

**Environment Marine and Fisheries
Group**
Resource Efficiency Division



Our reference: DAERA/20-332

[REDACTED]

[REDACTED]

Mobuoy Remediation Project
Ballykelly House
111 Ballykelly Road
Limavady
BT49 9HP

Email: Mobuoy.Project@daera-ni.gov.uk

22 December 2020

Dear [REDACTED]

Environmental Information Regulations 2004

I refer to your request for information, received by the Department on 2 December 2020, which sought the following information: a copy of the 2015 Internal Audit Report on the Implementation of the Mills Report Action Plan.

I can advise that the Department has completed its search and can confirm that it holds the information you requested.

Copies of both the 2015 Internal Audit Report on the Implementation of the Mills Report Action Plan and the 2018 Final Report on the Implementation of the Mills Report Action Plan are attached for completeness.

The 2015 report has been redacted under the Environmental Information Regulations 2004 Exceptions 12(3) and 13(1)(a) Personal Data, to protect individual identities. A lawful, fairness and transparency test has been completed and is attached.

If you require any clarification, or believe that any part of your request has been overlooked, misunderstood or misinterpreted, please contact me in the first instance to see if it is a matter that can be resolved.

If you are unhappy with the manner in which your request for information has been handled or the decision to release/withhold information, you have the right to request a formal review by the Department. If you wish to do so, please contact The Review Section either by e-mailing daera.informationmanager@daera-ni.gov.uk or by post at The Department of Agriculture, Environment and Rural Affairs, Data Protection &

Sustainability at the heart of a living, working, active landscape valued by everyone.

If you are deaf or have a hearing difficulty you can contact the Department via the Next Generation Text Relay Service by dialling 18001 + telephone number.



Information Management Branch, Floor 2, Ballykelly House, 111 Ballykelly Road, Ballykelly, Limavady BT49 9HP, within two months from the date of this letter.

If after such an internal review you are still unhappy with the response, you have the right to appeal to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, CHESHIRE, SK9 5AF, who will undertake an independent review of the Department's decision.

Yours sincerely,

[Redacted signature]

[Redacted name]

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LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

DAERA/2020-332 Environmental Information Regulations 2004

Request Details:

Request for a copy of the 2015 Internal Audit Report on the Implementation of the Mills Report Action Plan.

Brief description of the Personal Data falling within the scope of the request

Staff names

LAWFULNESS

Please identify the lawful bases for processing

Personal data is processed when it is lawfully disclosed in response to an FOI / EIR request.

The lawful bases for processing are set out in Article 6 of the GDPR and the ICO expects at least one of two lawful bases (Consent / Legitimate Interest) to apply before the personal data held can be disclosed.

- Consent:** This will apply when the data subject(s) clear consent exists that allows you to disclose the personal data falling within the scope of this request.
- Legitimate interests:** the processing is necessary for the Department's legitimate interests or the legitimate interests of a third party that overrides the data subject(s) rights and freedoms, particularly their right to privacy.

Consideration of Legitimate Interests

1. PURPOSE

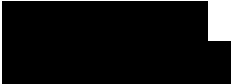
The Department is not aware of any legitimate interests in disclosure. The request is primarily about the Department's implementation of the recommendations and actions in the Mills Report; any disclosure of personal data under EIR would be to the world at large. In doing so this could constitute a disproportionate and unwarranted level of interference with the data subjects' rights and freedoms, particularly their right to privacy and family life under the Human Rights Act 1998.

2. NECESSITY

The right of access under EIR does not in itself constitute a **pressing social need**. The withholding of the data subjects' personal information does not diminish the response, only individual names have been redacted in the 2015 report and the 2018 report has been provided for completeness.

CONCLUSION

Having considered all of the information contained within this test, the Department has established that there is no lawful basis for the disclosure of third party personal data falling within the scope of the request and so EIR Act exceptions 12(3) and 13(1)(a) provides an exception from disclosure. Individual names will be redacted.



Mobuoy Remediation Project

Clarence Court,
10-18 Adelaide Street,
Belfast BT2 8GB
Tel: 028 9054 7878
Fax: 028 9054 0857

Final



Internal Audit
A Service to the Organisation

Internal Audit Review Of The Implementation of the Mills Report Action Plan



March 2015



An Agency within the Department of the
Environment
www.doeni.gov.uk

ACKNOWLEDGEMENT

Internal Audit wish to extend their thanks to both management and staff for their co-operation and assistance during the course of this audit assignment.

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EXECUTIVE SUMMARY

1. Introduction

This review of the Implementation of the Mills Report Action Plan commenced in October 2014 and fieldwork was completed in December 2014. This assignment forms part of the overall agreed audit plan for the Agency.

2. Background

An independent review, the Mills report, published in December 2013, highlighted that there were systemic failures in the management and regulation of the Waste Industry in Northern Ireland including significant criminal infiltration. It also identified that there was not a joined up approach to tackling this problem with Agencies often working in silos. DOE aim to improve the traditional methods of regulation and enforcement by implementing the recommendations set out in the Mills report. There were 14 recommendations, with 25 associated actions made in the Mills report, all of which were accepted by management (Appendix B refers). The DOE and NIEA Balanced Scorecards state the target, 'To deliver all actions in the Minister's Implementation Response to the Mills Report by 31 March 2015'.

3. Overall Audit Opinion

Green	Satisfactory – Overall there is an adequate and effective system of governance, risk management and control. While there is some residual risk identified this should not significantly impact on the achievement of objectives. Some improvements are required to enhance the adequacy and/or effectiveness of governance, risk management and control.
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Recommendations	
Number of Recommendations:	Number of Recommendations Accepted:
1	1

4. Key Findings and Opinion

Our main findings and opinions on each specific area are as follows:

4.1 Implementation of Mills Report Action Plan

Green	Satisfactory – Overall there is an adequate and effective system of governance, risk management and control. While there is some residual risk identified this should not significantly impact on the achievement of objectives. Some improvements are required to enhance the adequacy and/or effectiveness of governance, risk management and control.
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Of the **14** recommendations and **25** associated actions tested (Appendix B), we noted that:

- **9** actions have been **Implemented**;
- **16** actions have been **Partially Implemented**.

We have made the following key recommendation:

- Management should ensure that where recommendations / actions have been identified that they are allocated to a named individual who has the authority to implement any required actions and that an up to date target date for completion is specified for each recommendation / action.

5 Internal Audit Remit

5.1 The weaknesses and findings set out in audit reports are only those that came to the attention of Internal Audit staff during the normal course of their work. Reports should not be regarded as a comprehensive statement of the system of risk management, control and governance within a business area.

5.2 Whilst management are responsible for the maintenance of adequate financial and administrative systems and related controls, implementation of the audit findings and recommendations set out in this report should assist management in fulfilling their risk management, control and governance responsibilities.

SECTION 1

Purpose

- 1.1 This Internal Audit review of the Implementation of the Mills Report Action Plan within NIEA commenced in October 2014 and fieldwork was completed in December 2014. This assignment forms part of the overall agreed audit plan for the Department.
- 1.2 The purpose of this review was to provide senior management with an opinion on the adequacy and effectiveness of risk management, control and governance. The objectives and scope for this review were agreed with Name remove, Director of Resource Efficiency Division prior to the commencement of the audit.

Risks Relevant to this Audit

- 1.3 The following risks, identified by management in their current risk registers, are relevant to the audit:

Corporate Risks

- **Risk 8: Enforcement of Environmental Law:** Inadequate or insufficient detection, enforcement and/or prosecution of environmental, heritage and or wildlife crimes resulting in damage to the environment and our heritage, the economy, public health and NIEA's reputation.

Scope

- 1.4 The audit encompassed a review of:
- Implementation and Monitoring of the Mills Report Action Plan

Control Objectives

- 1.5 We used the following objectives as a basis for evaluating and providing an opinion upon the adequacy and effectiveness of risk management, control and governance:

- To ensure that the recommendations within the Mills Report and subsequent Action Plan have been fully implemented and are operating effectively or are being progressed in accordance with the agreed Action Plan.

1.6 Section 2 of this report contains our audit opinions and, where appropriate, details of the key elements of risk management, control and governance processes on which we have placed reliance.

1.7 In addition, recommendations are made where we believe opportunities exist to improve or enhance risk management, control and governance.

1.8 A summary of audit recommendations made is detailed in the attached Action Plan (Appendix A). Appendix C contains definitions of the audit opinions used in this report. Appendix D describes the criteria used for prioritising the audit recommendations in the attached Action Plan at Appendix A.

SECTION 2

Control Objective 1 – Implementation of Action Plan

- 2.1 *To ensure that the recommendations within the Mills Report and subsequent Action Plan have been fully implemented and are operating effectively or are being progressed in accordance with the agreed Action Plan.*

Audit Opinion

Green	Satisfactory – Overall there is an adequate and effective system of governance, risk management and control. While there is some residual risk identified this should not significantly impact on the achievement of objectives. Some improvements are required to enhance the adequacy and/or effectiveness of governance, risk management and control.
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- 2.1.1 We have made the following recommendations which, if implemented, should enhance risk management, control and governance processes:

Areas for Improvement

Monitoring of Recommendations / Actions within the Mills Report Action Plan

- 2.1.2 We commend management for implementing a detailed action plan outlining the key recommendations / actions which resulted from the Mills Report. We noted however, that an assigned responsible owner for each recommendation / action has not been formally assigned and documented. We also noted that some of the target dates were not met and revised target dates for completion have not been allocated to these recommendations / actions.

Risk

- 2.1.3 Failure to assign a responsible owner and to formally document desired target dates for each recommendation / action may result in a lack of clarity with regards to staff responsibilities and may led to the action plan not being implemented in line with its desired target date.

Recommendation – Priority 3

- 2.1.4 **Management should ensure that where recommendations / actions have been identified that they are allocated to a named individual who has the authority to implement any required actions and that an up to date target date for completion is specified for each recommendation / action.**

Management Response

- 2.1.5 Accepted.

AUDIT RECOMMENDATIONS ACTION PLAN

AUDIT REPORT: Implementation of the Mills Report Action Plan

DATE MANAGEMENT RESPONSE PROVIDED: March 2015

Para. Ref	Recommendation	Priority	Accepted / Rejected	Action Required	Target Date	Responsible Officer
2.1.4	Management should ensure that where recommendations / actions have been identified that they are allocated to a named individual who has the authority to implement any required actions and that an up to date target date for completion is specified for each recommendation / action.	3	Accepted	Management will ensure that where recommendations / actions have been identified that they will be allocated to a named individual and that an up to date target date for completion is specified.	31 March 2015	Name removed

Summary of Recommendations, Associated Actions and Internal Audit Findings

Recommendation	Progress to date as per Acton Plan	Internal Audit Findings
Key Recommendation 1 - The DOE should make the outcome of a waste sector that complies with the law, protects the environment and underpins resource efficiency, a priority.		
Secure endorsement of this priority by Departmental Board	COMPLETED ‘Waste’ identified as priority in DOE 2014-15 Balanced Scorecard. More detailed waste priorities included in 2014-15 NIEA Balanced Scorecard. The Minister has approved both business plans Target: 14 April 2014	Implemented
Incorporate relevant actions in all relevant forward plans	COMPLETED Permanent Secretary and CE NIEA have ensured all actions are included in 2014-15 DOE and NIEA Business Plans, Budgets and Balanced Scorecards. Target: 14 April 2014	Implemented

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<p>Plan restructuring of resources as necessary</p>	<p>PARTIALLY COMPLETED</p> <p>Phase 1 completed. Restructuring of teams being made as part of Minister's 'root and branch' review of NIEA. These structural changes took effect from 12 May. Further structural changes currently being planned. Action Plan detailing timeframes being prepared.</p> <p>Target: 14 April 2014</p>	<p>Partially Implemented</p> <p>The Mills Report recommended that a new Waste Division be created and consideration be given to including the existing water units in the Division. The creation of the new Resource Efficiency Division implements this recommendation. By placing various waste, water and crime teams in this new Division it is hoped that it will help drive increased resource efficiency and better regulation of residual waste streams.</p> <p>The new Resource Efficiency Division currently comprises:</p> <ul style="list-style-type: none">• Waste Management Unit• Environmental Crime Unit• Water Management Unit• Drinking Water Inspectorate• Information Unit (a small new unit to be established) <p>An intelligence unit is still to be established as part of the new Resource Efficiency Division. This unit will gather and analyse intelligence both from within and outside the NIEA on behalf of both the waste management and environmental crime units.</p> <p>Management advised that ongoing discussions between HR and the Director of Resource Efficiency Division in relation to the creation of an</p>
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		<p>intelligence unit director and appropriate method to fill this post have taken place. Given the current restrictions on recruitment, it is anticipated that this post will be filled from within the existing NIEA complement in early 2015.</p> <p>It is also planned to appoint a new head of Environmental Crime Unit in 2015.</p>
Key Recommendation 2 - Develop a comprehensive strategy, with a detailed action plan, to achieve this outcome, which initially focuses on preventing waste crime		
<p>Establish a project team to develop the strategy, reporting progress and draft outcomes to the Waste Steering Group.</p>	<p>PARTIALLY COMPLETED</p> <p>An Operational Plan has been developed, but we have been waiting for an appropriate launch opportunity for the Minister. Will be launched at a meeting of CIWM on the 21st October 2014.</p> <p>Further work is taking place to develop a comprehensive waste strategy</p> <p>Target: 30 June 2014</p>	<p>Implemented</p>

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Key Recommendation 3 - Create a new single Directorate within NIEA, to bring together the existing regulatory and enforcement teams along with a new Intelligence Unit, to achieve this outcome.		
Appoint a new Director of Resource Efficiency Division	COMPLETED Name removed commenced as Director of Resource Efficiency Division on 21 st July 2014.	Implemented
Create the new Unit and define clear roles and responsibilities under the new structure	PARTIALLY COMPLETED A new Assessment Unit will be created ASAP. The process of appointing a Unit Head (Grade 7) as an interim temporary position has been started. Target 31 May 2014	Partially Implemented The creation of the new Resource Efficiency Division implements this recommendation. By placing various waste, water and crime teams in this new Division, it is hoped that it will help drive increased resource efficiency and better regulation of residual waste streams. The new Resource Efficiency Division currently comprises: <ul style="list-style-type: none">• Waste Management Unit• Environmental Crime Unit• Water Management Unit• Drinking Water Inspectorate• Information Unit (a small new unit to be established) An intelligence unit is still to be established as part of the new Resource Efficiency Division. This unit will gather and analyse intelligence both from within and outside the NIEA on behalf of both the

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		<p>water management and environmental crime units. Management advised that ongoing discussions between HR and the Director of Resource Efficiency Division in relation to the creation of an intelligence unit director and appropriate method to fill it have taken place. Given the current restrictions on recruitment, it is anticipated that this post will be filled from within the existing NIEA complement in early 2015.</p>
<p>Review all inspection, permitting and enforcement regimes to define common outcomes, improve integration and remove barriers</p>	<p>ON GOING</p> <p>Monthly/weekly operational meetings between ECU and WM are occurring. Review of all inspection, permitting and enforcement regimes has been initiated and several joint operations have been conducted. Strategies for priority sub-sectors and sites are continuing based on operational meetings.</p> <p>Target 30 June 2014</p>	<p>Partially Implemented</p> <p>Waste management division and environmental crime unit meet monthly to discuss ongoing operational issues such as training, case handling systems, waste data flow, with time bound actions being set at each meeting. These meeting provide an opportunity for increased interaction between the two units and also provide an opportunity for joined up operations to be put in place.</p> <p>A top level assessment of all regimes has led to the reorganisation of Waste Management (WM) resources to focus on Waste Management Licensing, Pollution Prevention and Control and compliance. Further work is required on developing a compliance scheme for waste authorisations, workshops have been planned to address this.</p>

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Key Recommendation 4 - Adopt and develop the concept of “intelligent regulation” in order to be sufficiently adaptive to deal with a range of operators, from the criminal to the compliant		
Define the principles of ‘intelligent regulation’ and incorporate in Regulatory Transformation Programme work packages	PARTIALLY COMPLETED This work has been progressed as part of the broader Better Regulation Bill and regulatory reform package approved by the Minister and Executive. The principles were included in the final Regulatory Transformation Programme material provided to all NIEA staff on 17 Feb. Target: Completed	Implemented
Identify problem sites for action	COMPLETED Heads of ECU and WM have agreed individual sites strategies which are being implemented. Target: 30 June 2014	Implemented
Establish a task and finish group to progress the adoption of legal and industry analyst expertise	PARTIALLY COMPLETED The task and finish group will discuss the identified options with the new Director of Resource Efficiency Division. Target: 30 June 2014	Partially Implemented The Department has recently introduced a number of interim measures to ensure it operates within its reduced spending limits for the 2014/2015 year. Therefore in the short term the recruitment of a legal and industry analyst expert is not an affordable priority. Consideration is being given to the possible sharing of one with another department / agency.

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		Management informed that ongoing liaison with the Recycling and Resource Management (RRM) Alliance Northern Ireland is evidence of engagement and progress with gaining an Industry analyst expertise. RRM is an alliance set up to help support and represent the view of those, both private and public sector, within the recycling and resource management industries to promote best practice and standards from within the industry.
Key Recommendation 5 - Change the current appointment and recruitment processes to allow the targeted recruitment and appointment of staff with the right aptitudes, skills and experience to carry out regulatory work. This should be supported by structured training, professional development and a defined career structure.		
Undertake needs analysis for skills and run a selection / recruitment exercise accordingly.	PARTIALLY COMPLETED Needs analysis to be considered and provided to the new Director of Resource Efficiency Division by 31 October 2014. ECU engaging with Skills for Justice to introduce National Occupational Standards training for criminal investigators to ensure excellence in skills and professional standing for staff Financial investigators CPD represents sufficient and challenging ongoing training for staff accredited in ECU for	Partially Implemented A Skills matrix has been developed for all waste management staff. This matrix outlines the training that each grade within the waste management requires; the delivery mechanism and the timing for delivery. Management advised that two waste management teams have still to be reviewed and updated to the matrix, following which it will be forwarded for review & approval by the Director. With regard to running a selection process to allow the targeted recruitment and appointment of staff with the right aptitudes, skills and experience to carry out regulatory work management advised that the Department has recently introduced a number of interim measures to ensure it operates

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	<p>this work.</p> <p>WM has completed the following actions:</p> <ul style="list-style-type: none">• Gathering best practice evidence for training regulatory staff from Environment Agencies across the UK and the police ombudsman• Develop/reviewing roles and responsibilities for all staff members in WM Licensing.• Developing skills matrix for authorisations and compliance teams initially• Formulating SSO and HSO eligibility criteria for new recruitment processes based on findings <p>This approach was shared with local TUS in June. Training requirements are currently being added to the revised Learning Plan for delivery.</p> <p>Target: 30 June 2014</p>	<p>within its reduced spending limits for the 2014/2015 year. These included ceasing to fill vacant posts, termination of all agency & temporary worker contract. Therefore where a team requires a post to be filled this will now be facilitated by internal redeployment of staff from lower priority work within each Deputy Secretary command. This process is now underway within waste management to fill a number of high priority posts.</p> <p>However as part of structured training Environmental Crime Unit (ECU) officers currently receive an in-house induction covering Environmental Crime, Authorisations and powers, Intelligence Section, RIPA, Site visits, ECU procedures and templates, Enforcement file preparation, Evidence and practical sample collection, The Court, Statements, Financial Investigations Section.</p> <p>A criminal investigators course then provides staff with tailored training in PEACE Investigative Interviewing and Investigation Skills. Other specific ECU training includes Search Training and Briefing/Debriefing.</p> <p>Other generic courses ECU officers attend include Personal Safety Programme, Working at Heights, Confined Spaces, Construction Site Safety Awareness for Visitors and 4X4 off road driving.</p>
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		<p>ECU staff have also been in contact with Skills for Justice (a Sector Skills Council (SSC) licensed by Government) on a number of occasions since March 2014, to progress the identification of National Occupational Standards (NOS), and its cross relevance to ECU criminal investigations and consider options for accreditation. NOS are the benchmark of good practice and describe competent performance in terms of the outcomes of an individual's work and in outlining the knowledge and skills they need to perform effectively in their role.</p> <p>A defined career structure with ECU has not been developed as given the embargo on recruitment there is limited promotion opportunity for staff to progress within DOENI at present however Name removed advised that ECU are preparing a draft guidance document regarding the Skills Development Pathway process within ECU.</p>
<p>Undertake a training needs analysis for the new directorate and new role definitions to form the basis of a Technical Development Framework.</p>	<p>PARTIALLY COMPLETED</p> <p>WM have developed a learning and development plan based on analysis of outputs from action 1, which will include training requirements and programme of delivery. Again this approach will be rolled out across the Division by HR Business Partner over</p>	<p>Partially Implemented</p> <p>A 2014/ 2015 learning plan is in place.</p> <p>To date ECU has drafted a 'Draft Proposal for a Criminal Investigators Skills Development Pathway' for consideration / approval by the Director.</p>

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	<p>the next year. This will be discussed and agreed with the new Director of Resource Efficiency Division</p> <p>Target: 30 June 2014</p>	
Key recommendation 6 - Review in an integrated way the need for additional powers to carry out this work by means of a Task and Finish Group and involving all relevant DOE units including Planning with legal support and input from the PSNI.		
<p>Propose structure, format and outcomes for the Group, based on recommendation components, for approval</p>	<p>PARTIALLY COMPLETED</p> <p>The structure, format and outcomes for the task and finish Group were agreed and the Group completed its review by the 30 June 2014. The draft report is being finalised, with a series of recommendations covering operational, policy and legislative improvements being presented for the Deputy Secretary's consideration.</p> <p>EPD have begun a complete review of the exemptions system, supported by evidential input from RE Division. This Group has prioritised the review of those exemptions most likely to be abused.</p> <p>Target: 30 June 2014</p>	<p>Partially Implemented</p> <p>A task & finish group was established to carry out a comprehensive review, in an integrated way, of both the effectiveness of existing waste statutory and regulatory powers and identify options for any further powers considered necessary. A draft report, dated October 2014 is still being finalised and when completed, it will be cleared by Name removed before it is forwarded to the Permanent Secretary for approval. 24 recommendations for change to fix the deficiencies in the current regulatory framework have been made. These apply to the policy approach, operational process and legislation development and will assist NIEA's regulation of the waste industry.</p>

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Key Recommendation 7 - Make it harder for waste to fall into the hands of criminal operators by strengthening the Duty of Care provisions, Fit & Proper Person Test and systems for monitoring and analysing waste flows		
Propose how DoC and FPP should be strengthened	<p>PARTIALLY COMPLETED</p> <p>The task and finish group completed its review by the 30 June and the draft report is being finalised, with a series of recommendations covering operational, policy and legislative improvements being presented for the Deputy Secretary's consideration.</p> <p>Target: 30 June 2014</p>	<p>Partially Implemented</p> <p>A task & finish group was established to carry out a comprehensive review, in an integrated way, of both the effectiveness of existing waste statutory and regulatory powers and identify options for any further powers considered necessary. A draft report, dated October 2014 is still being finalised and when completed, it will be cleared by Name removed before it is forwarded to the Permanent Secretary for approval. 24 recommendations for change to fix the deficiencies in the current regulatory framework have been made. These apply to the policy approach, operational process and legislation development and will assist NIEA's regulation of the waste industry. 5 of these recommendations are directly linked to strengthening duty of care (DoC) and Fit & proper person (FPP) obligations.</p>
Establish group to determine additional business intelligence needs for the new structure	<p>PARTIALLY COMPLETED</p> <p>The Group will be led by the new Head of Unit when appointed. Preliminary scoping of the Unit is ongoing including investigating the SEPA model.</p> <p>Target: 30 June 2014</p>	<p>Partially Implemented</p> <p>An intelligence unit is still to be established as part of the new Resource Efficiency Division. This unit will gather and analyse intelligence both from within and outside the NIEA on behalf of both the water management and environmental crime units. Management advised that ongoing discussions between HR and the Director of Resource</p>

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		Efficiency Division in relation to the creation of a Head of the Intelligence Unit and appropriate method to fill it have taken place. Given the current restrictions on recruitment, it is anticipated that this post will be filled from within the existing NIEA complement in early 2015.
Improve the process for information flow from councils and their role in waste contracts.	<p>ON GOING</p> <p>A Joint Local /Central Government group has been established with the aims of developing a holistic approach to the control and monitoring of municipal waste including procurement, contract management and regulatory activities. It is intended the Group ensure public sector waste is legitimately, robustly and transparently managed and monitored at all stages including final destination.</p> <p>The key outcomes the Group hope to deliver include;</p> <ul style="list-style-type: none">• Best practice Contract Procurement/Contract Management;• Effective application of Duty of Care;• High quality data reporting and	Implemented

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	<p>Auditing;</p> <ul style="list-style-type: none">• Recovery / Disposal of waste across all jurisdictions and reporting.• Combined delivery of regulatory functions where possible <p>The CE NIEA and the new Director of Resource Efficiency Division will meet individually with all new Council CE's. (To date 3 meetings with CEO Designates completed)</p> <p>In addition to the Working Group, Inspectors are now forwarding all notices issued to operators to the Waste Management Groups.</p> <p>Ongoing</p>	
<p>Key recommendation 8 - Limit the number of waste authorisations to the number necessary to meet Northern Ireland's projected waste needs and create the necessary new strategic waste infrastructure which can be more easily regulated and monitored.</p>		
<p>Investigate mechanisms and implications of capacity control measures and evidence for appropriate limits</p>	<p>ON GOING</p> <p>The task and finish group's review makes some recommendations on this issue and these will now be discussed with the new Director of Resource Efficiency Division.</p>	<p>Partially Implemented</p> <p>A task & finish group was established to carry out a comprehensive review, in an integrated way, of both the effectiveness of existing waste statutory and regulatory powers and identify options for any further powers considered necessary. A draft report, dated October 2014 is still to be cleared by</p>

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	<p>Arc21 is continuing to progress its strategic waste infrastructure project through its procurement process. Arc21's current projected date for contract signing is late 2015</p> <p>Target: 30 June 2014</p>	<p>Name removed before it is forwarded to the Permanent Secretary for approval. 24 recommendations for change to fix the deficiencies in the current regulatory framework have been made. These apply to the policy approach, operational process and legislation development and will assist NIEA's regulation of the waste industry.</p>
<p>Key recommendation 9 - Make changes to the current planning enforcement policy to no longer allow the granting of retrospective planning permission for sand and gravel workings.</p>		
<p>Develop proposals for what would be required to implement this recommendation and the implications, including for RPA</p>	<p>PARTIALLY COMPLETED</p> <p>A draft revised enforcement strategy is almost complete. Advice & Guidance Team to finalise by end of October 2014 for circulation.</p> <p>Target: 30 June 2014</p>	<p>Partially Implemented</p> <p>A draft revised enforcement strategy is with planning service management for discussion / approval. Once finalised it will be forwarded to all staff to implement.</p> <p>Key elements of the updated enforcement strategy state:</p> <ul style="list-style-type: none">• The Department will ensure that all unauthorised extractive and waste operations are met with the most rigorous and prompt enforcement action. Operators of unauthorised sites will be served with Temporary Stop Notices while investigations are carried out. The Department does not consider it acceptable that the permanent removal, damage and impact on the

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		<p>environment should be allowed to continue without first having been through the relevant assessments and obtained the appropriate planning approval with appropriate mitigation</p> <ul style="list-style-type: none">• The Department would therefore advise minerals or waste operators that it is in their own interests to discuss, at an early stage, any proposals they may have for new or extended workings. Effective liaison with the Department can enable potential problems to be resolved through discussion and co-operation and help avoid contraventions of planning control• Unauthorised mineral extraction or waste disposal will be given priority 1 status with regard to enforcement as in the Department's opinion, the greatest harm is likely to be caused. <p>The key point to make is that going forward Councils as statutory planning authorities in their own right will be responsible for enforcement independent of the Department and will have to consider their own priorities and strategy for dealing with all enforcement cases however the Department's revised Enforcement Strategy should</p>
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		be used as a model for Council's to develop their own strategy.
Progress proactive enforcement for retrospective planning cases.	<p>PARTIALLY COMPLETED</p> <p>Advice on the issue of proactive enforcement cases where there is potential for significant environmental damage will be dealt with in the revised enforcement strategy. Target: 30 June 2014</p>	<p>Partially Implemented</p> <p>A draft revised enforcement strategy is with planning service management for discussion / approval. Once finalised it will be forwarded to all staff to implement.</p> <p>The key point to make is that going forward Councils as statutory planning authorities in their own right will be responsible for enforcement independent of the Department and will have to consider their own priorities and strategy for dealing with all enforcement cases however the Department's revised Enforcement Strategy should be used as a model for Council's to develop their own strategy.</p>
<p>Key Recommendation 10 - Work through the Department of Justice to persuade the Judiciary of the seriousness of waste crime, not just to the environment but to the economy of Northern Ireland, and to encourage them to ensure that sentencing for these offences is comparable to that of the rest of the UK.</p>		
Discuss with DOJ how this might be progressed	<p>ON-GOING</p> <p>Actions likely to be on-going over the next two years. CE NIEA is liaising with relevant managers, especially Director of Resource Efficiency Division and Director of Environmental Policy to co-ordinate this activity.</p> <ul style="list-style-type: none"> POCA is continuing to be used 	<p>Partially Implemented</p> <p>Management informed that this recommendation will be progressed over the next two years, to date:</p> <ul style="list-style-type: none"> A meeting took place between Name removed NIEA Director of Resource Efficiency Division, and Name removed, DOJ Criminal Justice Inspectorate on 8 August 2014 to discuss the seriousness of waste crime. The meeting was

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	<p>by ECU.</p> <ul style="list-style-type: none">• The first case of money laundering is progressing through the Courts at present and a number of further cases are being investigated.• A joint seminar with DoJ was held in February 2014 involving all agencies with input to waste crime/criminality. Actions are being taken forward including input of info to DoJ for a forthcoming piece of legislation that may enable challenges of unduly lenient sentencing for a range of crime, including waste. <p><i>NOTE</i></p> <p><i>THE PUBLICITY SURROUNDING CAMPSIE DUE TO THE MILLS REPORT AND THE BBC SPOTLIGHT PROGRAMME ARE LIKELY TO RESULT IN LEGAL CHALLENGES TO THE CRIMINAL AND FINANCIAL CASES IN COURT.</i></p> <p><i>FOR THIS REASON NO FURTHER PUBLICITY SHOULD BE SOUGHT UNTIL ALL COURT PROCEEDINGS ARE COMPLETE IN ORDER TO</i></p>	<p>informal and minutes were not recorded.</p> <ul style="list-style-type: none">• ECU represents NIEA on the OCTF Cross Border Fuel Fraud Group and Criminal Finances Group. The OCTF operates under the auspices of the DoJ. Minutes will be available but are restricted to OCTF members.• Name removed and Name removed attended the Organised Crime Taskforce (OCTF) Cross Border conference 2nd October in the La Mon Hotel, Belfast. OCTF provides a multi-agency approach to tackling organised crime. The conference brings together representatives from law enforcement and the broader criminal justice system, to consider developments, innovative ways of improving exchanges of information and intelligence sharing etc between the various law enforcement agencies on both sides of the border. The overarching aim of the conference is to enhance the existing shared understanding of, and cooperation in combating, cross border organised crime. The conference programme includes presentations and workshops looking at current trends and topics relevant to cross border law enforcement. Name removed informed there were no actions / outcomes from this seminar/conference.• The first seminar took place in January with
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	<p><i>AVOID PREJUDICING OF THE CASE.</i></p> <p>Target: on-going</p>	<p>DoJ, ECU, DoE, HMRC, NCA and PSNI present. (The January seminar was attended by both Minister Ford and Minister Durkan) There were two further seminars in February 2014 – where the lead speakers were from Europol and Interpol. Following these conferences, requests previously made by ECU to NIEA CEO to access EU Crime-fighting funding scheme were repeated but were not taken forward by the Department as UK has withdrawn from the scheme. A Waste crime threat assessment was produced and submitted by ECU for discussion at the seminar.</p> <p>NIEA Environmental Crime Unit indicated that as of December 2014 –</p> <ul style="list-style-type: none">• The number of Financial Investigation cases open – 46;• The number of confiscation orders made March 2009 to date – 25;• The total value of confiscation orders made - £2,070,506.79;• The number of convictions secured from January 2003 to date – 535; and• The total value of fines imposed - £1,276,403.00
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<p>Propose measures to raise public awareness</p>	<p>ON-GOING</p> <p>ECU partnership with Crimestoppers to raise awareness of the need to anonymously report information about those involved in waste crime ongoing.</p> <p>ECU receive and assess reports received regarding allegations of waste crime from a range of sources.</p> <p>Target: on-going</p>	<p>Partially Implemented</p> <p>Management informed that ECU has participated in 3 campaigns with Crimestoppers since 2012 to raise awareness of waste issues amongst the general public.</p> <p>Management informed that the continuation of the Crime stoppers agreement is currently under discussion given the budget constraints on ECU due to the departments recently introducing a number of interim measures to ensure it operates within its reduced spending limits for the 2014/2015 year. These included suspension of all new commitments to promotional and advertising spending.</p>
<p>Key recommendation 11 - Create a new sanction in the legislation to make the polluter pay to remediate or remove illegally deposited waste.</p>		
<p>Investigate alternative 'fast track mechanisms' to ELD that might act as a deterrent illegal dumping</p>	<p>PARTIALLY COMPLETED</p> <p>The task and finish group's work will now be discussed with the new Director of Resource Efficiency Division.</p> <p>Target: 30 June 2014</p>	<p>Partially Implemented</p> <p>A task & finish group was established to carry out a comprehensive review, in an integrated way, of both the effectiveness of existing waste statutory and regulatory powers and identify options for any further powers considered necessary. A draft report, dated October 2014 is still to be cleared by Name removed before it is forwarded to the Permanent Secretary for approval. 24 recommendations for change to fix the deficiencies in the current regulatory framework have been made. These apply to the policy approach, operational process and legislation development</p>

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		and will assist NIEA's regulation of the waste industry.
Key Recommendation 12 - Ensure that the DOE works more closely with other Government Departments and Agencies in Northern Ireland, with the other Environment Agencies in the UK and Ireland and through relevant European organisations and initiatives, in order to combat waste crime and create a resource efficient Northern Ireland.		
Bring forward appropriate proposals through existing fora	ON-GOING Actions likely to be on-going over the next two years. CE NIEA to speak with relevant managers, especially Director of Resource Efficiency Division and Director of Environmental Policy to co-ordinate this activity. SEPA visited to discuss lessons learnt setting up ECU and experience of operating their Intelligence Unit (Sept 2014) Agreed to hold monthly meetings between EPD, WM and ECU to discuss existing and new policies. Target: on-going	Partially Implemented Management informed that this recommendation will be progressed over the next two years, to date the following has taken place: <ul style="list-style-type: none">• A meeting took place between [Name removed], NIEA Director of Resource Efficiency Division, and [Name removed], DOJ Criminal Justice Inspectorate on 8 August 2014 to discuss the seriousness of waste crime. The meeting was informal and minutes were not recorded.• ECU represents NIEA on the OCTF Cross Border Fuel Fraud Group and Criminal Finances Group. The OCTF operates under the auspices of the DoJ. Minutes will be available but are restricted to OCTF members.• [Name removed] and [Name removed] attended the Organised Crime Taskforce (OCTF) Cross Border conference 2nd October in the La Mon Hotel, Belfast. OCTF provides a multi-agency approach to tackling organised crime. The conference brings together representatives from law enforcement

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		<p>and the broader criminal justice system, to consider developments, innovative ways of improving exchanges of information and intelligence sharing etc between the various law enforcement agencies on both sides of the border. The overarching aim of the conference is to enhance the existing shared understanding of, and cooperation in combating, cross border organised crime. The conference programme includes presentations and workshops looking at current trends and topics relevant to cross border law enforcement. [Name removed] informed there were no actions / outcomes from this seminar/conference.</p> <ul style="list-style-type: none">• The first seminar took place in January with DoJ, ECU, DoE, HMRC, NCA and PSNI present. (The January seminar was attended by both Minister Ford and Minister Durkan) There were two further seminars in February 2014 – where the lead speakers were from Europol and Interpol. Following these conferences, requests previously made by ECU to NIEA CEO to access EU Crime-fighting funding scheme were repeated but were not taken forward by the Department as UK has withdrawn from the scheme. A Waste crime threat assessment was produced and submitted by ECU for discussion at the seminar.
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		<ul style="list-style-type: none">• ECU met with SEPA intelligence unit in Scotland (19-20 August 2014) re. Structure, staffing levels, function, iBase data, briefing of intelligence, Management of MOP (members of the public) info. of the new intelligence which is being created with in RED.• An additional meeting with SEPA intelligence unit, Police Scotland, PSNI Ports, NIEA WM and intelligence unit re. info sharing and transportation of waste took place on the 18/11/14. <p>NIEA Environmental Crime Unit indicated that as of December 2014 –</p> <ul style="list-style-type: none">• The number of Financial Investigation cases open – 46;• The number of confiscation orders made March 2009 to date – 25;• The total value of confiscation orders made - £2,070,506.79;• The number of convictions secured from January 2003 to date – 535; and <p>The total value of fines imposed - £1,276,403.00</p>
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Key recommendation 13 - With respect to the incident outlined in Section 4.48, an independent investigation is required to establish the facts.		
Launch investigation	COMPLETED Investigation completed and CE NIEA is implementing recommended improvements.	Implemented
Key recommendation 14 - It is recommended that the official internal whistleblower system is actively promoted to ensure that anyone who believes that another staff member is acting improperly or failing to carry out their duties properly can report the matter in a confidential manner. In addition, there is a structured mechanism to investigate allegations made against staff by members of the public or those who are regulated. This is to ensure both proper accountability of Government employees and to protect staff from spurious allegations.		
Review applicability and effectiveness of existing system for this specific purpose	COMPLETED CE NIEA has approved plan to effectively promote the whistleblower system.	Implemented

INTERNAL AUDIT LEVELS OF OPINION

OPINION (RATINGS)	DEFINITION
Dark Green	Substantial – There is a robust system of governance, risk management and control which should ensure that objectives are fully achieved.
Green	Satisfactory – Overall there is an adequate and effective system of governance, risk management and control. While there is some residual risk identified this should not significantly impact on the achievement of objectives. Some improvements are required to enhance the adequacy and/or effectiveness of governance, risk management and control.
Amber	Limited – There is an inadequate and/or ineffective system of governance, risk management and control in place. Therefore there is significant risk that the system will fail to meet its objectives. Prompt action is required to improve the adequacy and/or effectiveness of governance, risk management and control.
Red	Unacceptable – The system of governance, risk management and control has failed or there is a real and substantial risk that the system will fail to meet its objectives. Urgent action is required to improve the adequacy and/or effectiveness of governance, risk management and control.

INTERNAL AUDIT PRIORITY RATINGS FOR RECOMMENDATIONS

To assist management in prioritising the implementation of audit recommendations we use a three point scale:-

Priority	Description
Priority 1	An issue which requires urgent management decision and action without which there is a substantial risk to the achievement of key business/system objectives, to the reputation of the organisation, or to the regularity and propriety of public funds.
Priority 2	An issue which requires prompt attention , as failure to do could lead to a more serious risk exposure.
Priority 3	Improvements that will enhance the existing control framework and/or represent best practice.



Department of
**Agriculture, Environment
and Rural Affairs**

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Final Report

Internal Audit Follow-Up Review Of Implementation of the Mills Report Action Plan (1/8/2017/2018)

Date: 8th March 2018

HPRM Reference: AE1/18/213188

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Acknowledgement

Internal Audit would like to thank management and staff for their co-operation and assistance during this audit assignment.

1. Introduction, Scope and Background

1.1 Introduction

Internal Audit recently carried out a follow-up review of the implementation of the Mills Report Action Plan recommendations within the NIEA. The review forms part of the audit programme of work for 2017/18. The objectives and scope for the review were agreed with the NIEA Director of Resource Efficiency Division (RED) prior to commencement of the audit.

1.2 Scope

The purpose of the review was to provide an opinion on the risk management, control and governance arrangements established by Management over the implementation of recommendations in the Mills Report Action Plan.

The scope of the audit encompassed a review of the following activities:

- Implementation of the outstanding actions from the Mills Report Action Plan, as outlined in the Department of Environment (DOE) Internal Audit report issued in March 2015.
- Follow up on previous recommendations contained in the DOE Internal Audit report issued in March 2015.

1.3 Background Information

The Mills Report, published in December 2013, highlighted that there were systemic failures in the management and regulation of the Waste Industry in Northern Ireland including significant criminal infiltration. It also identified that there was no joined up approach to tackling this problem with Agencies often working in silos. The Department of Environment (DOE) aimed to improve the traditional methods of regulation and enforcement by implementing the recommendations set out in the Mills report. There were 14 recommendations made in the Mills report, all of which were accepted by management. A Management Action Plan, containing 25 actions, was developed in order to implement the recommendations.

An Internal Audit review, completed in March 2015, concluded that from 25 actions on the Management Action Plan, 9 were fully implemented and 16 were partially implemented.

2. Executive Summary

2.1 Overall Audit Opinion

Satisfactory	Overall there is a satisfactory system of governance, risk management and control. While there may be some residual risk identified, this should not significantly impact on the achievement of system objectives.
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(See Annex 1 for Classifications of Opinion)

Of the 16 outstanding actions from the Mills Report action plan we are satisfied that 14 have been implemented effectively and 2 could not be implemented as management have advised that their introduction would contravene European Law. These actions related to:

- Creation of new structures and reorganisation of resources within the NIEA;
- Review of inspection, permitting and enforcement regimes;
- Review of legislation;
- Analysis of staff skills and identification of training needs; and
- Review of planning policy.

Responsibility for the two remaining actions (in relation to changing policy to prevent retrospective planning permission for sand and gravel workings) has been transferred to the Department for Infrastructure (DfI) who assumed responsibility for planning policy in April 2015. Management in DfI have advised that this recommendation cannot be implemented as stated, as planning law permits planning applications to be submitted in retrospect. Therefore, policy cannot be changed to prevent the granting of retrospective planning permission as this would contravene European Law. Legal advice has been sought to confirm this position.

We followed up on the recommendation included within the previous Internal Audit Final Report, dated 31 March 2015, and are satisfied that the recommendation has been fully implemented.

2.2 Key Findings

The number of findings and recommendations (by risk priority) is summarised as follows:

Priority 1	Priority 2	Priority 3
0	0	0

(See Annex 2 for Prioritisation of Audit Recommendations)

3. Progress against Outstanding Actions

Mills Report Key Recommendation 1

The DOE should make the outcome of creating a waste sector that complies with the law, protects the environment and underpins resource efficiency, a priority.

Action Plan Outstanding Action
Plan restructuring of resources as necessary
Follow Up Finding / Progress Against Outstanding Action
<p>Implemented: The Mills Report advised that a single Executive Director should be responsible for delivering this outcome. Land and Resource Management (LRM), the Environmental Crime Unit and a new Intelligence Unit should all form part of this new Directorate.</p> <p>We confirmed that a Resource Efficiency Division (RED) has been established under the leadership of a Director, with the following branches managed by Senior Principals (G6):</p> <ul style="list-style-type: none"> • Regulation (to include the regulation aspects of waste, water and Drinking Water inspectorate); • Industrial Pollution and Radiochemical Inspectorate (IPRI); • Enforcement Branch (includes Intelligence Unit); • Water Management. <p>We noted that an Intelligence Unit has now been established and is led by a Deputy Principal who reports to the Head of Enforcement Branch. We are therefore content that management have restructured resources in line with the recommendation made in the Mills Report.</p>

Mills Report Key Recommendation 3

Create a new single Directorate within NIEA, to bring together the existing regulatory and enforcement teams along with a new Intelligence Unit, to achieve this outcome.

Action Plan Outstanding Action
Create the new Unit and define clear roles and responsibilities under the new structure
Follow Up Finding / Progress Against Outstanding Action
<p>Implemented: We confirmed that a new single Directorate known as the Resource Efficiency Division (RED) has been established under the leadership of a Director, with clearly defined roles and responsibilities as outlined below:</p> <ul style="list-style-type: none"> • Regulation Branch which includes responsibility for: <ul style="list-style-type: none"> ➤ Waste Management Licensing; ➤ Waste Pollution Prevention Control Licensing; ➤ Land and Groundwater Regulation; ➤ Hazardous Waste Regulation; and ➤ Drinking Water Regulation. • Industrial Pollution and Radiochemical Inspectorate (IPRI) which includes responsibility for: <ul style="list-style-type: none"> ➤ Inspection of businesses for greenhouse gas emissions; ➤ Control of Major Accident Hazards; ➤ Inspection of businesses under the Radioactive Substances Act; and ➤ Monitoring Industrial Pollution on farms.

- Enforcement Branch which includes responsibility for:
 - Crime Analysis and Assessment (including an Intelligence/Assessment Unit);
 - Environmental Crime; and
 - Financial Investigations.
- Water Management which includes responsibility for:
 - Water Quality Assessment; and
 - Water Chemistry Analysis.

An Intelligence Unit (Assessment Unit) was formally established in May 2015 as part of the new Resource Efficiency Division. The Intelligence Team, led by a DP under a Grade 7, gathers and analyses intelligence both from within and outside the NIEA on behalf of both the waste regulation and Enforcement Branch.

<p>Action Plan Outstanding Action</p>
<p>Review all inspection, permitting and enforcement regimes to define common outcomes, improve integration and remove barriers.</p>
<p>Follow Up Finding / Progress Against Action Plan</p>
<p>Implemented: The creation of a Resource Efficiency Division (RED) under the leadership of a Director, with four branches lead by Senior Principals (G6) with reporting lines to the Director, has improved integration across the various branches of the NIEA that have input and responsibility for regulation and enforcement in relation to the Waste Sector in Northern Ireland. All branches now report to a single director who has adequate oversight to ensure that there is co-operation and integration across all teams.</p> <p>Strategic Crime Assessments (6th monthly) and supporting Tactical Assessments (monthly) are developed by the Enforcement Branch in conjunction with the Regulation Unit for discussion at senior management meetings. These assessments are supported through regular meetings between the Enforcement Branch and the Regulation Unit. We note that a record of these meetings is being maintained.</p> <p>We reviewed Strategic Crime Assessments, completed by the Intelligence Team, which is informed by intelligence, research and analysis in the form of problem profiles, subject profiles, risk analyses and network analyses. This then informs a monthly Tactical Assessment and other analytical assessments to support organisational objectives and delivery plans. We also reviewed Tactical Assessments and noted that they identify the patterns and trends from the reported incidents, highlight any actions arising from intelligence received, and address emerging issues in the wider waste industry. Management have advised this process has</p>

aligned the Units to define common outcomes, improve integration and remove barriers.

The previous Internal Audit report (March 2015) identified that a top level assessment of all inspection, permitting and enforcement regimes led to the reorganisation of Waste Management (WM) resources to focus on Waste Management Licensing, Pollution Prevention and Control and Compliance. Work has continued in this area and we confirmed that process maps, proforma and procedures for the Waste Pollution Prevention Control (PPC) team have been updated.

We also reviewed guidance developed by the Waste Licensing Team and noted that since the date of the previous Internal Audit report procedures have been developed/updated for the following:

- Procedures for issuing Fixed Penalty Notices;
- Investigation of Low level Waste Crime Incidents;
- Compensation Orders and Cost Recoveries;
- Preparation of Case files for the PPS;
- Completion of Audio Recorded Interviews;
- Completion of Site Inspection Logs; and
- Issuing of Warning Letters.

Mills Report Key Recommendation 4

Adopt and develop the concept of “intelligent regulation” in order to be sufficiently adaptive to deal with a range of operators, from the criminal to the compliant

Action Plan Outstanding Action
Establish a task and finish group to progress the adoption of legal and industry analyst expertise.
Follow Up Finding / Progress Against Outstanding Action
<p>Implemented:</p> <p>A task and finish Group was not established. Instead the role of crime analyst and industry analyst have been combined and an analyst appointed within the Intelligence team in June 2015. A specific job specification was developed that required applicants for the role to have:</p> <ul style="list-style-type: none"> • Experience of interpreting and evaluating qualitative and quantitative information to extract salient points and develop inferences to make recommendations for action in a law enforcement or similar environment; • Experience of applying the National Intelligence Model in a range of analytical roles; and • Experience in the development and application of analytical products and techniques. <p>The job specification also set out the purpose of the role as follows:</p> <ul style="list-style-type: none"> • Problem Solving; • Provide a Strategic Crime Profile regarding waste industry in Northern Ireland; • Develop and apply innovative analytical methodologies and techniques to a wide range of waste issues;

- Support and help improve decision making and priority setting through the application of the National Intelligence Model, within NIEA Resource Efficiency Division;
- Understand and promote the use of analytical and problem-solving methodologies and techniques and apply these to a wide range of information in order to make recommendations for action;
- Work closely with officers within the Environmental Crime Unit (ECU) and Waste Management (WM) staff engaged in tackling waste crime regulations, incidents, and other operational priorities and take responsibility for the production of analytical products to inform decision making;
- Use inference development to make judgments based on the application of an analysis methodology or technique;
- Support the efficient use of information;
- Disseminate the results of an analysis process through the production of analytical products and briefings; and
- Provide information regarding emerging issues, trends and performance of the waste industry.

Managing Relationships and Personal Development

- Liaise with RED staff at all levels and produce high quality analytical products to help ECU/WM tackle problems and decide priorities for action;
- Emphasise wider community safety by helping to build effective partnerships between the NIEA Resource Efficiency Division and other agencies;
- Provide a high level of customer service by liaison within the organisation and with other organisations;
- Make effective use of Information Technology to improve performance and service delivery;
- Develop your own knowledge and practice to improve performance; and
- Maintain an interest in current waste crime industry matters by identifying and researching a range of source documents.

Examples of the work completed by the analyst include the consideration of industry issues in the biannual Strategic Assessment and the completion of the Tactical Assessments which feed into it. We are content that the Crime Analyst role covers legal and industry analyst expertise.

Mills Report Key Recommendation 5

Change the current appointment and recruitment processes to allow the targeted recruitment and appointment of staff with the right aptitudes, skills and experience to carry out regulatory work. This should be supported by structured training, professional development and a defined career structure.

Action Plan Outstanding Action
Undertake needs analysis for skills and run a selection / recruitment exercise accordingly.
Follow Up Finding / Progress Against Action Plan
<p>Implemented: We confirmed that RED has completed an analysis of skills required for each post and developed a Skills Matrix for all waste regulation staff. The matrix outlines the training to be completed by staff at various grades from Grade 6 down to AA in areas such as:</p> <ul style="list-style-type: none"> • Legislation; • Health and Safety; • Files Management and Data Handling; • Customer Service; • Compliance and Enforcement; • Waste Authorisations Application Processing, including modifications and surrenders; • Planning consultations; • Specialist Skills; and

- Internal processes and Business Planning.

We reviewed the unit training plans and confirmed that training needs have been identified for staff within each unit of RED. We also reviewed the candidate information booklets for two recent recruitment exercises and confirmed that clear person specifications were outlined requiring specific qualifications and/or experience.

Action Plan Outstanding Action

Undertake a training needs analysis for the new directorate and new role definitions to form the basis of a Technical Development Framework.

Follow Up Finding / Progress Against Action Plan

Implemented: We reviewed the skills matrix that has been developed for all waste regulation staff and confirmed that it outlines the training that should be completed by staff at various grades from Grade 6 down to AA in areas such as:

- Legislation;
- Health and Safety;
- Files Management and Data Handling;
- Customer Service;
- Compliance and Enforcement;
- Waste Authorisations Application Processing, including modifications and surrenders;
- Planning consultations;
- Specialist Skills; and

- Internal processes and Business Planning

We reviewed the unit training plans and confirmed that training needs have been identified for staff within each unit of RED.

Mills Report Key Recommendation 6

Review in an integrated way the need for additional powers to carry out this work by means of a Task and Finish Group and involving all relevant DOE units including Planning with legal support and input from the PSNI.

Action Plan Outstanding Action
Propose structure, format and outcomes for the Group, based on recommendation components, for approval
Follow Up Finding / Progress Against Action Plan
<p>Implemented: We confirmed that a Task and Finish group was established to carry out a comprehensive review, in an integrated way, of both the effectiveness of existing waste statutory and regulatory powers and identify options for any further powers considered necessary. We reviewed the report of the Task and Finish group and identified that 24 recommendations were made in relation to the review of waste legislation. The report also outlines its Terms of Reference and members which included:</p> <ul style="list-style-type: none"> • Director, Environmental Policy Division (chair); • Head of Land Resources Management Unit (NIEA); • Head of Environmental Crime Unit, (NIEA); • Deputy Director (Waste), Environmental Policy Division; • Grade 7 (Waste), Environmental Policy Division; and • Legal Advisor, Departmental Solicitors Office <p>We noted that representatives of the PSNI, Planning function in DoE, and HRMC were consulted as necessary. Of the 24 recommendations, management reported that 21 have been fully implemented to date.</p>

Mills Report Key Recommendation 7

Make it harder for waste to fall into the hands of criminal operators by strengthening the Duty of Care provisions, Fit & Proper Person Test and systems for monitoring and analysing waste flows

Action Plan Outstanding Action
Propose how Duty of Care and Fit and Proper Person should be strengthened
Follow Up Finding / Progress Against Action Plan
<p>Implemented: Management advised that more stringent requirements were introduced in relation to Duty of Care and the Fit and Proper Person Test; these include:</p> <ul style="list-style-type: none"> • The Waste Management Licensing (Amendment) Regulations (NI) 2015 (introduced August 2015). The amended regulation requires operators to have up to date qualifications in waste management and to undertake an assessment every 24 months to ensure that competence is kept up to date; • The Waste Management Licensing (Amendment No. 2) Regulations (NI) 2015 (introduced December 2015). The purpose of the Regulations is to update and broaden the prescribed offences element of the waste Fit and Proper Person test to include 'reputational' convictions and remove regulations that are no longer extant; and <p>We are content that the Duty of Care and Proper Person requirements have been appropriately strengthened.</p>

Action Plan Outstanding Action
Establish group to determine additional business intelligence needs for the new structure
Follow Up Finding / Progress Against Outstanding Action
Implemented: We confirmed that an Intelligence Team has been established within the Enforcement Branch (a branch within Resource Efficiency Division). The Intelligence Team gathers and analyses intelligence both from within and outside the NIEA on behalf of the Waste Regulation and Enforcement Branches.

Mills Report Key Recommendation 8

Limit the number of waste authorisations to the number necessary to meet Northern Ireland’s projected waste needs and create the necessary new strategic waste infrastructure which can be more easily regulated and monitored.

Action Plan Outstanding Action
Investigate mechanisms and implications of capacity control measures and evidence for appropriate limits
Follow Up Finding / Progress Against Outstanding Action
<p>Implemented: A Legislative Review Group (LRG) was established to carry out a comprehensive review of both the effectiveness of existing waste statutory and regulatory powers and identify options for any further powers considered necessary. We confirmed that the LRG completed a report in October 2014 and this outstanding action has been considered as part of the remit of the report. Management sought legal advice on this issue and concluded that the Agency must have substantive evidence of risk of pollution of the environment, harm to health or serious detriment to the amenities of the locality before refusing a licence. As part of audit testing we examined Article 8 (Grant of Licences) the Waste and Contaminated Land (Northern Ireland) Order 1997 and are content that the legislation corroborates management’s approach.</p> <p>We are content that management have investigated mechanisms and implications of capacity control measures and evidence for appropriate limits.</p>

Mills Report Key Recommendation 9

Make changes to the current planning enforcement policy to no longer allow the granting of retrospective planning permission for sand and gravel workings.

Action Plan Outstanding Action/s
<ul style="list-style-type: none"> - Develop proposals for what would be required to implement this recommendation and the implications, including for RPA; and - Progress proactive enforcement for retrospective planning cases.
Follow Up Finding / Progress Against Outstanding Action
<p>Not Implemented: Following local government reform in April 2015 responsibility for regional planning policy, legalisation and oversight/guidance for councils rests with the Department for Infrastructure (DfI). DfI Management have advised that this recommendation cannot be implemented as stated, as planning law permits planning applications to be submitted in retrospect and changes would be required to long established primary legislation. Any change or review of planning policy does not outweigh primary statutory provisions. Legal advice has been sought to confirm this position.</p> <p>We note that DfI published an Overview of Planning Responsibilities in October 2016. This document highlights that there are certain types of developments such as mineral workings and waste disposal activities which, by their very nature, have the potential to significantly impact on the natural environment. In considering the impact of these activities, through the planning application and / or enforcement process, a planning authority must comply with the relevant EU Environmental Directives and associated Regulations including The Planning (Environmental Impact Assessment) Regulations and The Conservation (Natural Habitats etc)</p>

Regulations (Northern Ireland) 1995.

Management Response

This recommendation cannot be implemented in its current form but we have taken action to ensure strong and robust procedures apply to any case in which retrospective approval is sought. The right to seek planning permission retrospectively is long established in UK planning law. Under EU law, retrospective planning permission for unauthorised EIA development is permissible in certain circumstances.

Following local government reform in April 2015, responsibility for the majority of planning functions transferred to the newly formed district councils which now operate as local planning authorities within the new two-tier planning system. Responsibility for regional planning policy, legislation and oversight/guidance for councils rests with the Department for Infrastructure (DfI). DfI is also responsible for determining regionally significant planning applications. Local councils have been given responsibility for local development planning (including the determination of the vast majority of planning applications) and enforcement of planning decisions.

The structural changes to government, including the transfer of planning functions to Councils, have been supported by new planning legislation, consolidated regional planning policy and revised guidance and procedures that will assist in ensuring that unauthorised mineral working is dealt with promptly and correctly. These include the publication of the Strategic Planning Policy Statement for NI (SPPS) and the production of a series of practice notes to be augmented by enforcement strategies by each of the council's planning departments. DfI has also published an 'Overview of Planning Enforcement Responsibilities' in October 2016 which provides an overview of planning responsibilities in NI and informs users of the planning system that a Council has the primary responsibility for planning enforcement in its given administrative area. Within this enforcement overview document and in the practice notes referred to above, it is impressed upon District Councils that, in carrying out their planning functions, they ensure compliance with the requirements of the EU Directives, particularly in relation to mineral workings and waste disposal activities.

A further significant development has been the introduction of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 which transpose into domestic law the requirements of the amended EIA Directive 2014/52/EU, as it relates to planning law. Following the introduction of these Regulations, the Department embarked on a programme to increase councils' awareness and understanding of their new and amended responsibilities introduced through the Regulations. To date, the Department has met with representatives of all 11 councils and provided direct training to five councils in an ongoing programme of engagement.

One of the key changes introduced by these Regulations – and one which has been highlighted to councils - has been a duty to ensure that the objectives of the EIA directive are met when a planning authority is carrying out its enforcement functions. Compliance with such statutory duty will clearly incorporate the application of the 'precautionary principle' by reference to which the Environmental Directives must be interpreted.

Further, by virtue of regulation 34, in those cases where there appears to have been a breach of planning control in respect of EIA development, the planning authority is required to take steps to obtain information about the development, having regard to its obligations under regulation 32, in order to inform its screening determination.

Audit Comment

Internal Audit are satisfied that planning policy, guidance and procedures have been updated and will assist the Department in ensuring that unauthorised mineral working is dealt with correctly. We note that the Department (DfI) has obtained legal advice to confirm that the right to obtain retrospective planning permission is established in UK law and complies with European law.

Mills Report Key Recommendation 10

Work through the Department of Justice to persuade the Judiciary of the seriousness of waste crime, not just to the environment but to the economy of Northern Ireland, and to encourage them to ensure that sentencing for these offences is comparable to that of the rest of the UK.

Action Plan Outstanding Action
Discuss with DOJ how this might be progressed
Follow Up Finding / Progress Against Outstanding Action
<p>Implemented: A series of steps have been taken to ensure that the seriousness of waste crime is recognised. We confirmed that:</p> <ul style="list-style-type: none"> • The NIEA will make greater use of existing legislation by taking forward offences of waste crime under Article 4 of the Waste & Contaminated Land (NI) Order 1997 which is regarded as 'serious' and recognised as such by virtue Schedule 1 of the Serious Crime Act 2007; • The NIEA may now appeal sentences that are considered as unduly lenient; and • Sentencing guidelines have been established for Magistrates Court cases including offences under the Waste and Contaminated Land (NI) Order 1997.

Action Plan Outstanding Action
Propose measures to raise public awareness
Follow Up Finding / Progress Against Outstanding Action
<p>Implemented: We confirmed that:</p> <ul style="list-style-type: none">• Advice and guidance has been made available via the NI Direct website on:<ul style="list-style-type: none">➤ Why waste crime matters;➤ Penalties for waste crime;➤ How to dispose of waste legally; and➤ How to report illegal waste management.• The NIEA website contains advice and guidance in relation to water pollution which includes a link to the NIEA Enforcement and Prosecution Policy;• Successful prosecution cases in relation environmental crime are published in press releases and the DAERA website; and• Joint agency vehicle stop operations were conducted during 2017 with action taken against offenders as well as the distribution of advice leaflets.

Mills Report Key Recommendation 11

Create a new sanction in the legislation to make the polluter pay to remediate or remove illegally deposited waste.

Action Plan Outstanding Action
Investigate alternative ‘fast track mechanisms’ to Environmental Liability Directives (ELD) that might act as a deterrent illegal dumping
Follow Up Finding / Progress Against Outstanding Action
<p>Implemented: We confirmed that the NIEA has engaged with a range of stakeholders with a view to ‘making the polluter pay’ and has explored options on how to do this through existing legislation. The engagement with stakeholders included:</p> <ul style="list-style-type: none"> • A meeting between NIEA and the Attorney General (AG) in May 2016 to discuss advancing the polluter pays principle and the use of civil remedies to combat environmental offending. The AG had previously outlined his support in a speech regarding Environmental Crime delivered at the Financial Investigation Conference; • A ‘Polluter Pays’ workshop held in August 2016 with representation from the NIEA and Environmental Policy Division (EPD) which concluded that: <ul style="list-style-type: none"> ➤ the legislative powers available have not been fully used; ➤ some minor changes to current legislation could be effective in combating environmental crime; ➤ upgrades to the Waste and Contaminated Land order are important; ➤ importance of continued liaison with the Public Prosecution Service (PPS) and AG’s office. • A ‘Polluter Pays’ update paper was developed in December 2016 outlining the ongoing engagement with the PPS and AG. • A Polluter Pays workshop held in April 2017 with representation from the NIEA, EPD, PPS and the AG’s office. The objective

of the workshop was to determine how to best make use of existing legislation. A number of actions points were taken forward to progress the work already undertaken in relation to the use of existing legislation.

We also confirmed that the Department has sought guidance via a Departmental Solicitors Office (DSO) Barrister to explore options to make the polluter pay through existing legislation.

Mills Report Key Recommendation 12

Ensure that the DOE works more closely with other Government Departments and Agencies in Northern Ireland, with the other Environment Agencies in the UK and Ireland and through relevant European organisations and initiatives, in order to combat waste crime and create a resource efficient Northern Ireland.

Action Plan Outstanding Action
Bring forward appropriate proposals through existing fora
Follow Up Finding / Progress Against Outstanding Action
<p>Implemented: At the time of the last audit review completed in March 15, the following action was reported:</p> <ul style="list-style-type: none"> • A meeting took place between NIEA's Director of Resource Efficiency Division, and DOJ's Criminal Justice Inspectorate on 8 August 2014 to discuss the seriousness of waste crime. The meeting was informal and minutes were not recorded; • ECU represents NIEA on the OCTF Cross Border Fuel Fraud Group and Criminal Finances Group. The OCTF operates under the auspices of the DoJ. Minutes are available but are restricted to OCTF members; • NIEA senior management attended the Organised Crime Taskforce (OCTF) Cross Border conference 2nd October in the La Mon Hotel, Belfast. OCTF provides a multi-agency approach to tackling organised crime. The conference brings together representatives from law enforcement and the broader criminal justice system, to consider developments, innovative ways of improving exchanges of information and intelligence sharing etc. between the various law enforcement agencies on both sides of the border. The overarching aim of the conference is to enhance the existing shared understanding of, and cooperation in combating, cross border organised crime. The conference programme includes presentations and workshops looking at current trends and topics relevant to cross border law enforcement.

- The first seminar took place in January with DoJ, ECU, DoE, HMRC, NCA and PSNI present. (The January seminar was attended by both Minister Ford and Minister Durkan). There were two further seminars in February 2014 – where the lead speakers were from Europol and Interpol. Following these conferences, requests previously made by ECU to NIEA CEO to access EU Crime-fighting funding scheme were repeated but were not taken forward by the Department as UK has withdrawn from the scheme. A Waste crime threat assessment was produced and submitted by ECU for discussion at the seminar;
- ECU met with SEPA intelligence unit in Scotland (19-20 August 2014) re. Structure, staffing levels, function, iBase data, briefing of intelligence, Management of MOP (members of the public) info of the new intelligence which is being created with in RED; and
- An additional meeting with SEPA intelligence unit, Police Scotland, PSNI Ports, NIEA WM and intelligence unit re info sharing and transportation of waste took place on the 18/11/14.

We confirmed that the following action has been taken since the last review:

- The NIEA has representation at the:
 - Organised Crime Task Force – Criminal Finance Group, which also includes representation from a range of stakeholders including the PSNI, Department of Justice, National Crime Agency and the PPS;
 - Five Nations Waste Crime Group which provides a forum for sharing and collaborating on a range of issues in relation to Waste Crime.
- The NIEA sent representation to The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) conference in Germany in June 2016. The conference focused on Waste and TransFrontier Shipments of Waste (TFS). The NIEA representative facilitated the conference programme on day one which included an update from

several partner organisations and IMPEL projects

- The NIEA sent representation to the INTERPOL Pollution Crimes Working Group meeting in Glasgow in June 2016;
- The NIEA has entered into a Memorandum of Understanding/Information Sharing Agreements with the following agencies operating in Northern Ireland with a view to enhancing co-operation towards tackling environmental waste crime:
 - HM Revenue and Customs;
 - Driver and Vehicle Licencing Agency;
 - Foods Standard Agency – July 2017.
- The NIEA has worked in co-operation with the Transfrontier Shipment of Waste Office in Dublin in order to combat cross border illegal waste activities.

We consider that sufficient action has been taken to implement the outstanding action.

Recommendation from Previous Internal Audit Report

Final Report: 31st March 2015

Allocation of Ownership	Priority 3
Recommendation	
<p>Management should ensure that where recommendations / actions have been identified that they are allocated to a named individual who has the authority to implement any required actions and that an up to date target date for completion is specified for each recommendation / action.</p>	
Follow up Finding	
<p>Implemented</p> <p>We reviewed the Mills Report Action Plan implementation updates and confirmed that responsibility for actions have been assigned to individuals within the NIEA. We also confirmed that target dates for completion have been included and have been updated/amended as implementation progressed.</p>	

Prioritisation of Audit Recommendations

To assist management in prioritising the implementation of audit recommendations we use a three point scale:-

Priority	Description
Priority 1	Failure to implement the recommendation is likely to result in a major failure of a key organisational objective, significant damage to the reputation of the organisation or the misuse of public funds.
Priority 2	Failure to implement the recommendation could result in a failure of an important organisational objective or could have some impact on a key organisational objective.
Priority 3	Failure to implement the recommendation could lead to an increased risk exposure.

Internal Audit Opinions

Opinion (Ratings)	Definition
Green	Satisfactory – Overall there is a satisfactory system of governance, risk management and control. While there may be some residual risk identified, this should not significantly impact on the achievement of system objectives.
Amber	Limited – There are significant weaknesses within the governance, risk management and control framework which if not addressed could lead to the system objectives not being achieved.
Red	Unacceptable – The system of governance, risk management and control has failed or there is a real and substantial risk that the system will fail to meet its objectives.