

By email only:

Dr Kathryn McFerran
Department for Infrastructure
Email: [REDACTED]

[REDACTED]
Northern Ireland Environment Agency
Email: [REDACTED]

11 December 2023

Dear Kathryn and [REDACTED]

I am writing to you in relation to the matter of misrepresented soil sample analysis. Solace NI has advised the NI Audit Office (NIAO) that the responsibility for co-ordinating a response to this matter sits with the Department for Infrastructure (DfI), and that any inaccuracies in the information should be examined by the Northern Ireland Environment Agency (NIEA). A copy of the letter issued by Solace NI to NIAO is outlined at Appendix 1.

In order to move this matter forward, I would like to propose that a meeting is organised with representatives from DfI, NIEA and Solace NI in January 2024. This meeting will provide stakeholders with an opportunity to come together to have a collaborative discussion on the matter of misrepresented soil sample analysis, and agree next steps.

If you are in agreement, [REDACTED] Policy and Executive Officer, Solace NI, will contact your respective offices to make the necessary arrangements.

Yours sincerely

David Burns
Chair, Solace NI

CC: Solace NI
Denis McMahon, Department for Infrastructure
Katrina Godfrey, Department for Agriculture, Environment and Rural Affairs
[REDACTED], Northern Ireland Audit Office
[REDACTED]

APPENDIX 1 – SOLACE NI CORRESPONDENCE TO THE NI AUDIT OFFICE

[REDACTED]
Director and Local Government Auditor
Northern Ireland Audit Office
106 University Street
Belfast
BT7 1EU

22 November 2023

Dear [REDACTED]

I would like to take this opportunity to update you as to the position of Solace NI in relation to the issue which you discussed at our meeting of the 1 September, 2023 regarding misrepresented soil sample analysis. I am sure you are aware that the councils affected have received correspondence in relation to this matter from DfI, NIEA and PSNI. In particular you will be aware that PSNI's economic crime unit has contacted councils requesting information. The matter has also been considered in detail by the Council's Legal Officer Group (NILOG) and Heads of Planning (HOPs).

Leaving aside that it seems obvious that the responsibility for co-ordinating a response to a Northern Ireland wide issue impacting the vast majority of councils should lie with the body with responsibility for the oversight of planning, namely DfI, it is the considered view of Solace NI that it is impossible for councils at this stage, in their role as planning authorities, to determine whether any inaccuracies in information are as a result of human error, contamination or deliberate or reckless behaviour. This is very much a matter which the NIEA would need to examine and consider, and councils would have to rely on their expertise in this regard. Solace NI therefore welcomes the ongoing NIEA investigations. It is the view of Solace NI that councils should continue to co-operate with NIEA, and if NIEA's investigation reveals evidence of suspected fraud, this is a matter that we would expect the NIEA to report to the police, pursuant to Section 5 of the Criminal Law Act (Northern Ireland) 1967.

Further, councils do not have the experience, resources or statutory powers to investigate or prosecute fraudulent behaviour and would ordinarily, as a matter of course, defer to the police in this regard. Councils would have a very limited role in respect of any such investigations and it is critical that councils do not take any action that might be seen to impact on any such investigation. Solace NI therefore welcomes the involvement of the PSNI Economic Crime Unit, and councils will co-operate fully with the PSNI investigation in relation to the matter.

In terms of any action that might be appropriate in respect of planning applications which have concluded, it is appropriate that this should be kept under review, pending the outcome of the various investigations.

In summary, Solace NI welcomes the investigations being undertaken by NIEA and PSNI, and councils will continue to engage with these bodies as the investigations progress.

Yours sincerely



David Burns
Chair, Solace NI

CC: Solace NI



David Burns
Chair, Solace NI



Regional Planning Governance & Legislation



Department for

Infrastructure

An Roinn

Bonneagair

Department for

Infrastructure

www.infrastructure-ni.gov.uk

[REDACTED]
Chair, Solace NI
[REDACTED]

Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB
Tel: 0300 200 7830

Email: [REDACTED]

Your Ref:

Our Ref: DfIPG 395/23

12 January 2024

MISREPRESENTED SOIL SAMPLE ANALYSIS

[REDACTED]

Thank you for your email of 11 December 2023, which included a copy of the letter you forwarded to the Northern Ireland Audit Office (NIAO) in relation to misrepresented soil samples analysis associated with planning applications submitted to local planning authorities.

Notwithstanding that the Department (DfI) was not the decision maker for any of the applications affected by this issue, I think it is important to highlight that the Department has played a co-ordinating role in respect of this matter since first being alerted by the Northern Ireland Environment Agency (NIEA) to its concerns in October 2022. On the advice of DfI, NIEA wrote to the relevant district councils alerting them to the issue and advising them to re-consult NIEA with any relevant applications. The Department has continued to engage with NIEA and local government, including writing to councils in February 2023 to endorse the amendments to the development management process proposed by NIEA (whereby laboratory reports on soil sample analysis are to be sent directly by the analysing laboratory to the relevant planning authority).

It is also important to differentiate between the planning issues and implications, and the matter of potential fraud in relation to these applications. As regards the planning issues, DfI has actively encouraged councils to continue to engage with NIEA for any undetermined applications, where re-consultation may be required, and to review any

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

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

previously determined applications (to decide if there is a material impact on any planning permission granted and consider any appropriate action under the Planning Act (NI) 2011). Fraud itself in relation to local government functions is the responsibility of councils as autonomous organisations under their own anti-fraud and governance policies. DfI officials have, however, continued to engage with both the NIAO and NIEA in relation to this matter and wrote again to councils in September 2023 confirming that NIEA was able to provide any relevant information it holds in relation to the identified cases to assist the councils in any investigations they may be undertaking, or considering undertaking, in respect of cases of fraudulent activity or breach of planning control. The correspondence also referred to recent guidance issued by NIAO on Planning Fraud Risks.

Following discussion with NIAO, DfI also strongly encouraged the affected councils to take, as far as possible and appropriate, a co-ordinated and consistent approach to dealing with this matter in relation to governance, fraud policies and procedures, and in terms of the exercise of any powers under the Planning Act.

Notwithstanding the actions and responsibilities of other bodies, DfI is continuing to play a supporting role and is facilitating the attendance of senior NIAO officials at the DfI Strategic Planning Group (SPG) meeting at the end of this month to enable a discussion on the NIAO's Planning Fraud Risk Guide to ensure there is an ongoing awareness of planning fraud.

DfI will continue to provide a co-ordinating role in relation to the soil sampling matter, appropriate to its remit, while respecting the statutory roles and responsibilities of the various parties involved. Denis McMahon has confirmed in his letter to you of 18 December 2023 that he intends to attend the PSG/SOLACE meeting on 19 February 2024 and he has advised that this would allow a range of planning issues to be discussed holistically then. If helpful, I would also be content to attend a meeting with SOLACE and NIEA on this issue.

Yours sincerely

DR KATHRYN McFERRAN
(Acting) Director

CC: [REDACTED] – NIEA

Dr Denis McMahon, Department for Infrastructure
Katrina Godfrey, Department for Agriculture, Environment and Rural Affairs
[REDACTED] Northern Ireland Audit Office
[REDACTED]

[REDACTED]
Northern Ireland Environment Agency
Email: [REDACTED]

Julie Thompson
Department for Infrastructure
Email: [REDACTED]

20 May 2024

Dear [REDACTED] and Julie

MISPERPESENTED SOIL ANALYSIS

I am writing to you in relation to the matter of misrepresented soil sample analysis. Following discussions at the PSG/Solace NI Engagement Forum meeting on 19 February 2024, and the recent circulation of the NIAO Draft Report – Public Bodies' Response to Misrepresented Soil Sample Analysis, Solace NI members would like to schedule a meeting with you to discuss this matter further.

This meeting will provide an opportunity for NIEA, DfI and local councils to have a collaborative discussion regarding the approach used, as well as the findings and recommendations outlined in the NIAO report, and agree next steps.

If you are in agreement, [REDACTED] Policy and Executive Officer, Solace NI, will contact your respective offices to make the necessary arrangements.

Yours sincerely

[REDACTED]

David Burns
Chair, Solace NI

CC: Solace NI

David Burns
Chair, Solace NI

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED] >

Sent: Thursday, August 8, 2024 7:07 PM

To: [REDACTED]
[REDACTED]

Subject: FW: Misrepresented Soil Sampling Analysis - Next Steps

CAUTION – This email has been received from outside the NICS network. If you have any concerns, please report for investigation.

Rosemary

Further to your email below, I can confirm that [REDACTED] provided an overview on the proposed approach at the Solace NI meeting on 2 August 2024, and advised that DfI will issue correspondence to all councils, requesting an update on the actions taken in relation to the matter of misrepresented soil sample analysis. It was also agreed that Solace NI will work with the Heads of Planning to nominate officers to represent local government on the Task and Finish Group, ensuring regular progress reports are provided to Solace NI members, for their consideration. Solace NI will confirm the local government representatives on the Task and Finish Group over the coming weeks and I would be grateful if you could let us know when a date and time for the first meeting has been agreed.

If you have any queries, please let me know.

Many thanks

[REDACTED]

From: [REDACTED] **On Behalf Of** Daly, Rosemary

Sent: Monday, July 29, 2024 1:08 PM

To: [REDACTED]
[REDACTED]

Cc: Thompson, Julie (DfI)
[REDACTED]
[REDACTED]

Subject: Misrepresented Soil Sampling Analysis - Next Steps

[REDACTED]

Thank you for our meeting of 3 July which was very useful in agreeing the next steps in relation to the soil sampling issue/NIAO report. We discussed and agreed that the Department would draft a letter to councils requesting information on what actions have been taken, in order to respond to the NIAO recommendations and ensure a consistent approach to the issue and collaboration on lessons learnt, training etc.

We agreed to share a draft with you so that you could discuss the approach at the next SOLACE meeting on 2 August. The information collated will then be considered by the Task and Finish

Group, who can then agree the next steps and how they will be actioned. Again, you agreed to discuss the local government membership and decision making of the Task and Finish Group at the SOLACE meeting.

I would be grateful if you could therefore consider the attached drafts and advise us w/c 5 August as to any feedback from SOLACE on the approach and the Task and Finish Group so we can issue the letters by 9 August and set up a meeting of the Task and Finish Group for early September (after the information has been received from councils).

Much appreciated.



Rosemary Daly
Director
Regional Planning Governance & Legislation

Personal Secretary



[REDACTED]

From: [REDACTED]
Sent: 03 September 2024 11:20
To: [REDACTED]
Cc: Daly, Rosemary; [REDACTED]
Subject: NI Soil Sample Task and Finish Group - Initial meeting 24th September 2024

Dear [REDACTED] and [REDACTED]

I thought it would be useful to catch up on progress and arrangements for the Task & Finish Group (TFG) scheduled for 24th September. We have blocked out diaries for that afternoon and would propose the following attendees be invited from DfI:-

- [REDACTED]
- Rosemary Daly
- [REDACTED]

Following recent discussions on 3rd July with Julie Thompson about the establishment of the TFG and its associated governance arrangements, we would be grateful if you could advise who from SOLACE or councils will act as Chair of the TFG and who will be providing secretary support/co-ordinate meetings. It would also be useful to have sight of draft terms of reference for the TFG or at least the key issues agreed at the SOLACE meeting of 2 August so that we can make the most of the meeting on the 24th September. The general view in DfI is that if the information from relevant councils is provided, as requested on 9th August, then the TFG should be able to build up an accurate picture of the current and proposed actions by local planning authorities and actions for the way ahead in a small number of meetings.

Can we also confirm the format/location of the first meeting for the TFG to be held on the 24th September, is this meeting intended to be an in-person or a virtual meeting and who else will be attending from the local government sector?

Subject to your views, as a suggestion, we consider it would be helpful to the overall process to invite the representatives from NIEA (who were in attendance at the July meeting) to attend the TFG meetings. As you are aware these representatives were David Reid, [REDACTED] and [REDACTED]. While there are separate and ongoing investigations by NIEA in relation to environmental permits and licences, there is merit in understanding the implications of this issue on wider developments.

To date with respect to the information gathering process we have received responses from three councils, namely: [REDACTED]

A reminder was issued on 28th August:

- [REDACTED] hope to submit the necessary information this week;
- [REDACTED] have said they will have the information before 24th September; and
- No response has been received from [REDACTED]

Your assistance in supporting all councils to make their returns as quickly and completely as possible would be greatly appreciated, to enable the information gathering exercise before the first TFG meeting.

I look forward to receiving your response to the questions/suggestions as detailed above. If there are any remaining issues that require discussion before 24th September, please do not hesitate to get in contact.

Best regards,



Regional Planning Governance and Legislation
Department for Infrastructure
James House, 2-4 Cromac Avenue, The Gasworks, Belfast, BT7 2JA



From: [REDACTED]

Sent: 21 January 2026 19:39

To: [REDACTED]

Cc: [REDACTED]

Subject: CM: RE: Soil Task and Finish Group

CAUTION – This email has been received from outside the NICS network. If you have any concerns, please report for investigation.

[REDACTED]

Sorry haven't got looking at this.

SOLACE agreed the Terms of ref and the protocol so that's all sorted.

I am meeting [REDACTED] tomorrow on a separate matter and will look at some dates

[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 21 January 2026 14:17
To: [REDACTED]
Subject: FW: Soil Task and Finish Group
Importance: High

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Hi [REDACTED]

Just following up on any date for the next meeting?

Cheers

[REDACTED]

From: [REDACTED]
Sent: 09 January 2026 15:31
To: [REDACTED]
Subject: Soil Task and Finish Group
Importance: High

Hi [REDACTED]

Happy New Year – hope you had a nice break over the festive period.

The Soil Task & Finish Group (TFG) rounded off 2025 with drafts of the protocol and TOR agreed by the group and an indication that a cover paper/position would be presented to SOLACE in January by the local Government Representatives. On that basis it would be good to have perhaps a final meeting of the TFG after this to discuss/update on any feedback from SOLACE.

I understand that you were happy to arrange & chair this next meeting. It is unlikely that we can secure a date in January but so far there appears to be some availability on 2 & 4 February. If you know what dates might suit the LG Reps we could try and work around that. [REDACTED], Rosemary's Personal Secretary would be happy to help secure a date for the next meeting. Her email address is contained above, and her telephone number is [REDACTED]

Happy to discuss further

Kind Regards



Regional Planning Governance and Legislation
Department for Infrastructure
James House, 2-4 Cromac Avenue, The Gasworks, Belfast, BT7 2JA

