixed Assets (2018)
  - Review of Procurement in ICT (2018)
  - Review of Payroll and Pensions in the EPA (2018)
  - Review of EU-ETS Processes & Procedures (2019, in progress)
- 2018 Independent review of the merger of the EPA – RPII by the Institute of Public Administration (IPA, 2018<sup>[9]</sup>)

- 2019 OECD Performance Assessment Framework for Economic Regulators

In accordance with Section 7.3 of the *Code of Practice for the Governance of State Bodies* (DPER, 2016<sup>[4]</sup>), the EPA Board is responsible for ensuring that effective systems of internal control are instituted and implemented. This includes requirements for systems including financial, operational and compliance and risk management. The EPA Corporate Governance manual identifies several systems and procedures for internal control. Updates to the *Code* in 2016 placed a heightened focus on risk management and requires all state bodies to have an Audit and Risk Committee (the Audit Committee under the previous *Code*). Audits are conducted four to five times per year, which generally find that the level of compliance and control in the EPA is regarded as very high. The Executive Risk Committee (ERC) is responsible for further internal control through a Corporate Risk Register which is currently being updated to take into account the probability and impact of risks. Various other bodies further contribute to internal controls, including compliance with corporate legislation through a Compliance Officer's Report, ICT Compliance Report and Health and Safety Compliance report, and financial management and assurances.

### **Regulatory activities**

The core regulatory function performed by the EPA is in regards to licensing/permitting and enforcement in various aspects of the environment sector. Originally, licensing and enforcement were together at the EPA but were separated in 2003 with the creation of the Office of Environmental Enforcement. The intention was to ring-fence resources allocated to enforcement and prevent what was seen as a conflict between competing priorities.

Currently, three of five internal divisions are involved in various aspects of licensing and enforcement: OEE, OES and ORM (see Table 2.7). For some sectors, OES carries out both licensing and enforcement functions. OEE only carries out enforcement in the areas of its competency. When the EPA was merged with the Radiological Protection Institute of Ireland (RPII) in 2014, licensing and enforcement for the radiological sector was maintained with the newly-created ORM.

**Table 2.7. Responsibilities for licensing/permitting and enforcement at the EPA**

Category	Licensing/permitting responsibility	Enforcement responsibility
Waste facilities	OES	OEE
Large-scale industrial activities	OES	OEE
CO <sub>2</sub> emissions trading	OES	OES
Intensive agriculture	OES	OEE
Genetically Modified Organisms (GMOs)	OES	OES
Drinking water by public water suppliers	N/A	OEE
Waste water discharges	OES	OEE
Dumping at sea	OES	OEE
Sources of ionising radiation	ORM	ORM
Large petrol storage facilities	OES	OEE
Local authorities	N/A	OEE
Waste Electrical and Electronic Equipment (WEEE)	OES	OES
Chemicals	OES	OES
Volatile Organic Compounds (VOC) Permits	OES	OEE
Air quality	Registration with EPA	Local authorities

### *Licensing and permitting*

Licences and permits are granted by the EPA across a range of sectors (see section on Roles and objectives). On average, the process to issue a licence takes 1.5 years. Every licence is unique and requires detailed analysis by inspectors and a large breadth of information to make adequate decisions. The EPA aims to reduce this down to nine months.

The EPA runs a transparent process whereby all application documents, submissions and related information are available to the public on the EPA website. When gaps are noted in the application, requests for further information is made to the applicant and a notice is posted on the website. EPA inspectors are responsible for conducting a scientific assessment of applications and any submissions. This can include site visits to collect data. The licence proposal includes a detailed inspectors report and a comments matrix received with responses from the EPA.

All licenses go to the Board or are delegated by the Board to a Director for decision. The proposed licence or permit is followed by a statutory objection period, whereby the licensee can object to the proposed conditions. Third parties can also object to the proposed conditions. There is a fee at this point of EUR 250 to cover administrative costs. The technical committee reviews the objections and an oral hearing can also be requested by third parties. The licence can then be appealed by judicial review. However, this seems to be rarely used: of the 532 licence decisions taken from 2016-18, only eight have been appealed to Judicial Review. One of these has been ruled in favour of the applicant, five are still ongoing and the other two were either upheld or withdrawn.

According to Section 5 of the EPA Act, the EPA can issue a Best Available Technique (BAT) for licensees to follow, which seeks to use the most effective and advanced activity and method of operation to achieve a high general level of protection for the environment. BATs then become the basis for licence or permit approval. According to the EPA website (<http://www.epa.ie/pubs/advice/bat/>), there are currently 50 BATs in effect. Both the Waste Directive and Industrial Emissions Directive (IED) can impose BATs, requiring the EPA to update licences. When a BAT comes into effect, the EPA posts these to its website and must ensure all permit and licence conditions are updated, where necessary, within four years to be in alignment with the new provisions. These are generally accomplished through full reviews.

Revisions to licences can be requested when the regulated entity makes significant changes to their operation or new directives are imposed that change the licence requirements. According to the EPA Guidance for Licensees on Requests for Alterations to the Installation/Facility (EPA, 2019<sub>[10]</sub>), there are three pathways under which the EPA can decide to revise a licence: 1) where a change requires approval, but does not require a change in any conditions; 2) where the screening process indicates that the alteration is likely to require a technical or clerical amendment; and 3) where the screening process indicates that the alteration is likely to require a licence review or new application. The screening process is elaborated in the Guidance, which is designed to assist licensees in understanding and selecting the most appropriate mechanisms to their online request. However, it does not cover technical or clerical amendments or reviews initiated by the EPA. The guidance first poses 16 questions; a positive answer to any indicates that the change is significant and that the licensee should pursue a licence review.

New responsibilities to license have placed stress on the EPA to deliver licences efficiently. The Industrial Emissions Directive (2010/75/EU), which came into force in Ireland in April 2013, added the requirement to license large combustion plants. This resulted in the requirement for the EPA to license 50 combustion sites, causing a backlog. New requirements under the WFD will require the EPA to license larger water abstractions. Estimates forecast that this will require 800 new licences.



## Enforcement

The OEE is responsible for most enforcement activities at the EPA for licences granted by the OES (see Table 2.8). Other areas where the EPA carries out enforcement activities (such as drinking water or producer responsibility schemes) are not required to hold licences. The OEE also supports the ORM in inspecting and enforcing EPA licensed facilities in the radiological sector. A number of indicators are tracked and published in the *Industrial and Waste Licence Enforcement Report* (EPA, 2017<sup>[11]</sup>) (see Table 2.9). Drinking water, wastewater, domestic wastewater treatment and local authority performance are all reported on annually, as is ionising radiation protection. According to the 2017 *Industrial and Waste Licence Enforcement Report*, the EPA's overall enforcement strategy is compliance-focused (Figure 2.5) and underpinned by the principles of:

- Proportionality in the application of environmental law and in securing compliance;
- Consistency of approach;
- Transparency about how the EPA operates;
- Targeting of enforcement actions where needed; and
- Implementation of the polluter pays principle.

**Table 2.8. Types and number of licenses issued by the EPA**

Area	Number of licenses
Industrial and waste	806
Wastewater	1 072
Dumping at Sea	14
VOCs	14
Radiological	1 749
GMOs	65
Emissions trading – Stationary installations	101
Emissions trading – Aviation operators	14
ODS End Users	35
Gas serving engineers/gas distributors	550
TOTAL	4 420

Source: Information provided by the EPA, 2019.

**Table 2.9. Overview of indicators for enforcement activities in industrial and waste sectors, 2015-17**

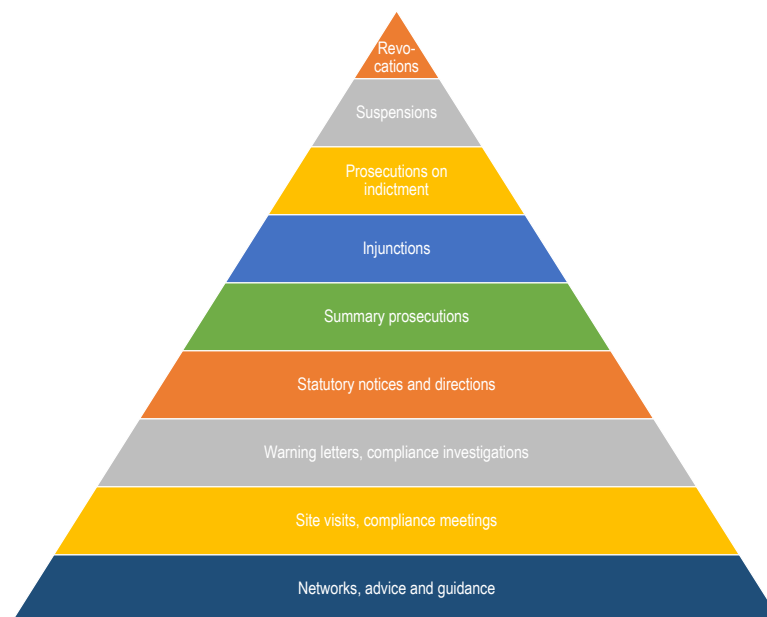
Category	2015	2016	2017
Number of non-compliances	1 612	1 546	1 619
Operational sites with no non-compliances recorded	58%	45%	54%
New compliance investigations opened	184	124	93
Number of site visits conducted	1 306	1 552	1 522
Percent of licensed sites visited	70%	72%	75%
Percent of licensed sites visited 2x	37%	42%	44%
Percent of licensed sites visited 3x	22%	22%	23%
Prosecutions	13	17	22
Total fines from prosecutions (EUR)	20 151 000*	179 000	375 000
Complaints received	1 031	1 101	1 030
Percent of complaints for odour	71%	66%	40%
Percent of complaints for noise	19%	18%	33%
Percent of complaints for air quality	4%	4%	20%

\* In 2015, a landfill in Kerdiffstown was fined EUR 20 million by the Dublin Circuit Court.

Source: (EPA, 2017<sub>[11]</sub>), 2017 EPA Industrial and Waste Licensing Enforcement,

[https://www.epa.ie/pubs/reports/enforcement/EPA\\_Industrial\\_Waste\\_LE\\_Report2017.pdf](https://www.epa.ie/pubs/reports/enforcement/EPA_Industrial_Waste_LE_Report2017.pdf); (EPA, 2016<sub>[12]</sub>), 2016 EPA Industrial and Waste Licensing Enforcement, [https://www.epa.ie/pubs/reports/enforcement/EPA\\_industrial\\_waste\\_licence\\_enforcementReport2016.pdf](https://www.epa.ie/pubs/reports/enforcement/EPA_industrial_waste_licence_enforcementReport2016.pdf); (EPA, 2015<sub>[13]</sub>), 2015 EPA Industrial and Waste Licensing Enforcement, <http://www.epa.ie/pubs/reports/enforcement/EPAIndustrialandWasteLicenceEnforcement2015.pdf>.

**Figure 2.5. Types of EPA enforcement actions**



Source: (EPA, 2017<sub>[11]</sub>), 2017 EPA Industrial and Waste Licensing Enforcement,

[https://www.epa.ie/pubs/reports/enforcement/EPA\\_Industrial\\_Waste\\_LE\\_Report2017.pdf](https://www.epa.ie/pubs/reports/enforcement/EPA_Industrial_Waste_LE_Report2017.pdf).

In September 2019, the Board approved the new Compliance and Enforcement Policy. The policy sets out the high-level goals for compliance and enforcement with regards to enforcement principles, compliance actions, enforcement powers, criteria to consider when determining an enforcement action, and the communication of compliance and enforcement activities. The key principles underlying enforcement are stated as: risk-based, proportional, consistent, transparent and “polluter pays”. The policy was developed in 2018, including a workshop in December 2018 to allow for cross-office input, and consulted on in April-May 2019 with stakeholders.

The EPA’s risk-based approach categorises each site by the complexity of activity, type of activity, nature and quantity of emissions, sensitivity of receiving environment, and the location of the facility. The highest ranked facilities will receive the most planned visits each year, as well as visits in response to complaints from the public or environmental incidents at the facility. Each major sector (industrial and waste licences, drinking water and wastewater facilities, and radiation protection) has some individual variation in its risk-based approach.

An Annual Inspection Plan is generated through the Licensing, Enforcement, Monitoring and Assessment (LEMA) system, which uses a risk-based approach. This is integrated with the Environmental Data Exchange Network (EDEN), which provides an online portal for local authorities, Integrated Pollution Control (IPC), IED and Waste licensees to communicate with the EPA. The LEMA system was created in 2012 in an attempt to automate licensing and enforcement processes. The EPA notes that this system has allowed them to conduct better and faster reporting, reduce administrative burdens and led to more data-driven enforcement. LEMA allows the EPA to accept applications for industrial and waste licences

electronically and engage with licensees during the subsequent enforcement stage online. Some 8 000 individual pieces of communication with licensees at the enforcement stage are now being done electronically and enforcement information can be done online for the benefit of the general public. Site visit plans by sector are as follows:

- For the industrial and waste sector, visits are based on the minimum requirements under the Industrial Emissions Directive (IED). The IED requires that the period between two site visits must be based on a systematic appraisal of environmental risks and must not exceed one year for high risk sites and three years for low risk sites.
- Drinking water and wastewater facilities are prioritised according to those facilities on the Remedial Action List and Priority Urban Area Action List. These lists identify higher risk facilities based on pre-defined EPA enforcement priorities.
- Radiation protection focuses inspections on the high risk practices, which is determined by the nature of the sector, practices carried out at the site, and past regulatory performance.

Inspections assess the licence holder's compliance with the licence conditions, which generally require the operator to conduct the licensed activity without causing risk or harm to human health or the environment. Detection and recording of a non-compliance is often the first step in escalation of enforcement action by the EPA. If the non-compliance is considered to be of environmental significance, a compliance investigation (CI) is opened. When opening a CI, the EPA inspector assigns a risk rating (high, medium or low) and may contain a number of items for a licensee to address, such as further monitoring, opening an investigation, providing clarification, carry out improvement works, etc. The CI remains open until the licensee has fully addressed the issue. The EPA maintains oversight of the licensee's progress in resolving each CI, and unsatisfactory progress may itself result in the escalation of enforcement action by the EPA.

The EPA has a range of compliance and enforcement tools available, some of which are specified in legislation and some are administrative tools designed to achieve compliance (see Figure 2.5). These range from advice and guidance to suspension or revocations of licences. While CIs are first used to drive compliance, failure to correct actions from a CI may result in a prosecution, which serves as the EPA's primary sanctioning power. Prosecutions at the summary level are subject to a maximum of EUR 5 000 fine and/or 12 months imprisonment. Files referred to the Office of the Director of Public Prosecutions (DPP) are subject to fines of up to EUR 5 million and/or 10 years imprisonment.

In limited circumstances, the EPA can give "on the spot" fines for some infractions, but in general it does not have recourse to this enforcement tool in other spheres. In 2018, legislation introduced a Fixed Payment Notice (FPN) system as part of enforcement for the WEEE and Batteries Regulations, which allows for "on the spot" fines of between EUR 500 and EUR 2 000 without recourse to court action. The process involves detection of a relevant non-compliance, issuance of a notification of non-compliance and, if non-compliance continues, issuance of a FPN. The agreed procedure requires that EPA send a recommendation to issue a FPN to Programme Manager, with final approval by the Director of OES. The process became live in 2019, with 12 FPNs currently in process pending final decision by the Director of OEE as of May 2019.

To further promote compliance, the EPA initiated the National Priority Sites system in 2017. The system ranks over 900 industrial and waste licensed sites according to enforcement factors such as complaints, incidents, compliance investigations, and non-compliances with the licence over the previous six months. Each metric is assigned points, arriving at a total score. Points for compliance investigations and incidents are assigned via a risk (high, medium, low) or outcome (catastrophic to minor) based categorisation. Points for complaints and non-compliances are tallies based on number of each infraction noted, though complaints only count for those linked to a medium or high compliance investigation. The system intends to drive compliance through behavioural change by "naming and shaming" the poorest performing sites. The list is updated quarterly. According to the *2017 Industrial and Waste License Enforcement Report* (EPA, 2017<sup>[11]</sup>), 20 sites were identified as being part of the list in 2017. Of these sites, 14 stayed on the

list one out of four quarters and only one site was on the list for all four quarters. In September 2019, the Board approved changes to the NPS that *inter alia* amends the ranking formula to reduce the weight of complaints.

The EPA also engages in compliance-promotion activities, including producing guidance, engaging with sector and industry groups, and circular letters to industry identifying priorities for the year. The EPA also works to identify the key risks and priorities for particular sectors and seeks to address them through a combination of compliance and direct enforcement.

An innovative programme to drive compliance is the Smart Farming initiative developed through a strategic partnership between the EPA and Irish Farmers Association (IFA). This voluntary on-farm resource efficiency programme aims to drive behaviour change by allowing farmers to develop their own strategy for reducing greenhouse gas emissions by 5-7% and making cost savings of EUR 5 000. While the EPA maintains the right to sanction farmers for non-compliances, the programme intends to partner the EPA and IFA to jointly develop solutions to promoting economic and environmental outcomes.

In 2014, the EPA introduced a policy requiring certain regulated entities to set aside financial provisions as part of a licence to pay for future site remediation and any potential clean-up that may be required. The current policy identifies 150 sites requiring financial provisions, with a total of EUR 850 million set aside to meet the requirements. The original policy from 2006 was updated in 2015 and provides updated guidance on the standards necessary to comply with relevant EPA licence and permit conditions. While previously financial provisions were allowable only by cash, the financial provision now acceptable to the EPA include: secured fund, on-demand performance bond, parent company guarantee, charge on property and environmental impairment liability insurance.

### **Co-ordination**

Internally, some co-ordination occurs due to one office having responsibility to undertake activities in the domain of another office, but these instances are fairly limited. Moreover, where required, information is shared between offices, including site-specific information for health and safety purposes.

Externally, the EPA works through networks aimed at sharing information about enforcement. First, an Environmental Enforcement Network was established in 2004 to improve the overall level and consistency of environmental enforcement in Ireland. This network has since evolved into NIECE – the Network for Ireland’s Environmental Compliance and Enforcement. All state bodies with a role in environmental enforcement and compliance are members of this network. Second, a similar collaborative networking approach has been adopted for improving the overall implementation of the Water Framework Directive, which is led by the Water Programme in OEA.

EPA liaises with a number of state bodies who also have inspections responsibilities. On occasion, the EPA has engaged in co-ordinated site visits with other state bodies, such as An Garda Síochána, the HSE and through the Local Authority Waters Programme (LAWPRO). However, this is not systematically organised.

Local authorities function with a dual role in relation to the EPA, in that they receive advice from the EPA as well as are subject to enforcement in their areas of competence. While this dual role is regarded as fit for purpose by the EPA and local authorities, there does require efforts to clarify roles and promote collaboration. WERLA and LAWPRO shared services are an attempt at solving some of these local issues. These shared services are established through a process overseen by the Local Government Management Board.

Waste Enforcement Regional Lead Authorities (WERLAs): DCCAE nominated three local authorities as the lead in their respective regions (Cork County Council for the southern region, Dublin City Council for the eastern and midlands region and Leitrim & Donegal County Councils (combined) for Connacht/Ulster

Regions) for co-ordinating enforcement actions, setting priorities and common objectives, and ensuring consistent enforcement of waste legislations while leaving local authority personnel as first responders to specific breaches of waste legislation. WERLAs are overseen by a National Steering Committee, which includes representatives from a wide range of regulatory authorities, including the EPA. National waste enforcement priorities are set by the committee and aim to drive consistency at a central level. Other stakeholders in the waste sector have an opportunity to input into this enhanced waste enforcement structure through an Industry Contact Group.

LAWPRO was expanded from the previous Local Authority Water and Communities Office in 2018 as part of the current River Basin Management Plan (RBMP) as required under the Water Framework Directive. The LAWPRO brings together all 31 local authorities to achieve common water quality goals. The LAWPRO seeks to protect and improve water quality by 1) support and co-ordinate public bodies and other stakeholders to achieve objectives in the RBMP; 2) Activate local communities to engage with river catchment in line with the integrated catchment management approach; and 3) Build a foundation and momentum for long-term improvements and inform the development and implementation of the 3rd Cycle RBMP. Coordination with LAWPRO is led out by the Water Programme in OEA.

## **Regulatory policy tools**

### *Ex ante assessment of impacts*

The EPA is one of a number of competent authorities in Ireland for conducting Environmental Impact Assessments (EIAs), mainly relating to activities licensed by the EPA. EIAs are required for planning permission or other development projects in regards to Integrated Pollution Control (IPC), Industrial Emissions (IE) and Waste license applications. As well, the EPA is competent authority for certain Waste Water Discharge License (WWDL) applications.

As of May 2017, EIAs must meet the requirements set forth by EU Directive 2014/52/EU, which is implemented in Ireland by DHPLG Circular letter PL 1/2017. The 2014 Directive places responsibility on the developer to prepare an Environmental Impact Assessment Report (EIAR) in areas of their competency, and responsibility to the EPA to provide reasoned conclusions following the examination of the EIAR and other relevant information.

The 2014 Directive requires that the EIAR must identify, describe and assess appropriately the direct and indirect significant effects of the project on the environment. EPA produced the draft guidelines on EIARs using a risk-based approach to determining the significance of effects, which plots impacts in accordance with the probability and consequence of the impact. The EPA is empowered to have access to sufficient expertise to examine the EIAR and may seek supplementary information to reach a reasoned conclusion.

The draft guidelines for EIARs identify thresholds set out in legislation for determining if an EIAR is required. The only types of projects to which thresholds do not apply are types that are considered to always be likely to have significant effects; a crude oil refinery for example.

### *Cost-benefit analysis and economic appraisals*

In addition to EIARs, license applications, reviews and enforcement decisions must be supported by an assessment by the EPA inspector with appropriate recommendations, which the Board uses to take a final decision. These include a consideration of:

- **Costs:** as potential costs to the environment, particularly externalities. However, there is no attempt to put an economic cost or evaluate the economic impacts but does attempt to balance the protection of the environment against the need for infrastructure, economic and social progress and development. Some licensees are required by the EPA (through the licence) to estimate the

financial provision required to deal with closure, aftercare and environmental damage costs and to agree these costs with the EPA.

- *Benefits*: as potential benefits to the environment through the prevention of environmental pollution. The EPA is not obliged to quantify this benefit in financial, economic or societal terms as the legal requirement on the EPA is that it cannot grant a licence unless it is satisfied that the licensed activity will, amongst other things, not cause environmental pollution. However, if a licensee is seeking a derogation from BAT under the Industrial Emissions Directive, then the application for a derogation must be supported by a cost benefit analysis, for which the EPA has issued guidance on this (EPA, 2016<sup>[14]</sup>).

The EPA also uses a number of risk assessment tools for unauthorised waste activities, septic tanks, abandoned mines and WFD characterisations. Spatial analysis and environmental assessment tools are also used to support assessment and decision making functions. Many of these tools are publicly available through the EPA's GeoPortal (<http://gis.epa.ie/>).

### *Stakeholder engagement*

The EPA adheres to the Aarhus Convention and engages in stakeholder engagement in two areas: 1) Evaluating licence applications and 2) developing new guidelines and processes.

When an industrial, waste or wastewater licence application is received, the request goes immediately online via the EPA website and is open for public consultation. Throughout the application process, multiple opportunities arise for stakeholders to provide comments (more details presented below). All comments are posted online.

In addition, for licences requiring an EIAR, the EPA must consult with the prescribed bodies before giving an opinion, which include the Health Services Executive (HSE), the Health and Safety Authority (HSA), and local authorities. Conversely, the EPA is a statutory consultee to An Bord Pleanála (ABP) and must make observations and submissions in relation to EIARs for local authority developments and strategic infrastructure developments that comprise IPC, IE or waste licensable activities. The EPA can also give advice on other matters when requested by the planning authority or ABP.

The process for obtaining statutory responses begins with a notification from the Planning Authorities or Local Authorities to the EPA in relation to proposed developments associated with IPC, IE and waste licensable activities. The EPA may then make submissions/observations on these notices.

The EPA responds to notices from ABP regarding a planning application for development comprising of a waste licensable activity. A Planning Authority or ABP may request the EPA to make observations in relation to a proposed development that, in its assessment, is likely to have a significant impact on waste water discharges. The EPA will make observations on the assessment undertaken.

ABP may also consult with the EPA on Strategic Infrastructure Development projects, which are developments considered of strategic economic or social importance to the State or region covered under the Planning and Development (Strategic Infrastructure) Act 2006. The consultation focuses on the transboundary aspects, whereby the EPA is asked for its opinion of an EIAR.

EIAR information must be made available to the public electronically and by public notices. The EPA must inform the public and prescribed bodies of its decision, as well as make available information on the content of the decision and any conditions attached. This includes the main reasons and considerations for the decisions, including information about stakeholder engagement and a summary of the results of consultations and information gathered during the EIA process.

When developing new guidelines and processes, the extent of consultation depends on the nature of the guidance. The level of significance of a new guideline or process is often determined based on whether the guidance is statutory or not. Some are produced under parent legislation and have legal standing whereas others are best practice.

For more significant guidance, the EPA will consult with stakeholders prior to the preparation of the guidance and may form a steering committee to aid the preparation of the guidance. Draft documents open for public consultation are posted to the EPA website, which is normally conducted two to three times per year (see Table 2.10). There are no internal requirements on how consultations are to be conducted. This includes length of consultation periods. If consultations take place via a steering committee, there is no statutory period for comments and the discussion will continue until a satisfactory outcome is achieved. Where the document is issued for public consultation via the website, it can be for varying periods; no minimum periods are prescribed by law. When the guidance is complete it is then issued to key stakeholders and in some cases the general public for consultation. For example, the preparation of the Code of Practice for Domestic Wastewater Treatment Systems followed this process.

**Table 2.10. Consultative documents, 2014-18**

2014	2015	2016	2017	2018
National Waste Prevention Plan 2014-2020	Draft Better Regulation Policy		Draft EPA Guidance on requests for alterations to a Dumping at Sea Permit	Guidance on Soil and Stone By-products
Proposed Guidance on the Authorisation of Direct Discharges to Groundwater	Draft revised Guidelines on information to be contained in Environmental Impact Statements; and Advice Notes for preparing Environmental Impacts		National Inspection Plan 2018-2021: Domestic Waste Water Treatment Systems Draft for Consultation	
EPA Viewpoint on the use of European Waste Catalogue code 19 12 09.	Preparation of a Draft Language Scheme by the EPA.		Draft Guidance Note on Soil Recovery Waste Acceptance Criteria	
Environmental Regulation of Healthcare Risk Waste Storage & Treatment				
Preliminary Consultation on Revisions to the Environmental Impact Statements Guidelines				

Note: Following public consultation, it was decided to not further pursue the Better Regulation Policy.

Source: <http://www.epa.ie/pubs/consultation/>.

Where the guidance is less significant the EPA will target specific stakeholders for consultation e.g. advice notes in drinking water are issued to a limited range of stakeholders prior to release and not issued for general consultation.

The EPA can also create ad hoc steering committees to provide input on the guidance itself which then disband once the work is complete. These are separate to the standing committees noted in Table 2.11. There are no set rules for how frequently they meet as it is specific to the guidance. For example, some will meet just once whereas others can have several meetings depending on the complexity of the guidance.

### Committees and networks

According to the Corporate Governance Manual 2018, the EPA Board is advised by several external committees and groups that also serve as bodies that the EPA engages with in regards to its programme of work (Table 2.11).

**Table 2.11. EPA external committees**

Committee	Legal standing	Composition	Functions
Advisory committee	Required under Section 27 of the EPA Act	12 members: Chair: Director General of the EPA Seven members nominated by organisations concerned with environmental, development or wider social, economic or general matters Four members appointed by the Minister of DCCAE Term limit: 3 years Meeting frequency: 4 times per year	Make recommendations to the EPA or to the Minister related to the functions of the EPA, as dictated under Section 28 of the EPA Act. The Advisory Committee is not entitled to receive specific information in relation to the application or review of licences or provide any recommendations regarding licensing.
GMO Advisory Committee	Advice given under the GMO Contained Use and Deliberate Release Regulations	14 members, with Chair from the EPA. Members are nominated by government and non-government organisations. Term limit: 3 years Meeting frequency: Once per year	The GMO committee is a consultative body that advises the EPA on relevant GMO issues for consideration by the Board of the EPA where relevant.
National Waste Prevention Committee (NWPC)	Convened by the Minister in 2004. Section 74(13) allows for establishment of a committee for monitoring performance	20 members, with Chair and Secretariat support by the EPA. Members are drawn from government, non-governmental, business and sectoral interest groups. Term limit: Membership is for a three-year period renewable by appointment of DCCAE following proposals from EPA. Meeting frequency: At least twice per year where a quorum of 50% plus one is required	Monitor the development of the National Waste Prevention Programme and provide strategic direction for the EPA in implementing it.
Radiological Protection Advisory Committee	Established in 2016 following the merger of RPII with the EPA in relation to Section 41 of the EPA Act	16 members nominated by organisations with expertise relevant to the radiological protection functions of the EPA. Term limit: 3 years Meeting frequency: Twice per year	To act as a high-level scientific advisory body to advise the EPA in the carrying out of its functions on matters concerning radiological protection, with particular emphasis on public health.
Dumping at Sea Advisory Committee	The Dumping at Sea Advisory Committee was established in February 2010, under Section 41 of the EPA Acts 1992 to 2007	Two meetings of the Dumping at Sea Advisory Committee were held in 2017 and one in 2018. Further interactions between the EPA and the committee were conducted over the period, via electronic communications. In 2018, the committee was consulted on all permit applications received and an agency initiated amendment. Term limit: 3 years	To advise the EPA with respect to the administrative and technical implementation of its functions under the Dumping at Sea (DAS) Acts 1996 to 2010.



Committee	Legal standing	Composition	Functions
Health Advisory Committee	Established May 2012 in accordance with Section 41 the EPA Act.	The committee comprises representatives from public bodies working on environment and health issues, including the Health Service Executive, Health and Safety Authority, Health Research Board, Department of Communications Climate Action & Environment, Department of Agriculture Food and the Marine, Department of Health, An Bord Pleanála, Food Safety Authority of Ireland, Health Products Regulatory Authority, Department of Housing Planning and Local Government and the County and City Managers Association. The committee met three times during 2018	To assist and advise the EPA in relation to the public health implications of matters pertaining to environmental protection.

Membership in the external committees is without remuneration, except travel expenses to attend meetings. It is possible for committee members to attend meetings remotely via video conference. Meetings for some committees, such as the Advisory Committee, are regularly held in different locations to accommodate the regional presence of the EPA staff.

The Advisory Committee meets most often of all the external committees. The Chair is the Director General of the EPA, who sets the draft agenda for each committee meeting following input from the members. Secretarial support also provided by the EPA. Meetings are usually half day long, with information to be discussed given to committee members prior to the event and members are asked to provide their opinions, including on the strategic objectives of the EPA. Key priorities for discussion in the Advisory Committee are set for the year by the Chair in consultation with the members.

The EPA Act allows the Advisory Committee to provide recommendations to the Minister of DCCAE under Section 28, which lists what subjects the Advisory Committee may make recommendations about but does not establish any formal mechanisms. High-level reports are published at the end of the three-year mandate for the Advisory Committee. These reports are sent to the Minister of DCCAE, although there is no formal requirement to do so, and the format, scope and level of detail of the reports varies between committees. Minutes from the meetings are posted to the EPA website, with short summaries of discussions and broad action points. Decisions are made by consensus.

The 2011 Review of the EPA recommended making the Chair an external member. In 2014, the Department of the Environment, Community and Local Government contacted the EPA seeking its views, and the views of the Advisory Committee, on this recommendation. After discussion with the Advisory Committee, it was concluded that, on balance, an external chair would not benefit the committee at that present point in time and that a better approach would be to revisit the role and purpose of the Advisory Committee as it had been in operation for 20 years. It was agreed that the committee would assess how it currently operates, including how to optimise the committee's work and the formal facilitation of advice to the EPA and the Minister. The 2011 Review further recommended an emphasis on the selection of members with particular knowledge and experience of the environment, as well as stronger representation of key stakeholders, including those in the public sector, to better integrate the public service with the environment sector. Legislation was amended to facilitate this.

The EPA also engages with a number of networks, which includes business and NGO actors. One of which is the Irish Environment Network (IEN), which the EPA meets with on a biannual basis. The IEN consists of non-governmental organisations (NGOs), and meetings include staff representatives from the EPA's different teams, depending on the agenda. However, these networks and committees are not used to conduct early-stage consultations on EPA activities.

## Appeals and complaints

Ultimately the appeal mechanism available to challenge a licensing decision by the EPA is a challenge by judicial review. Several interviewees referred to the high cost of litigation in Ireland and the challenge this poses in a context where environmental legislation is becoming increasingly complex.

**Table 2.12. Appeals**

Year	Number of final decisions taken across all licensing streams	Number of decisions appealed	Status (decision upheld, rejected, on-going)
2018	94	5 judicial reviews on Art. 27s	5 conceded
2017	108	1 judicial review on WWDL	Court ruled in favour of the applicant
2016	165	1 judicial review on waste 1 judicial review on Art. 27	Decision upheld. Appeal withdrawn

Citizens can make complaints about the service provided by the EPA in accordance with its Quality Customer Service Charter – see (EPA, 2019<sup>[15]</sup>). Citizens can make environmental complaints via several mechanisms – see (EPA, 2019<sup>[16]</sup>) including a dedicated telephone line, an EPA app (See It, Say It), email address and online forms.

Environmental complaints are received predominantly by phone, followed by written complaint using email, the *See It, Say It* app and online forms. A monthly summary of the complaints received and how they are managed by the EPA is produced for internal circulation and management of work. Environmental complaints are also received by the EPA that are directed to other responsible bodies such as local authorities. These are predominantly managed through the National Environmental Complaints Line (157 complaints in August 2018) and the See It Say It app (298 complaints in August 2018).

## Non-regulatory approaches

The EPA regulatory responsibilities are focused on the delivery of government policy, while regulatory design is the responsibility of DCCA and DHPLG. The EPA does encourage non-regulatory approaches to environmental issues where appropriate. This includes:

- Advocacy in areas of strategic importance to facilitate and encourage changing behaviours and attitudes towards the environment. The EPA has developed a suite of educational material for use in schools and communities (EPA, 2019<sup>[17]</sup>).
- Use of ‘soft regulation’ technique by way of networking and engagement activities. For example, collaborative structures have been created (and underpinned by legislation) at national, regional and local level to facilitate collaboration between all of the state bodies with a role in water protection and management with clear assignment of roles and responsibilities. This approach has been embedded in the National River Basin Management Plan 2018-2021.
- The National Waste Prevention Programme (EPA, 2019<sup>[18]</sup>) provides support and guidance to businesses, households and the public sector. Amongst its activities, the Programme partners with other relevant national organisations to advocate for increased resource efficiency for waste, water and energy. Some examples of its initiatives are Stop Food Waste and Smart Farming in partnership with the Irish Farming Association.
- National Dialogue on Climate Action, which is a new national programme with the EPA assigned as the co-ordinator. This is an ambitious programme aimed at engaging the general public about the issue of climate change and what Ireland can do to deal with both mitigation and adaptation.

### ***Transparency, integrity and accountability***

The EPA adheres to the Aarhus Convention (European Commission, 2019<sup>[19]</sup>), which establishes a number of rights of the public (individuals and their associations) with regards to the environment. This includes the right to have access to environmental information. As developed above, the process for licensing and engagement uses online portals for interaction with stakeholders.

Transparency *vis-à-vis* stakeholders is delivered primarily through the EPA website. The main page is organised with many links and sections that are broadly organised around the EPA's three functions of "regulation", "knowledge" and "advocacy". However this structure is not explicitly on display, nor are these functions listed on the EPA main page. Links and documents related to EPA processes and outputs of interest for stakeholders are partly on display, while others are located in hard-to-find locations.

The EPA adopted a policy to use plain language in 2017. In 2018, a workshop on the use of plain language was given at the EPA. The first to use such an approach was in the Drinking Water Report (EPA, 2018<sup>[20]</sup>) where the EPA adopted the National Adult Literacy Agency approach.

Standards of behaviour at the EPA are governed in legislation by the EPA Act, the *Code of Practice for the Governance of State Bodies* (DPER, 2016<sup>[4]</sup>), and the *Ethics in Public Office Acts* 1995-2001. No cases of staff or senior management being in violation of these acts has been documented. More generally, the 1995 Nolan Committee (United Kingdom) recommended seven principles of public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) and are adopted at the EPA as standards underpinning the legislative standards for all directors and senior managers.

An EPA Code of Conduct is required by the *Code of Practice for the Governance of State Bodies*, which must include policies addressing integrity, information, obligations, loyalty, fairness, work and external environment and responsibilities. The EPA implements this requirement with the *Code of Business Conduct for Directors and Staff* that establishes general principles and standards to govern the professional activities and conduct of Directors and Staff of the EPA, with the goal of maintaining a high level of public confidence in the organisation as a public body and as an employer.

Declaration of interests is governed by Section 37 of the EPA act, which requires relevant parties – including the Director General, directors or other employees or persons – who have interest in any land or activity under scrutiny by the EPA to complete a Declaration of Interest Form to the EPA.

Disclosure of interests is governed by Section 28 of the EPA Act. The provision applies to the Director General, directors, any employee, Advisory Committee member, EPA committee or consultative group, consultant, advisor, or any other person engaged with the EPA who has a financial or other beneficial interest in any matter considered by the EPA. The policy requires disclosure in advance of considering the matter, a declaration that the person will not influence or seek to influence the decision, take no part in considering the matter, and withdraw from meetings.

Confidentiality is governed by Section 39 of the EPA Act, which prohibits Board members and staff from making use of or disclosing confidential information gained as a result of employment with the EPA. This provision continues even following the member leaving the EPA for any reason, and results in disciplinary action for violations. Special provisions under Section 32 of the EPA Act allow for Freedom of Information (FOI) requests.

Whistleblowing is governed under the *Protected Disclosures Policy and Procedures* in accordance with the *Protected Disclosures Act 2014*, which protects the identity of employees who make disclosures. The EPA has appointed a Protected Disclosures Officer (PDO) to deal with all protected disclosures. The PDO resides within the Corporate Governance team. The protected disclosures policy complements the EPA's Anti-Fraud and Anti-Corruption Policy, which commits the organisation to maintaining a culture that opposes irregularity, fraud and corruption.

A Dignity at Work policy, as well as a Grievance Policy and Procedures to address grievances are in place. The Dignity at Work policy covers bullying and discrimination, amongst other topics. Complaints are first filed with the line manager unless it is the line manager against whom the complaint is being made in which case the complaint is escalated to the next line manager up the chain of command. If a resolution is not found, it is escalated to the programme manager and then HR. The goal is to seek a resolution to the issue. There is not an explicit avenue for receiving complaints from women, which would not fall under the Protected Disclosure Policy. In the past four years, there has only been two complaints made by staff members and these were handled locally through a mediation process.

Accountability at the EPA is maintained through annual reports, regular reviews of policies and practices, research and policies (see section on performance reporting below). The EPA is accountable to the Oireachtas through the Public Accounts Committee.

## Output and outcome

### **Data collection**

The EPA collects data from regulated entities in the framework of its enforcement activities. These include:

- Industrial, waste and wastewater licensees: monitoring data and an Annual Environmental Report (AER) which provides a summary of emissions and environmental performance information.
- Irish Water: water quality monitoring data annually.
- Local authorities: Annual inspection and enforcement plans and results of previous annual plans. Local authorities all have different IT systems for capturing data.
- Radiological licensees: data as per their licences.

The EPA has developed an automated online tool to tackle shortcomings in data submissions for water and wastewater data, representing approximately 200 000 test results annually. This system automatically checks for errors, improving the quality of data received and reviewed by the EPA.

Data is used to identify key compliance issues per sector, for water, wastewater and for local authorities. In the latter case, given the EPA's role on providing support and strengthening local authorities' capacities, this analysis has allowed for the EPA to better target its actions. For example, analysis of the *E. coli* in drinking water data indicated that most of the failures were of a short duration and caused by temporary failures in treatment. A concerted enforcement effort was put in place to install disinfection monitors and alarms in all public water supplies contributing to a 90% reduction in incidents.

In 2018, the EPA established a small data analytics team to pilot the use of data science, spatial analysis, earth observation and data visualisation techniques, working in close collaboration with EPA subject matter experts. For example, working with the Urban Wastewater Treatment data that Irish Water submits to the EPA via EDEN, the analytics team used statistical methods to group the monitoring results into "improving", "staying the same" or "getting worse" for each of the different parameters to produce an Urban Waste Water Scorecard. This allows inspectors to quickly focus on the specific plants and parameters that are a problem among the thousands of data points.

The EPA also collects large quantities of data to monitor and assess Ireland's environment, fulfilling several statutory reporting duties to the national government and the EU (e.g. water quality monitoring for the WFD). The EPA provides near real time data on air quality and hydrometrics through its monitoring networks. The EPA manages Ireland's Environmental Open Data Portal that is primarily intended as a resource for software developers rather than key stakeholder groups or the general public. It gives access to data collected for the WFD as well as data on bathing water and radiation.

## **Monitoring and reporting on performance**

### *Regulated entities*

The EPA reports transparently on the performance of regulated entities in all of its areas of work. These include an annual review of the performance of these facilities is carried out and published in the annual reports on drinking water (EPA, 2018<sup>[20]</sup>), wastewater (EPA, 2017<sup>[21]</sup>) and regular updates on industrial and waste activities regulated by the EPA. In addition, all AER reports are published online.

The EPA also implements a successful naming and shaming strategy via the publication of a ranking of licensees and sites in the different sectors, update on a quarterly or annual basis. This strategy is claimed to have achieved good results as licensees and sites do not wish to appear on these lists:

- Facilities prosecuted by the EPA
- Drinking water treatment plants that are failing or at risk of failing to meet the required standards (see Remedial Action List at <http://www.epa.ie/water/dw/ral/>)
- Waste water treatment plants failing to meet the required standards or posing a risk to the environment (see Priority Urban Areas at <https://gis.epa.ie/EPAMaps/SewageTreatment>)
- Industrial and waste sites prioritised for enforcement based on environmental performance (see National Priority List at <http://www.epa.ie/enforcement/nationalprioritysites/-d.en.62512>)

There are no events around the performance of sectors that convene regulated entities to discuss performance and compliance. Licensees are however sometimes invited to conferences, for example the National Air conference.

### *Ireland's environment*

The EPA monitors and reports on Ireland's environmental quality through a series of publications, including its flagship "state of the environment" report, which is published every four years. The EPA publishes more frequent reports on specific environmental outcomes, such as air quality, water quality, waste and climate change. The findings of reports are usually promoted through press releases at the moment of their launch. Data and indicators on environmental performance in various sectors can also be found on the EPA website under the different issue areas (e.g. waste, air...); data and statistics are not compiled in a single place on the website.

### *The EPA*

The EPA sets out five-year strategic plans. The plan for the current period 2016-2020 sets out five goals, 14 objectives and 16 outcomes to achieve by 2020. The five goals cover all areas of activity of the EPA and mainly focus on the EPA itself (regulator, leader, partner, organisationally excellent etc.) with one goal on responding to key environmental challenges. The 2016-2020 Strategic Action Plan assigns activities to each of the objectives. These documents do not include any quantitative targets or metrics.

Internally, the EPA strategic plan is translated into a yearly work programme that lists activities for each office. It is updated and presented to the Board once a month, in a report structured into sections per office, compiled by the Corporate Governance Unit. This monitoring focuses on the implementation of activities and projects.

Externally, the relationship between the EPA and DCCAE and the DHPLG is governed by a three-year oversight agreement (current period 2019-2020). Annex 2 (Performance/Service Levels) of Appendix 1 (Performance Delivery Agreement) of the oversight agreement lists functions, outputs, timeframe and performance indicators for regulatory functions of the EPA within the remit of DCCAE and DHPLG respectively. The current agreement includes over 100 indicators in total. The focus of these indicators is

on meeting legislative obligations, producing annual reports and holding annual events; they do not seek to measure the quality of processes or outputs and do not include any outcome or impact level indicators.

In practice, the EPA does not report on all of these indicators to the departments; instead, in the case of the DCCAE, 8 indicators out of the total have been selected for reporting on an annual basis. These are summarised below in Table 2.13. The focus is on metrics (outputs) rather than quality of processes, outcomes of activities, or overall sector performance (i.e. water or air quality, safety of industrial sites...). These appear to be the only quantified targets that the EPA reports on, internally or externally.

**Table 2.13. Indicators reported by EPA to DCCAE**

DCCAE - EPA REV 2018	Output outturns					Output targets	
	2013	2014	2015	2016	2017	2018	2019
<b>Key high-level metrics</b>							
Number of Environmental and Radiological Decisions (Note 1 )	2 469	2 100	1 885	3 414	1 610	2 232	2 140
Number of Industrial/Waste Site Visits (Note 4)	1 370	1 357	1 310	1 558	1 529	1 320	1 320
Number of Urban Wastewater and Drinking Water Site Visits	299	399	338	340	377	370	370
<b>Legislation</b>							
n/a (Note 2)							
<b>Publish</b>							
Number of EPA Reports published	27	25	34	38	49	35	35
Number of Reports on Environmental Research Projects published	29	21	25	35	38	35	35
Number of Open Data datasets on the DPER Open Portal (Note 3)	50	50	98	140	228	250	260
<b>Context and impact indicators</b>							
Number of visits to EPA website	750 000	780 000	800 000	819 000	908 000	860 000	900 000
Number of environmental queries from the public answered	2 700	2 650	2 500	2 207	2 184	2 200	2 200

1. Includes licences, certificates of registration, Article 27 Decisions, authorisations, authorisation renewals, technical amendments, authorisations closed etc.

2. Refers to legislation to be published so therefore no entry required for the EPA.

3. Datasets published to DPER Open Portal from 2015. 2013 and 2014 figures are datasets published to EPA website.

4. Includes visits to IPC, IE, Waste, Dumping at Sea and VOC permitted sites.

Source: Information provided by EPA.

The EPA prepares an Annual Report and Accounts that is sent to the Minister of DCCAE, who lays it before both Houses of Oireachtas. Once the Annual Report has been approved by the Oireachtas, the EPA publishes the report online (EPA, 2017<sup>[2]</sup>). The report is structured in line with four out of five of the goals of the EPA's strategic plan (regulation, knowledge, advocacy, and "organisationally excellent", omitting "responding to key environmental challenges").

There is no structured mechanism of engagement around the EPA's performance reporting with the legislative branch, but the EPA is often called to appear before Joint Oireachtas Committees to discuss particular issues, or to submit written answers to Parliamentary Questions. The EPA can also be invited into the Public Accounts Committee, which has happened on three occasions since its founding.

## Notes

<sup>1</sup> Section 55 states that “The Agency may, of its own volition, and shall when requested by a Minister of the Government, give information or advice or make recommendations for the purposes of environmental protection to any such Minister on any matter relating to his functions or responsibilities and that Minister shall have regard to any such information or advice given or recommendations made”.

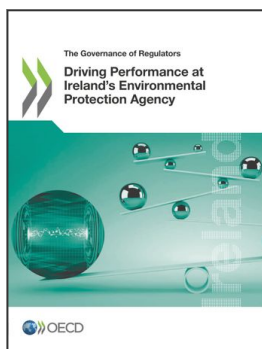
<sup>2</sup> In general, for amounts under EUR 5 000 EUR the EPA can directly procure goods and services; for amounts between EUR 5 000 EUR and EUR 25 000 EUR the EPA can use a restricted procurement procedure; for amounts above EUR 25 000 the EPA has to carry out an open tender on the central government website with the process taking up to two months; and for amounts above the EU threshold of EUR 209 000 EUR the EPA has to carry out an open tender for a longer period with the whole process taking 4-6 months. The EPA can use an accelerated procurement process for urgent requirements e.g. services that may be required for safety cases.

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