



## OEP PROJECT BELLISSMA

### ULSTER FARMERS' UNION (UFU) COMMENTS

February 2023

**What aspects of the WFD Regulations, or how they are implemented, would you like to see retained and why?**

#### Coherent framework for water policy

The WFD should provide a coherent framework for the management of waters. It is beneficial to have all water policy covered under the one piece of legislation where previously this was fragmented. In theory this should result in more 'joined-up' Government approach on water policy with Departments working together to deliver WFD objectives.

#### Cross-border management

As NI shares a land border with the ROI, the WFD allows mechanisms to be in place to ensure cooperation on cross border river basins. This has become more uncertain following Brexit.

#### Potential for localised/catchment approach

The use of River Basin Management Plans has the potential to identify and deal with more localised issues however DAERA and NIEA have in the latest draft RBMPs moved away from that approach opting to only have one RBMP for the whole of NI. In the past NIEA developed local catchment area management plans however with the lack of recent Stakeholder engagement it is unclear if these have been updated and renewed in more recent years.

#### Public participation

The 'public participation' is a positive aspect of the WFD and when the Regulations in NI were first adopted there was a genuine attempt at public participation at various levels. However, as time progressed, the WFD Stakeholder Forum met less frequently and now hasn't met since 2020. The Catchment meetings that previously took place at a local level have completely stopped. The benefit of public participation is that it allows Stakeholders to be regularly updated on water issues and to feed in comments. The update report that was produced for the WFD Forum meetings provided a useful source of information on what was happening within various Government Departments and Agencies with respect to water issues. It also allowed Stakeholders to engage with officials and each other and build useful contacts and relationships.

#### Agriculture

The Water Framework Directive Regulations for NI agriculture are overshadowed by the Nutrients Action Programme (NAP) Regulations. While the Nitrates Directive is one of the WFD 'Daughter Directives' it is the one that farmers mostly identify with in relation to water policy. The NAP Regulations apply to all agricultural land in Northern Ireland and set out a

series of requirements for all farming businesses. The strict rules and inspection regime results in farmers being much more familiar with this legislation, with the WFD Programme of Measures being less well known.

**What aspects of the WFD Regulations, or how they are implemented, would you like to see amended and why?**

WFD Process

There is a preoccupation with process, monitoring, reporting and the establishment of “good status” and insufficient focus on working with stakeholders to deliver the necessary changes to meet the various targets that have been set. DAERA and NIEA must work in partnership with industry stakeholders in the delivery of the Programme of Measures.

‘One out all out’ classification

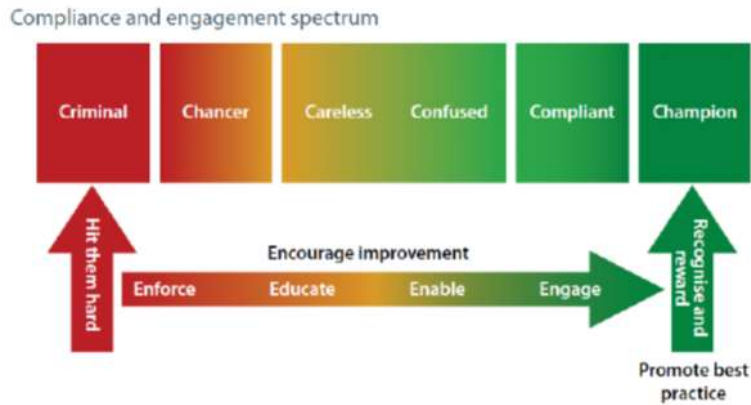
The UFU have concerns that the one out all out classification system used within the WFD means that it is more difficult to make progress visible. The one-out, all-out principle is not properly reflecting reality about the quality of water and masks improvements. Under this principle, there is the potential for substantial financial resources being needed to achieve limited additional benefits. The UFU believes that there needs to be a more flexible system in assessing and reporting water quality.

Monitoring

The infrequent monitoring of water bodies may not accurately reflect the status and may skew reporting. The Sustainable Agricultural Land Management Strategy<sup>i</sup> recommended that DAERA / NIEA provide an enhanced regime of water quality monitoring in targeted catchments in order to get a more accurate assessment of the status of the water body.

Advisory Approach

While the UFU would accept that regulation and enforcement is needed, we do not believe that this is the most effective way of improving water quality. There should be an ‘advocacy first’ approach taken. The UFU would support using the model outlined below to encourage better compliance. We believe the model below is an effective way of improving compliance and dealing with issues and is something that was promoted during the discussions with NIEA when drawing up the UFU/NIEA Memorandum of Understanding.



Source: NFU Scotland

### Lack of 'Public Participation'

The lack of recent Stakeholder engagement on the WFD is unhelpful as it fails to allow stakeholders an opportunity to raise their views in a transparent way and also to communicate with other organisations effectively. The UFU is willing to participate at all levels in the delivery of the River Basin Management Plan as long as all sectors and organisations work together in a positive manner to move towards the objectives set for each of the water bodies. It is important that stakeholders recognise the constraints of others, particularly difficult economic conditions and the limited budgets that are available to deliver the objectives. Setting up effective mechanisms should allow that constructive debate to take place.

### Financing

To date DAERA and NIEA have largely relied on NI Rural Development Programme Funding to help deliver on WFD measures for agriculture. This NIRD funding is now at an end with uncertainty about what funding will be available in the future with guarantees for agricultural support only in place until the end of the current Parliament (2024). The current WFD ambition will require sufficient funding and the allocation of the appropriate staffing resources within Government.

### Partnership approach at catchment level

With both funding and resources under pressure, it will be vital that Government genuinely work in partnership with stakeholders if significant gains are to be made. There is much evidence to show that catchment-based approaches, working with farmers and other partners in local areas is the best way to achieve results and to target the problem catchments. The Sustainable Agriculture Land Management Strategy has recommended this as a way forward. The UFU strongly encourages DAERA and NIEA to further embrace this method when it comes to tackling water quality and allocate sufficient resources to ensure that it happens rather than adopting a broad-brush regulatory approach.

The UFU believes that partnership working which aims to improve communication and take a more proactive advisory approach to enable those to comply and only penalising those who are intentional or repeat offenders is a more effective way to deliver a better water

environment. This has shown to be very effective in the Derg catchment through the Water Catchment Partnership, the Source to Tap and CatchmentCARE projects and with the various projects delivered by the Ballinderry Rivers Trust. There are also positive working examples in Scotland, Ireland and England where the tailored catchment advisory approach, where Government works with farmers and other stakeholders is delivering more on the ground for water quality than a regulatory/enforcement approach.

#### Lack of recognition of other works

Due to the lack of Stakeholder engagement in recent years, it has made it more difficult for the agriculture industry to highlight the many industry initiatives and projects under way which will also deliver environmental and water quality improvements. The River Basin Management Plan does not fully recognise the amount of work being carried out by industry stakeholders to address water quality.

Farmers are inspected against environmental standards through the various Farm Quality Assurance Schemes. For example, there are 11,957 members of the Beef and Lamb FQAS and around 8700 inspections take place annually with an inspection cycle of 18 months as well as 5% spot check/inspections being carried out. In addition to checking the yards, silos and tanks, farmers are also required to provide soil testing records if chemical P is used. There are similar requirements for other sectors. There are around 3000 dairy farms operating under the Red Tractor scheme and almost all pig and poultry farms are quality assured. There is also a scheme for cereals. There also may be additional standards required on farms imposed by the various retailers. Over 200 IPPC farms (pig and poultry) must follow a strict regime for environmental management including nutrient management planning and yard management. All of this results in multiple inspections on farms annually for environmental compliance from either industry or Government officials. None of this was recognised within the draft RBMPs despite being highlighted by the UFU.

In addition to the above, some individual companies are pursuing projects to improve sustainability which will have a benefit for water quality. For example, some milk processors are carrying out soil sampling and nutrient management planning. The NI Grain Trade Association is training feed advisers on many aspects of environmental sustainability including nutrient management requirements, phosphorus, and water quality.

The UFU are actively involved with informing and updating members regarding existing and new legislation/schemes on water quality directly or via the Farming Press to help improve compliance. For example, the UFU has actively worked to try and inform members through meetings, press articles and e-bulletins about the various measures within the Nutrients Action Programme. The UFU have also worked alongside DAERA and NIEA to produce suitable guidance material and have developed additional guidance in the past for our members e.g. template record sheets and a sticker which can be put in tractors to highlight the requirements regarding spreading distances from waterways in a practical manner. The UFU is also developing training for agricultural contractors in conjunction with CAFRE around the NAP.

The UFU is the lead stakeholder in the delivery of the Voluntary Initiative (VI) for pesticides in Northern Ireland. Through the VI, farmers are using best practice to protect water quality and

biodiversity. The Voluntary Initiative is a good example of how the farming community, crop protection industry and environmental groups can work together to build on best practice achievements in producing quality food with a special focus on maintaining and improving biodiversity and water quality. Each year the UFU is involved in organising training workshops for VI participants in Northern Ireland. The VI has also linked in with the Water Catchment Partnership initiative in the Derg catchment and other areas.

Government must recognise that industry initiative can and will contribute to achieving water quality targets rather than duplicating some of this work.

**What changes or any apparent gaps that need filling to provide a more rounded improvement to the water environment would you like to see made to other legislation or its implementation to support the delivery of WFD objectives and why?**

#### Advocacy First Approach

As the WFD is linked to the Nutrients Action Programme and compliance with the NAP is one of the Cross Compliance Statutory Management Requirements. This means that any detected breach of the NAP Regulations will result in automatic penalties being applied to a farmer's Basic Payment Scheme with little/no scope for an advisory approach. Farmers across NI are regularly breached and penalties imposed for incidents that are not causing pollution e.g. administrative errors or low severity pollution incidents which would not be penalised if detected in any other sector outside of agriculture. As cross-compliance penalties are calculated as a percentage of the area payment received by the farmer these can often be severe and disproportionate to the offence that has occurred. The UFU support an advocacy first, 'yellow card' warning system where farmers have an opportunity to correct certain non-compliances before penalties are issued.

#### Advisory Service

The UFU supports the continued support through the CAFRE advisory service to help farmers understand and meet the various measures. There are a number of messages that need to be delivered to farmers to help compliance and environmental improvements and the recent formation of the CAFRE Sustainable Land Management branch will be particularly important going forward. It is positive that around 3000 farmers were part of the Business Development Groups (BDGs) which offer an important means to get messages to farmers however, it is also vital that farmers outside of BDGs are also targeted with advice and training.

#### Nitrates Derogation

The Nitrates derogation is vital to Northern Ireland farmers and helps support a grass-based production system on dairy farms. The previous process of granting the derogation required the EU Nitrates Committee to scrutinise and rigorously assess the NI case before approving. The derogation is based on a scientific case and requires additional requirements from grassland farmers operating under a derogation.

#### More effective targeting of inspections

The UFU believes that farms that can demonstrate a level of environmental compliance through participation in other schemes such as the various sectoral Farm Quality Assurance Schemes or agri-environment schemes should have a reduced risk of being chosen for inspection. It is also unacceptable that some farms can be selected for both IPPC and Nitrates cross-compliance inspections duplicating efforts. IPPC farms are regularly visited and a raft of areas are inspected included all those under the Nitrates Action Programme. It is therefore a waste of Government resources for these IPPC farms to be also selected for Nitrates inspections. All of this results in multiple inspections on farms annually from either industry or Government officials.

### Flexible Schemes and Support

Agri-Environment Schemes are a key mechanism to help deliver water quality. It is generally not economically viable on most farms to solely improve the environment and, the marketplace does not reward such projects and actions. Agri-environment schemes such as the Environmental Farming Scheme has delivered some positive actions but the lack of flexibility, prescriptive options, insufficient financial incentive and the associated penalty regime with the scheme has resulted in many farmers not engaging with the scheme or having a negative perception of it. The UFU have proposed a 'Farming with Nature' Scheme focusing on 'results based outcomes'. We are supportive of DAERA's approach to developing future agri-environment schemes to date through the new agricultural policy regime. The Union will continue to work with DAERA to deliver what we hope will be a more effective scheme going forward which will deliver for farmers and the environment including water quality.

### Catchment Approach

Evidence shows that catchment-based approaches, working with farmers and other partners in local areas is the best way to achieve results and to target the problem catchments. The Sustainable Agriculture Land Management Strategy has recommended this as a way forward and we are strongly encouraging DAERA/NIEA to genuinely embrace this method when it comes to tackling water quality and allocate sufficient resources to ensure that it happens rather than adopting a broad-brushed approach and further regulation. It is positive that DAERA have initiated the Dundrum Catchment pilot project and we encourage a wider role out of this type of approach to tackling water quality issues.

### Septic Tanks

Poorly maintained septic tanks must be addressed and householders must be educated about their septic tank and the importance of ensuring that it is working properly. The UFU regularly received reports from members who have had water ways and land on farm contaminated by neighbouring septic tanks but struggle to get NIEA to take action. These incidences have implications for animal health and welfare and should be taken more seriously by the regulator.

The Union feels that further research should be carried out on the availability of suitable effective septic tanks for the NI environment. There are concerns that the septic tanks installed in new houses are failing to adequately treat wastewater. Many are not aware of their responsibility to ensure that tanks are working effectively and the need to de-sludge tanks. The public should be educated on this and also on the disposal of household detergents

and the potential negative impact these can have on the workings of a septic tank. The UFU suggests that information on this could be issued to householders with the annual rates bills.

### Other Sectors

The UFU believes that NIEA should focus more on practical guidance and advice for the various sectors to prevent pollution incidents from occurring in the first instance. Due to the cross-compliance system farmers can be easily penalised for potential breaches of legislation without even going to court. As penalties are based on a percentage of a farmer's Basic Payment therefore for most farmers these are likely to be substantial compared to those imposed by the courts for similar offences by other offenders. In addition to cross-compliance penalties, for serious incidents farmers will also be fined through the Courts and asked to pay for remediation of the water body resulting in triplicate penalties in these incidents which is not the case for other sectors.

---

<sup>i</sup> <https://www.daera-ni.gov.uk/articles/sustainable-agricultural-land-management-strategy> - pages 38-39