

Terms of Reference – Task and Finish Group on Soil Sample Analysis Reports

Background

On 18 October 2022 the Northern Ireland Environment Agency (NIEA) became aware that misrepresented soil sample analysis reports were submitted in support of applications for: -

- Environmental permits;
- Environmental licenses; and
- Applications for planning permission.

In the early stages of the NIEA investigation the term ‘misrepresented soil sample analysis reports’ was used, as a full picture of the issue had not as yet been developed and investigated. Further investigation identified that laboratory reports were either fabricated in their entirety or had been changed prior to their submission. Falsified reports were submitted in support of 108 planning applications across 9 local planning authorities (LPAs).

Subsequently there has been media interest in the issue of false soil sample analysis reports.

A complaint was made to the Northern Ireland Audit Office (NIAO) in relation to the response by public bodies to the misrepresented soil samples issue.

The NIAO undertook a review and published a report in July 2024 (*Public Bodies’ Response to Misrepresented Soil Sample Analysis*).

The Department for Infrastructure (DfI), the Society of Local Authority Chief Executives (SOLACE) and NIEA have agreed to establish a Task and Finish Group (TFG) to consider the recommendations from the NIAO report that apply to the two-tier planning system and to consider lessons learned and next steps.

Membership

The Task and Finish Group shall comprise members from: -

- a representative number of local planning authorities (LPAs) who have been nominated to the group by SOLACE;
- officials from the DfI; and
- officials from the NIEA.

If a Member is unable to attend a meeting, then the Chair/Secretary should be advised in advance, and a representative can attend in their place. Further representatives of organisations may be nominated to receive papers. Ad hoc

attendees may be invited by the Chair or Secretary, on the Chair's behalf, if there is a requirement for specialist input.

A minimum of four members (two from the Department and two from LPAs) are required to enable a meeting to be held.

Chair and Secretary Support

The Group shall be chaired on a rotation basis (3 times by representative LPAs, once by DfI and once by NIEA).

The Chair shall arrange and host the relevant meeting.

An agenda should be circulated for comment at least one week before the proposed date of a meeting to allow for consideration and comment.

A draft note of the meeting shall be issued from the Chair of the meeting within 5 working days of the meeting taking place for comment. Comments should be returned within the following 3 working days and the meeting note finalised promptly and circulated to Group members.

[NOTE: Chair for a meeting and the Chair for a future meeting may need to liaise in relation to minutes and actions to support co-ordination.]

Meetings

The TFG shall meet on a regular basis sufficient to: -

- consider all relevant information submitted by LPAs in relation to all applications identified by NIEA as including false soil sample analysis data;
- consider the findings of the report by NIAO and identify lessons learned; and
- review all recommendations in the NIAO report and agree response in terms of next steps required in sufficient time to inform any consideration of the NIAO report.

[NOTE: Meetings of the T&FG should be regular and timely to allow for the development and agreement of comprehensive responses to the recommendations set out in the NIAO report.]

Meetings may be in-person, on-line or a mixture of both suitable to the needs of participants.

Role of the Task and Finish Group

The role of the group is to provide a collaborative response, across central and local government to the concerns raised and recommendations set out in the NIAO report.

[NOTE: As information to be considered by the TFG may be associated with planned or ongoing investigations, the TFG and its members must treat the information in confidence.]

The ultimate outcome from the TFG is an agreed position in relation to each of the recommendations contained in the NIAO report (July 2024), including any key lessons learned and proposed actions going forward.

The TFG will build on existing partnership arrangements, to seek to identify an appropriate protocol to support a consistent, robust and efficient approach by public bodies (DfI/NIEA and affected councils) to address any future regional wide issues of this nature.

The TFG may discuss and agree any significant changes to its role as work progresses.

Press and Media Enquiries

In advance of any potential consideration of the NIAO report no substantive comment should be made in relation to the content, findings and recommendations contained in the NIAO report or the considerations of the TFG.

Press enquiries to relevant public bodies should be advised to the Group and, where timescales permit, discussed prior to a response being issued. Alternatively, the following lines, agreed by TFG, might be used: -

- Aware of the NIAO report
- Central and local government are continuing to work in a collaborative and coordinated manner to consider the findings and recommendations contained in the report with the intention of informing the way ahead; and
- At this time, it would not be appropriate to comment further.

[illegible]

reference attended by all parties to work on recommendations. [REDACTED]	AP2
- Agreed that a further meeting would be held post the Solace meeting on 2 August to discuss best approach and the details around the task and finish group. [REDACTED] advised that it was important that the appropriate councils were aware of the process and that clear governance arrangements were in place across councils so that the task and finish group had a clear remit for its work. [REDACTED] didn't envisage an issue and advised that this would be raised at Solace. [REDACTED]	AP3



James House
2-4 Cromac Avenue
The Gasworks
BELFAST
BT7 2JA

Tel: 0300 200 7830

Email: [REDACTED]

Your Ref:

Our Ref:

9 August 2024

Dear [REDACTED]

MISREPRESENTED SOIL SAMPLE ANALYSIS REPORTS – ACTIONS & LESSONS LEARNT

The Department met recently with [REDACTED] (Fermanagh & Omagh District Council) and [REDACTED] (Mid Ulster District Council) as representatives of SOLACE as part of our ongoing engagement on the issue of misrepresented soils sample analysis reports submitted in support of applications for planning permission for agricultural development. These most recent discussions have taken place in light of the recently published report by the Northern Ireland Audit Office (NIAO). A number of the recommendations in the NIAO report are specific to the planning system and support a collaborative approach between central and local government. I have attached the relevant findings and recommendations from the report at Annex A to this letter.

As part of these discussions with SOLACE, it was agreed that the Department would contact relevant councils in their role as local planning authorities (LPAs) to seek information on the actions and considerations undertaken by each council in relation to the specific planning applications identified by the Northern Ireland Environment Agency (NIEA). It is important to stress that the Department has no remit, and nor do we wish to receive details in relation to any investigations which your council may be taking forward.

The information being sought is important to understand the planning and fraud implications from each council in order to suitably address the recommendations on the co-ordination of training, lessons learnt, PSNI liaison etc.

It has been agreed with SOLACE that a Task and Finish Group will be established, and the information provided by each council will be reviewed and considered by that group to decide on the next steps. More details on the composition and function of the Task and Finish Group will follow the next SOLACE meeting in August.

In order to assist with the group's work, I have attached three forms for completion.

- Form 1 relates to your council's planning function and seeks information on the management and decision-making by your council for each of the [REDACTED] affected applications highlighted by NIEA.
- Form 2 seeks more general information in relation to your council's consideration of potential fraud in the submission of misrepresented information. While the Department has no formal role in identifying nor countering potential fraud in local government functions, including its planning functions, there is value in seeking to develop a general understanding of the approach adopted at individual council level and whether this was part of a consistent, sector-wide approach to the issue by local government.
- Form 3 focusses on the identification of key lessons learnt and any actions which the council has taken, and/or is proposing to take, to ensure that it is in a sound position to address any future incidents where falsified information is submitted in support of planning applications.

These actions may be specific to either the planning function of the council as LPA or in its wider responsibility in identifying and countering fraud in local government functions and may be on an individual basis or a collective basis with other LPAs. Where training has been identified, the Department appreciates that this may involve engagement beyond the planning system e.g. previous anti-fraud advice and training developed by the Northern Ireland Audit Office.

Given the active engagement with SOLACE you may wish to liaise with either [REDACTED] or [REDACTED] to inform a consistent approach across all relevant LPAs as far as is possible.

Should you have any queries regarding the information being requested or regarding the completion of the attached forms then a number of DfI contact points are provided in the cover note to Forms 1, 2 and 3.

Please forward all responses by e-mail to the following:

[REDACTED] - Email: [REDACTED]; and
[REDACTED] - Email: [REDACTED]

Your response by **Friday 30 August 2024** will be appreciated so the information can be collated for the first meeting of the Task and Finish Group. We propose that the first meeting shall take place on **Tuesday 24 September 2024**. Details of the time and venue can be confirmed in due course.

Yours sincerely

ROSEMARY DALY
Director

Enclosure:

Annex A – selected NIAO recommendations.

Circulation:

[REDACTED] – Chief Executive, Fermanagh and Omagh District Council
[REDACTED] – Chief Executive, Mid Ulster District Council

Planning Related Findings and Recommendations from NIAO Report “Public Bodies’ Response to Misrepresented Soil Analysis”

<https://www.niauditoffice.gov.uk/publications/public-bodies-response-misrepresented-soil-analysis>

Finding 1 - There was a lack of effective collaboration between NI public bodies in response to notification of potential planning fraud.

Recommendations

3.19 As recommended in the NIAO February 2022 report on Planning in Northern Ireland, we would reiterate that all statutory bodies involved in the planning system should play their part and fully commit to a shared and collaborative approach going forward. This will necessitate working as equal partners.

3.20 The NIAO April 2019 report entitled Making Partnerships Work states that ‘central and local government working collaboratively...adds value to public services’. We would recommend that all bodies involved in the planning system in NI review the self-assessment checklist contained in that report and develop a protocol that clarifies the roles and responsibilities of all stakeholders and ensures effective collaboration in relation to planning matters.

Finding 2 - There was a failure by councils to initiate an investigation of potential planning fraud on a timely basis.

Recommendations

3.27 We recommend that councils review the scope of their fraud policies, procedures and response plans to ensure that any alleged submission of misrepresented or falsified information in planning applications is treated as potential fraud and investigated accordingly.

3.28 Councils should ensure that all officers involved in the planning process understand the scope of their organisation’s fraud policy and response plan, as well as their role in identifying indicators of planning fraud and dealing with allegations of potential fraud should they arise.

3.29 Whilst we understand that primary responsibility for taking any action under the Planning Act in relation to previously determined applications rests with individual councils, we recommend that DfI should take a more active role in ensuring that a consistent and co-ordinated approach is taken by councils where sector-wide potential planning fraud issues arise in future. This might not necessarily involve DfI leading the investigations, but DfI should as a minimum seek confirmation that each council has formally considered whether the specific circumstances in its council area merit further investigation under the council’s fraud response plan. Furthermore, it would be appropriate for DfI to seek further explanations from councils in the event that some councils initiate an investigation and others do not.

3.30 DfI should put arrangements in place to nominate a point of contact to act as a liaison between councils and PSNI as a means of securing an efficient and effective outcome in future cases of sector-wide potential planning fraud.

3.31 DfI should co-ordinate sector-wide training and awareness sessions as a means of promoting greater consistency in this area.

Finding 3 - Lessons were not learned from a similar case in 2021.

Recommendations

3.37 We recommend that DfI and councils, with the support of NIEA, should initiate a full review of the circumstances surrounding the 2021 case, together with the current issues highlighted in this report. The aim of this review should be to establish whether there are any further actions required or issues of a similar nature that might as yet remain undiscovered.

3.38 DfI should ensure that any relevant lessons identified from the above review are disseminated to all planning authorities and it should subsequently seek assurances from councils regarding implementation of measures to ensure that any future misrepresentations in the planning system are discovered and investigated at an early stage.

Finding 4 - Ineffective controls failed to prevent or detect on a timely basis the reporting of false soil analysis results.

Recommendations

3.52 We recommend that councils and other public bodies involved in the planning process refamiliarise themselves with the NIAO March 2023 report on Planning Fraud Risks and ensure that, so far as possible, the mitigating controls recommended therein are put in place as a matter of urgency.

Finding 5 - Potentially more effective arrangements for minimising the impact of excessive levels of nutrients are in place in England.

Recommendations

3.59 We recommend that DAERA and DfI jointly review existing planning regulations and determine whether they are sufficient to protect the environment from the impact of diffuse pollution. This review should also consider other potentially more effective approaches such as the “nutrient neutrality” approach adopted for protected Habitats Sites in England.

Cover Note to Forms 1, 2 and 3

Misrepresented Soil Sample Analysis – Council Update to Department for Infrastructure

The Department for Infrastructure is requesting the completion of three forms by each council as agreed in discussion with SOLACE.

Form 1 relates to detailed information relating to each application for planning permission submitted to your council which was supported by a soil sample analysis report (or associated information) which was subsequently advised by the Northern Ireland Environment Agency (NIEA) to have included information/data which was not provided by the purported testing laboratory.

For ease of reference a list of applications relating to your council area is attached at Annex A to this note reflecting the advice from NIEA.

If any of the identified applications have followed a different procedure or have a different status then it may be necessary to complete a duplicate of Form 1 for any such application(s). In such circumstances please ensure that all requested information is provided referenced against each of the identified application numbers in Annex A.

The collection and collation of this information, for each of the 108 planning applications across 9 council areas, is intended to support the compilation of a general picture as to how the misrepresented information has been considered and managed across all relevant councils. It is anticipated that this will in turn support:-

- a more comprehensive understanding of the approaches adopted across LPAs; and
- learning and best practice to ensure a consistent, robust and effective response to future situations where such misrepresentation occurs. identification of any patterns or

Form 2 is designed to give a more general overview of how these affected applications have been considered in relation to your council's anti-fraud policies and procedures. The Department is aware of potential sensitivities in relation to GDPR requirements as well as possible ongoing investigations and, in recognition of the autonomy of your council as a sovereign body (as well as the roles and statutory responsibilities of other bodies e.g. NIAO, PSNI), does not wish to influence or interfere in such considerations. While the Department does not have responsibility for addressing potential fraud in local government functions, the general information requested is to gain a broader understanding as to how, and to what extent, council procedures were considered and exercised as well as to what degree the council feels these policies and procedures are fit for purpose in the context of recent findings on the submission of misrepresented information.

Form 3 relates to the identification of lessons learnt and future actions which a council may be taking or proposing to take in future should similar circumstances re-occur. This may be on an individual basis or in conjunction with other councils or external bodies.

Should you have any questions in relation to the completion of these forms please contact any of the following:

[REDACTED] Email: [REDACTED]

[REDACTED] Email: [REDACTED]

Department for Infrastructure

ANNEX A – Planning Applications advised by NIEA

FORM 1 – Council Affected Planning Applications

Council response to the submission of misrepresented soil sample analysis reports

To reflect the total number of affected council applications advised in Annex A of the accompanying cover note further copies of this form may need to be submitted.

Council		
Contact name		
Contact number		
Date		
Application no(s). [Note please ensure information is provided for all applications advised in Annex A of the cover note to this form]		
Description		
1	Had the application been determined when NIEA contacted your council?	Yes/No (If YES go to Q.2 – If NO go to Q.5)
2	What was the decision on the application?	Approved/refused (If APPROVED go to Q.3, If REFUSED go to Q.4)
3	For an approved application what were the Council's next steps?	
4	For a refused application has the applicant appealed/re-submitted?	
5	For an undetermined application- what action has the council taken?	Re-consulted NIEA/SES etc. (Go to Q.6) Requested further information (Go to Q.7) Other information – please provide details here e.g. if the applicant has withdrawn the application.
6	What was the result of re-consultation with NIEA/SES etc.?	Refusal Approval Request further information from applicant In each case please provide further details here.
7	Is council content all necessary information has been re-submitted in line with revised procedures?	Yes – advise of current status of application No – please provide further details
8	What is the council's position regarding planning enforcement action or other action under the Planning Act (NI) 201 e.g. revocation or discontinuance?	Please provide details
9	Proposed next steps in relation to this application.	
10	Rationale for the council's approach as set out in response to Q9.	
11	Has the applicant for this application submitted any other	No/Yes/Don't know - If Yes – when and what was the decision - If Don't know – is the council currently checking?

	applications in which soil sample analysis is relevant/applicable?	
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Please forward all responses by Friday 30 August 2024 to the following:

██████████ - Email: ██████████; and

[REDACTED] - Email: [REDACTED]

FORM 2 – Wider Council Considerations on Anti-Fraud Procedures

Council		
Contact name		
Contact number		
Date		
Application no(s)		[Note: please identify the application numbers as appropriate]
1	Did the council consider the engagement of its anti-fraud policy in relation to the identified application(s)?	Yes/No Please provide detail in light of either response.
2	If the council's anti-fraud policy was considered was any further action taken in instigating anti-fraud procedures?	Yes/No Please provide further detail explaining either response.
3	What actions remain ongoing in light of the position adopted by the council in relation to the allegations of fraud in relation to the affected applications?	For example: • has the council engaged with the PSNI – if so please provide details of the PSNI contact; • has the council engaged with NIAO in relation to anti-fraud awareness, advice or training; • has the council identified a need to review its anti-fraud policy and/or procedures?
4	Proposed next steps.	
5	Rationale for the council's approach set out in response to Q4.	
6	Is the council content that staff awareness and training on identifying and countering potential fraud is adequate?	Yes/No Please provide further information in support of your answer.
7	If the answer to Q.6 was 'No' what are the areas for improvement and how will these be addressed?	Area for improvement on fraud awareness/training: Council proposals to address identified needs:
8	What lessons can be taken away from the council's experience in managing the submission of misrepresented soil sample information?	
9	Any other information	Please provide any further information which you think may be useful e.g. liaison with other LPAs, changes to internal procedures/training etc.

Please forward all responses by Friday 30 August 2024 to the following:

[REDACTED] Email: [REDACTED] and

[REDACTED] - Email: [REDACTED]

FORM 3 – Lessons Learnt and Future Actions

Council		
Contact name		
Contact number		
Date		
1	What key lessons in relation to the development process can be taken away as a result of the soil sample analysis issue?	
2	Were any lessons from the recent submission of falsified information purporting to have come from Teagasc c.2021 relevant to the current soil sample issue?	
3	What are the key lessons to take away in relation to the council's anti-fraud awareness and the consideration/application of its anti-fraud policies & procedures?	
4	What are the key lessons to be learnt in relation to wider co-ordination across other local planning authorities should similar circumstances arise in future?	
5	Has your council identified any particular training needs for staff – either on an individual basis or in conjunction with other councils?	
8	Any other information which you feel may be useful e.g. liaison with other councils/public bodies, changes to internal procedures/training etc.	

Please forward all responses by Friday 30 August 2024 to the following:

██████████ - Email: ██████████ ; and

██████████ - Email: ██████████

SOIL ANALYSIS TASK AND FINISG GROUP - MEETING NOTE

Date:	Tuesday 24 September 2024
Time:	2.00-4.00pm
Venue:	Council Offices, Monaghan Row, Newry
Attendees:	Chair: [REDACTED] (NMD) (Chair) [REDACTED] (ABC) (MS Teams) [REDACTED] (FO) [REDACTED] (DfI) Brian Gorman (DfI) Rosemary Daly (DfI) [REDACTED] (Solace NI)
Apologies:	[REDACTED] (NIEA)

PARTNERUPDATES

DfI thanked local government for responding to the request for information and advised that responses have been received in relation to 108 planning applications. A summary of the submitted information is outlined below:

Of the 108 planning applications, [REDACTED]

Next steps amongst councils range from [REDACTED]

[REDACTED]

Noted:

- There is merit in understanding the links between planning enforcement and potential fraudulent activity in influencing the outcome of planning decisions.
- [REDACTED]
- [REDACTED] it would be beneficial to move forward on a consistent and collective basis, where possible.
- In terms of the overall remit of the Soil Analysis Task and Finish Group, there is merit in maintaining a separation between the planning implications of misrepresented information and potential fraud issues and councils' anti-fraud response.

TERMS OF REFERENCE FOR THE GROUP

Noted:

- DfI drafted Terms of Reference for consideration by the Soil Analysis Task and Finish Group, and the following points were agreed:
 - The purpose of the group is to work in partnership to consider the planning response and NIAO recommendations, be in a position to report progress to the PAC and other key stakeholders, compile and share the lessons learnt, secure planning improvement and build confidence in the planning system
 - Membership of the group should include representatives from DfI, NIEA and local government
 - The group should meet, ideally in person, on a monthly basis, and members can join via MS Teams in exceptional circumstances
 - Hosting, chairing and co-ordinating meetings should rotate between councils, DfI and NIEA
 - Meetings of the group should be sequenced with Solace NI and Heads of Planning meetings, in order to facilitate open and transparent communication, co-ordination and governance.

Agreed:

- The following four dates and locations for meetings were agreed:
 - 22 October 2024, 2.00-4.00pm (Fermanagh and Omagh District Council to chair and host)
 - 13 November 2024, 2.00-4.00pm (Armagh City, Banbridge and Craigavon Borough Council to chair and host)
 - 10 December 2024, 2.00-4.00pm (Newry, Mourne and Down District Council to chair and host)
 - 9 January 2025, 2.00-4.00pm (Department for Infrastructure to chair and host)

ACTIONS AGREED

Actions:

- DfI to liaise with NIEA regarding the proposed schedule of meetings.
- DfI to update the draft Terms of Reference for circulation to the group, for further consideration.
- Local government to include the draft Terms of Reference on the agenda for a future Solace NI meeting, for consideration and approval.

Soil Analysis Task and Finish Group Meeting

Meeting Notes

Tuesday 22 October 2024: 2.00 – 4.00pm

Meeting Room, Townhall, Fermanagh & Omagh District Council, Enniskillen

Attendees	██████████ (NMD) ██████████ (ABC) ██████████ (FO - Chair) Brian Gorman (Dfl) Rosemary Daly (Dfl) ██████████ (NIEA) ██████████ (Dfl) ██████████ (NIEA) ██████████ (FO – Minutes)
1. Welcome	Chair welcomed everyone to the second meeting of the Soil Analysis Task and Finish Group, in particular NIEA who had not been able to attend the first meeting.
2. Apologies	None
3. To agree Minutes of meeting on 24 September 2024	
- Noted that all parties had an opportunity to review the minutes. - Dfl confirmed that the update provided at 24 September meeting, in respect of Council feedback related to form one. - NIEA clarified that there were 108 applications affected (103 initially but now 108), and all parties agreed to update the minutes to reflect this.	
4. Partner updates – if any	
Dfl circulated a draft paper in advance of the meeting, which related to the responses received from local government in respect forms 2 and 3. Dfl thanked local government for the responses received to date. ██████████	

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] In summary.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED] NIEA are carrying out their own investigations in relation to their own responsibilities, i.e. licence or permit applications. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] or
[REDACTED]

Noted:

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED] There were two separate issues, the planning status of developments/
planning decisions and the other was the question of potential fraud. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

5. Terms of Reference

Noted - [REDACTED] entered the meeting at this juncture.

- Chair thanked [REDACTED] for drafting the TOR.
- All parties had an opportunity to review the draft TOR and current version reflected comments received.
- Noted that wider HOP had also been consulted on the draft TOR.
- All agreed to a minor deletion at the bottom of page 1.
- draft TOR were agreed and will be presented to SOLACE at its next meeting on 01 November 2024.

6. Potential work streams – roles and responsibilities

a. NIAO Recommendations

b. Others

- Chair thanked [REDACTED] for preparing a draft workplan for discussion, this incorporated the NIAO recommendations and he proposed that the group progress to discuss each action in turn.

More effective collaboration

- Group discussed collaboration from the perspective of a 2 tier planning system and the merits in engaging with other statutory organisations. Noted that specific focus at this stage was NIAO report and NIEA as the statutory consultee. [REDACTED]
- Noted that outcomes may overlap with lessons learned recommendations. Broad discussion on a potential protocol which would be a blue print and can put in place guidelines to be followed if a similar issue were to be identified in the future.
ACTION – [REDACTED] and [REDACTED] to progress.

Planning fraud investigations

- There was discussion in relation to fraud and corruption policies, provision of training and role of audit teams.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- The merits of a collective, step-by-step process was discussed.
- In relation to a PSNI contact and sector wide training, this could be worked into a protocol.
- [REDACTED] approach may be useful to assist in relation to training.

- A consistent approach using NIAO guides across Council's would be most value.

ACTION: [REDACTED] to progress

Learning the lessons

- Noted that most Councils have provided feedback to DfI in relation to lessons learned, however, it is also important to capture DfI and NIEA learning as part of this exercise.
- All agreed that lessons learned will develop as work progresses and can only be completed at the end.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- All agreed that a protocol that will assist with managing future incidents of the submission of falsified information is essential.

ACTION: ALL to progress

More effective controls and additional environmental protection

- Discussed current controls and the potential for additional controls.

[REDACTED]

[REDACTED]

ACTION: [REDACTED] to progress

7. Next Steps

- Progress work on actions and work streams

8. Any Other Business

None

9. Confirm Date and Venue for Next Meeting

ABC to host next meeting on 28 November 2024

Regional Planning Governance & Legislation



Department for

Infrastructure

An Roinn

Bonneagair

Department for

Infrastructure

www.infrastructure-ni.gov.uk

To: Council Heads of Planning

James House
2-4 Cromac Avenue
The Gasworks
BELFAST
BT7 2JA

Tel: 0300 200 7830

Email: [REDACTED]

Your Ref:

Our Ref:

12 November 2024

Dear Colleague

NI Audit Office Planning Fraud Risks and Self-Assessment Checklist

You will be aware of the recent NI Audit Report on Public Bodies' Response to Misrepresented Soil Analysis dated 5 July 2024, its findings and recommendations.

To consider the findings and address the recommendations in a meaningful, shared and collaborative approach, it was agreed by DfI, NIEA and SOLACE NI to establish a Task and Finish Group (TFG). This group is now established and is working through the recommendations of the July 2024 NI Audit Report.

This Report sets out 13 recommendations one of which relates to a request that all bodies involved in the planning system should re-familiarise themselves with the NIAO March 2023 Report – Planning Fraud Risks. The NIAO March 2023 Report – Planning Fraud Risks, can be accessed at the link below:

<https://www.niauditoffice.gov.uk/publications/planning-fraud-risks>

Another recommendation from the July 2024 NI Audit Report is that all bodies involved in the planning system in Northern Ireland review the self-assessment checklist (Appendix 2) contained in the [Making Partnerships Work | Northern Ireland Audit Office](#)

E-mail: planning@infrastructure-ni.gov.uk

Website: www.infrastructure-ni.gov.uk/topics/planning

publication, and develop a protocol that clarifies the roles and responsibilities of all stakeholders and ensures collaboration in relation to planning matters. The development and implementation of this new measure will be discussed at the next TFG meeting in November 2024.

I wish to also remind those involved in the planning process, as far as possible, of the mitigating controls recommended in the March 2023 Report. It is important to ensure that these are in place as a matter of urgency.

I would be grateful if you would bring these matters to the attention of all planning staff and all those staff involved in your council's planning structures.

Please do not hesitate to contact me on these matters and thank you for your continued support whilst we collectively work through the recommendations of the above report.

Yours sincerely

ROSEMARY DALY
Director

MEETING NOTE

Task & Finish Sub - Group meeting

Date: 15 November 2024

Present: [REDACTED] (Armagh Banbridge & Craigavon Borough Council), Brian Gorman, [REDACTED] & [REDACTED] (DfI Planning)

- [REDACTED] explained ongoing requests [REDACTED].
- [REDACTED] gave a brief update regarding the DfI/DAERA co-ordinated response being prepared for submission to NIAO as part of the audit process. [REDACTED] advised that given the postponement of the scheduled sub-group meeting the previous week there hadn't been an opportunity to discuss the letter issued by DfI to the councils on 12 November on 2 of the NIAO recommendations.
- The letter fulfils DfI responsibility in response to those recommendations, addresses two specific actions for DfI and does not impact on the continued importance and engagement of the TFG.
- DfI have an initial draft protocol for consideration and discussion for this sub-group and then, subject to agreement, for the TFG – recognising the need for further discussion and hopefully agreement with all HoPs. Important that Protocol covers the two-tier planning system (including DfI's role as a planning authority). On this basis, the draft protocol will be shared with colleagues in Regional Planning Policy & Casework (development management) for consideration/comment.
- Key elements of draft protocol discussed – [REDACTED] suggested addition of organisation/responsibility.
- Recognise that draft protocol is being developed in the context of misrepresented information submitted in support of planning applications (Teagasc and soil sample reports) - [REDACTED] suggested that he could equally see merit in the protocol as a potential model in other region-wide issues.
- There was discussion on current work pressures across TFG members and the schedule of monthly TFG meetings. [REDACTED] stressed the importance of the established schedule of meetings to support ongoing contact and progress and advised that the DfI Permanent Secretary has been advised of the schedule for the TFG meetings and end target date for the group.
- [REDACTED] suggested meeting on 28th might move to Teams rather than in person. Agreed in principle by [REDACTED] but that TFG members could respond once invitations have issued.

- DfI would re-visit the draft protocol and issue to sub-group members.

ACTION – [REDACTED] to revise and circulate the protocol for inclusion with papers for meeting on 28th November 2024.

Minutes of Soil Analysis Task and Finish Group

28 November 2024 2-4pm

In attendance	██████████ (ABC) – Chair ██████████ (NMD) ██████████ (FO) Brian Gorman (Dfl) Rosemary Daly (Dfl) ██████████ (Dfl) ██████████ (NIEA) ██████████ (NIEA) ██████████ (ABC – Minutes)
1. Welcome	Chair – Welcomed everyone to the meeting.
2. Apologies	Apology from ██████████ (Dfl)
3. To agree Minutes of meeting on 22 October 2024	
Draft minutes were circulated in advance of the meeting, reviewed and agreed by all present.	
4. Partner updates – if any	
██████████ - Dfl referred to ██████████ letter dated 12 November 2024. - Dfl – ██████████ referred to implementation of T&F Group and mentioned importance of NIAO oversight of the ongoing process. - FO – SOLACE are under impression we need to capture all the work that Dfl and Councils are doing individually and that work should be reported to T&F Group so that progress can be tracked. - Dfl – ██████████ acknowledged that point.	

- ABC – [REDACTED] -highlighted an issue about minute of 15 November meeting regarding [REDACTED] letter dated 12 November.
- Dfl - [REDACTED] emphasised the need to demonstrate progress and demonstrate collaboration and that [REDACTED] letter was issued to address particular references in the NIAO report.
- [REDACTED] agreed to forward a copy of her letter to [REDACTED] so that they were aware of its content.

[REDACTED] also agreed to review Planning and Fraud Risk Guide and get Dfl to co-ordinate delivery of a workshop.

- FO – [REDACTED] would welcome engagement with NIAO. [REDACTED] also advised local government could possibly liaise with [REDACTED] about potential for identifying risks at start of planning process in respect of document authenticity.
- NIEA – [REDACTED] said he met [REDACTED] on soils issue recently and advised that they would like to see minutes of T&F Group.

[REDACTED] NMD – [REDACTED] advised the Terms of Reference of the T&F group had been circulated to the Heads of Planning (HoP). HoP group will be updated at next quarterly meeting in December. [REDACTED] also advised that [REDACTED] has been giving high level updates on progress to SOLACE.

- Dfl - [REDACTED] said we could consider sharing minutes with SOLACE after each meeting.
- Dfl - [REDACTED] advised T&F Group meetings tally with SOLACE meetings which is helpful in terms of keeping SOLACE updated.
- NIEA – [REDACTED] – considers there is [REDACTED] regarding the work of the T& F Group and membership.

- FO - [REDACTED] advised the minutes of every local government working group are circulated to HoP Group and the intention is to do the same with the T&F Group minutes. HoPs will be briefed at next HoP meeting on 6 December.
- DfI [REDACTED] – For the purposes of openness and transparency we should keep SOLACE updated. Local Government membership of the T&F group is a SOLACE matter. It was their decision that 3 HoPs sit on the group.
- DfI [REDACTED] – advised it would be helpful for the T&F Group to receive an update from each Council regarding the position that each has reached in relation to:

[REDACTED]

- Draft Protocol
- The Chair welcomed everyone's thoughts on the Draft Protocol.
- DfI [REDACTED] - advised that the Protocol is short and concise and is aimed at addressing the misrepresentation/ falsification issue as well as wider issues.

It is also aimed at separating fraudulent and non-fraudulent issues.

- FO - [REDACTED] – advised the draft protocol gives a good framework with key stages of the process identified. However, it needs to place more emphasis on each public body to highlight any issues which come to their attention. We need the protocol to cover wider regional issues and how to address those issues.
- DfI - [REDACTED] - welcomed everyone's comments as a kickstart to the process.
- NIEA – [REDACTED] - advised that they referred the soil samples issue to DfI as soon as they became aware of it.

- FO – █████ said we should send draft version of protocol to Consultee Forum for views.
- NMD – █████ concurred with █████, and said we need input to then draft from legal advisers – and possibly Information Governance. The protocol should also make reference to local government fraud policies.
- Dfl – █████ – Flowchart to identify steps would be helpful in Protocol.
- Dfl – █████ – advised we need input from the HoP Group at this stage.
- Dfl – █████ – said comments from HoP should be reported back to the T&F Group.
- NIEA █████ – observed that some Councils feel excluded from this process. She added that perhaps a timeline was needed against each action in protocol.
- ABC █████ – advised we will report to HoP Group and get feedback from them and report that feedback to the T&F Group.

6. Next Steps

- Dfl – █████ - advised there is a need to look into providing overarching training. Dfl has written to Councils.

7. Any Other Business

- There is a need to get some narrative into the table of recommendations before next meeting.
- Table of recommendations to be amended to reflect NIAO Report and then it will be recirculated to T&F Group for Local Government to populate relevant sections.

8. Confirm – Date and venue for next meeting

The venue for the next meeting will be Newry Mourne and Down Council Offices, via Teams, on 10 December 2024 at 2.00pm.

 Head of Planning, to Chair.

SOIL SAMPLE TASK AND FINICH GROUP – 10 December 2024 (Via teams)

PRESENT:

[REDACTED] DfI

[REDACTED] DfI

Rosemary Daly

Brian Gorman DfI

[REDACTED] NIEA

[REDACTED] NIEA

[REDACTED] ABC

[REDACTED] FODC

[REDACTED] NMDDC

1. REPORT OF MEETING 28 NOVEMBER 2024

The report of meeting of 28 Nov agreed as an accurate record

2. MATTERS ARISING

DfI confirmed correspondence had been forwarded to NIAO.

3 . PARTNER UPDATE

DFI confirmed all information gathered form affected Councils and the detail could now be shared with partners.

LG confirmed Heads of planning had been updated at HoP meeting on 6 December with a broad discussion on the key elements of the Protocol and the terms of ref for this group had also been circulated to all Councils for input, all feedback had been duly noted in the drafts considered by this group and signed off by SOLACE.

It was also reported that a workshop was to be held in early 2025 for HoP to discuss in more detail the next steps in relation to addressing the misrepresented soil samples as there remains a role for LG to deal with the challenges on the ground. There was an acceptance each Council may adopt different approaches but the aim of workshop was to discuss the options and try to reach consensus and share views etc. [REDACTED]
[REDACTED]

NIEA had no further update. –

4.NEXT STEPS

Dfl asked if they could attend the workshop, it was proposed that Dfl would organize a follow up session with NIAO around training and awareness in relation to the recommendations arising from the NIAO report on this matter.

██████████ agreed to circulate the updated spreadsheet on NIAO progress against recommendations following the last meeting.

5 . ACTION POINTS

- LG workshop to be convened and feedback brought back to next meeting of this group if possible
- DfI to convene workshop with NIAO
- Progress against the NIAO recs to be updated and shared

Next meeting to be convened and hosted by NIEA with dates to be agreed

Soil Sample Task and Finish Group

10 February 2025 - NIEA Lisburn

Attendees:

██████████ DfI
██████████ DfI
Rosemary Daly DfI
██████████ NIEA
██████████ NIEA
██████████ ABC
██████████ FODC
██████████ NMDDC

Apologies:

Brian Gorman DfI

2. Minutes of Last Meeting

- It was noted that ██████████ DfI had attended the last meeting.
- Change to wording of item 3 2nd paragraph (relating to the Draft Terms of Reference), 'included' changed to 'noted'. Previous minutes have been updated to reflect these changes.
- Matters arising – Protocol still in draft format. ██████████ to check whether TOR have been finalised and circulate most recent version (as signed off by SOLACE).

3. Actions from last meeting

- A workshop has been arranged for HOP on 20th February 2025. NIEA and DfI will not attend but may attend future events.
- DfI have arranged a workshop with NIAO on 11th April 2025 at Loughrey College. There are spaces for 20 staff from all councils. Council reps will speak to HOP to agree attendees.
- Progress against the NIAO recommendations on agenda (item 5).

4. Partner Updates

- DfI – draft protocol to be updated after HOP workshop on 20 February.
- Training on 11th April to provide fraud awareness for planning officers with potential to include statutory consultees. NIAO will deliver a presentation and ██████████ will give an update on the soil samples. NIAO will outline their recommendations in their

Report – ‘Public bodies’ response to misrepresented soil sample analysis’ and [REDACTED] will do a presentation on the NIEA role to date.

- Councils – awaiting outcome of workshop on 20th February so nothing further to add.
- NIEA – [REDACTED] have asked for a meeting on soil sampling on 11th February.

5. Review of Workplan

The Group collectively worked through the draft work plan discussing and updating progress to date and considering outstanding issues still to be addressed. Further discussions and consideration of the draft work plan will continue at the next TFG.

6. AOB

Actions

- [REDACTED]
[REDACTED]
- [REDACTED]
- Should councils be taking action on developments which had false Teagasc letters as part of the planning application? Way forward needs to be agreed by planners at HOP group. Information to be supplied by DfI on the outcome of the DfE investigation report on the Teagasc issue and subsequent letters sent to Councils from DfI.
- DfI to issue invite to HoP, statutory consultees & others for fraud awareness training on 11 April 2025.
- [REDACTED] to check whether T&F TOR have been finalised and circulate most recent version.

Date of next meeting – Friday 21st February @ 3pm and Friday 7th March @ 2pm

Soil Analysis Task & Finish Group (Interim Meeting)

21 February 2025

Attendees

[REDACTED] ABC
[REDACTED] FODC
[REDACTED] NIEA
[REDACTED] NIEA
Rosemary Daly DfI
Brian Gorman DfI
[REDACTED] DfI
[REDACTED] DfI

Apologies

[REDACTED] NMDDC

Note of Meeting

- The focus of the Interim Task & Finish Group meeting was to discuss the outworkings from the Head of Planning (HoP) workshop held on 20 February 2025.
- The local government representatives advised that the HoP workshop had provided the opportunity to discuss the Northern Ireland Audit Office (NIAO) Report (including a discussion of the report recommendations), update on role and work of the TFG to date and provide brief details of the proposed fraud training scheduled for 11 April. It also included a discussion on the way forward in relation to the draft Protocol. There were no discussions about specific cases within the councils.
- There was general discussion about the requirement for DfI to prepare formal feedback to the NIAO, coordinated through DAERA, addressing the recommendations in the NIAO report of July 2024. A written position, through the local government representatives on the TFG, on the current position and future proposals across the 9 affected councils would provide an informed position. It was recognised that this may be limited at present due to ongoing discussions and legal considerations. Ideally a consistent approach can be adopted by affected LPAs, albeit subject to local autonomy and individual internal processes and procedures.

[REDACTED]

- The Group agreed it is important to demonstrate what has been achieved to date and what will be an ongoing process beyond the lifespan of the TFG given that operational decisions by individual LPAs may involve actions over the longer term.

Actions

- DfI agreed to circulate the draft Protocol again with the agenda for the next TFG meeting on 7 March for further discussion/agreement.
- DfI advised that the Planning Appeals Commission (PAC) have provisionally been invited to the fraud training on 11 April. Also, agreed that Statutory consultees, including SES should also be included in the invite (to issue shortly).

Soil Analysis Task & Finish Group Meeting
7 March 2025

Meeting Notes

Attendees:

[REDACTED] (ABC)
[REDACTED] (FODC)
[REDACTED] (NIEA)
Brian Gorman (DFI)
[REDACTED] (DFI)
[REDACTED] (DFI)

Apologies:

Rosemary Daly (DFI)
[REDACTED] (N&M)
[REDACTED] (DFI)
[REDACTED] (NIEA)

1. Welcome & Apologies

Brian welcomed everyone to the meeting & indicated apologies (as above).

2. Minutes & actions arising from meeting of 10 February 2025

Notes of this meeting accepted.

Actions from this meeting delivered.

Draft Letter forwarded by Fermanagh & Omagh Council was briefly discussed.

[REDACTED]
[REDACTED]
[REDACTED] The general issue could be brought to the attention of wider stakeholders at the 11 April fraud awareness event as invitations have gone to all

statutory consultees, PAC, NILGA.

3. Meeting note & actions from interim meeting of 21 February 2025.

Notes of this meeting accepted although further clarity was sought on the process regarding the final response from DfI to the Northern Ireland Audit Office (NIAO) report.

The Department advised that there was a twin track response to this – (1) the formal Departmental response from the Departmental Accounting Officer to NIAO and (2) the TFG position which will hopefully feed into this response. The TFG position will require input from the councils in terms of what has been achieved to date. It was highlighted that a written position from LG on key issues previously raised through TFG would be a positive contribution to the final response to NIAO e.g. [REDACTED]

4. Update

- **Terms of Reference – Agreed**
 - **Planning & Fraud Risk training on 11 April** – The group was advised that invites had been issued to also include statutory consultees, SES, NILGA & the PAC.
 - **Draft Protocol** – Detailed comments from LG not available today. It was confirmed that the Protocol had been discussed in broad terms at the recent Heads of Planning (HoP) Workshop 20 February. It was agreed that before formally circulating the draft Protocol to the councils an additional meeting could be arranged to discuss further. The TFG representatives to arrange a meeting [REDACTED] beginning 10 March. [Noted that next HoP meeting is 28 March].
 - **Statement from local government** – It was agreed that the three LG representatives would put a form of words together dealing with the issues highlighted at point 3 and present this to the HoPs meeting for consideration/agreement.
 - **Draft Work Plan** – There was some general discussion about the draft work plan. It was indicated that the TFG would not be in a position to respond [REDACTED] The creation of a 'Regional Response Team' was discussed as a way forward for addressing potential systemic/regional fraud cases (agreed by the group). Some discussion also followed about the potential role of the Strategic Planning Group (SPG) as a means of formal communication about regional fraud issues.
 - **Further TFG meetings** – It was agreed that further meetings of the TFG would be required and that we should re-run the schedule of Chairs. Date of next meeting to be agreed at the Draft Protocol (interim) meeting to be held next week with Rosemary.
5. **A.O.B –** [REDACTED] There was some discussion around Section 54 Agreements. LG advised that the Local Government Legal Group were seeking a meeting. DfI asked if Councils had advised applicants that the Agents has submitted false information on their behalf before legal

action commenced.

Actions

- DfI to check whether there are any outstanding actions from Strategic Planning Group (SPG) meetings in relation to the Teagasc issue.
- Agreed that the issue of fraud could potentially be an agenda item at future SPG meetings.
- LG representatives [REDACTED] to arrange a meeting to discuss the Draft Protocol in more detail. The Draft Protocol would then be circulated to the HoP for comment along with a draft form of words on other key issues discussed in TFG.



James House
2-4 Cromac Avenue
The Gasworks
BELFAST
BT7 2JA

Tel: 0300 200 7830

Email: [REDACTED]

Your Ref:
Our Ref:

10 March 2025

Dear [REDACTED]

**FACILITATED PRESENTATION AND DISCUSSION ON FRAUD IN PLANNING –
11 APRIL 2025**

As you may be aware, the Northern Ireland Audit Office (NIAO) published a report in July 2024 – ‘Public bodies’ response to misrepresented soil sample analysis’. A number of the recommendations in the NIAO report are specific to the planning system and support a collaborative approach between central and local government.

A recommendation was for the Department to coordinate sector-wide fraud awareness training. I am pleased to advise the Northern Ireland Audit Office (NIAO) has agreed to deliver a training session on 11 April 2025. [REDACTED] from the Northern Ireland Environment Agency (NIEA) has also kindly offered to deliver a presentation at this training session. [REDACTED] have also been working with the Department on a Task and Finish Group, established following publication of the NIAO Report. Whilst councils and departments may have their own fraud guidance and policies, this is a great opportunity to bring about more awareness and shared experience about issues relating to fraud and its potential impact on the planning system.

The presentation will take place at

**9.30 am to 12.00 pm
Loughry College,
(Room FT6 – Food Technology Centre)
76 Dungannon Road**

Cookstown, BT80 9AE

A site map is attached for your information.

We would welcome further representation from [REDACTED] at this event. Whilst spaces are limited, we suggest up to three additional representatives to attend from [REDACTED]. To plan for numbers, it would be helpful if you could confirm the number and names of representatives by **Thursday 3 April 2025**. Please confirm by sending details to [REDACTED], email at [REDACTED]

Thank you for your assistance on this matter.

Yours sincerely

ROSEMARY DALY
Director

Encl

Cc: [REDACTED]