



Preliminary DRAFT

Working Paper 2 - Summary

Policy review and matrix of regulatory compliance (February 2015)

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Contents

Policy review and matrix of regulatory compliance	4
Legislative and regulatory context for estuarine and coastal management	4
Current Governance Structures in Ireland.....	7
An evaluation of applying the principles of IEM	9
Conclusions	9
References	9

THE IMMERSE PROJECT

Integrated Management and Monitoring of Estuarine and Coastal Ecosystems (IMMERSE), is a research project aimed at informing an Integrated Environmental Management and Monitoring system (EMMS) for Irish estuarine and coastal ecosystems. It is funded by the Irish Environmental Protection Agency's Research Programme (grant no. 2013-B-PhD-11). The methodology for the EMMS will be applicable on a national scale, and will aim to align with the requirements of the Water Framework, Marine Strategy Framework, Habitats, Birds and Floods Directives.

Working Paper II: Policy review and matrix of regulatory compliance

This is the second in a series of six working papers to be generated by the project. Each paper will reflect on the research findings to date and key milestones. The objectives of Working Paper II are to provide: an overview of the international, European and national legislative and regulatory requirements relevant for estuarine and coastal systems; a critical review of current and pending institutional and governance structures in Ireland; and an evaluation of applying the principles of IEM (established in Working Paper I) to Irish estuarine and coastal management using a worked example with the aim of drawing comparisons with international case studies in the next stage of the project.

Legislative and regulatory context for estuarine and coastal management

As alluded to in Working Paper I, estuarine and coastal environments are currently managed within an overly complex legislative and regulatory context. For example, the European Union has adopted over 200 pieces of environmental legislation (Beunen, van der Knaap, Wim G. M., & Biesbroek, 2009) which, in addition to other international and national commitments, has significant implications for the development of Irish coastal and estuarine planning and policy. Historically, international and European legislation was introduced to deal with sectoral issues concerning the environment and generally represent a reactive response to specific problems such as environmental disasters and looming urgencies. For example, the Seveso chemical plant accident which occurred in Italy in 1976 prompted the adoption of legislation i.e. the Seveso Directives aimed at the prevention and control of similar such accidents (European Commission, 2014). Similarly, the Common Fisheries Policy first introduced in the 1970s to manage European fishing fleets and conserve fish stocks has undergone several iterations in response to declining global fishing stocks (ICES, 2014). This mainly sectoral approach to environmental management however resulted in fragmented governance arrangements whereby only the priorities of one policy area were taken into account (i.e. fisheries, transport, shipping, pollution etc.) with little regard for cross sectoral or cumulative impacts.

Notwithstanding, this sectoral approach is being replaced by more integrated policy at the European level (Boyes and Elliott, 2014). In the past the EU introduced sectoral approaches to water management which included the Bathing Waters Directive (BWD) and Urban Waste Water Directive (UWWD) however, these are now being supplemented by a more holistic approach with the Water Framework Directive (WFD) and Marine Strategy Framework Directive (MSFD) as well as other integrated legislation including the Birds and Habitats Directives and Strategic Environmental Assessment (SEA) Directive. Therefore it is evident that traditional ad hoc and piecemeal approaches to estuarine and coastal management are no longer deemed appropriate.

An overview of the types of the pertinent directives and policies currently regulating Irish estuarine and marine waters is illustrated in Figure 1 which represents an adaptation of the 'horrendogram' developed by Boyes and Elliott (2014). This overview highlights the complex nature of the different types of legislation ranging from International law and European directives to national policies and emerging strategies. Furthermore it depicts the evolving nature of EU law from a predominantly sectoral perspective to a more holistic approach. A more detailed legislative overview is provided in the main report of Working Paper II.

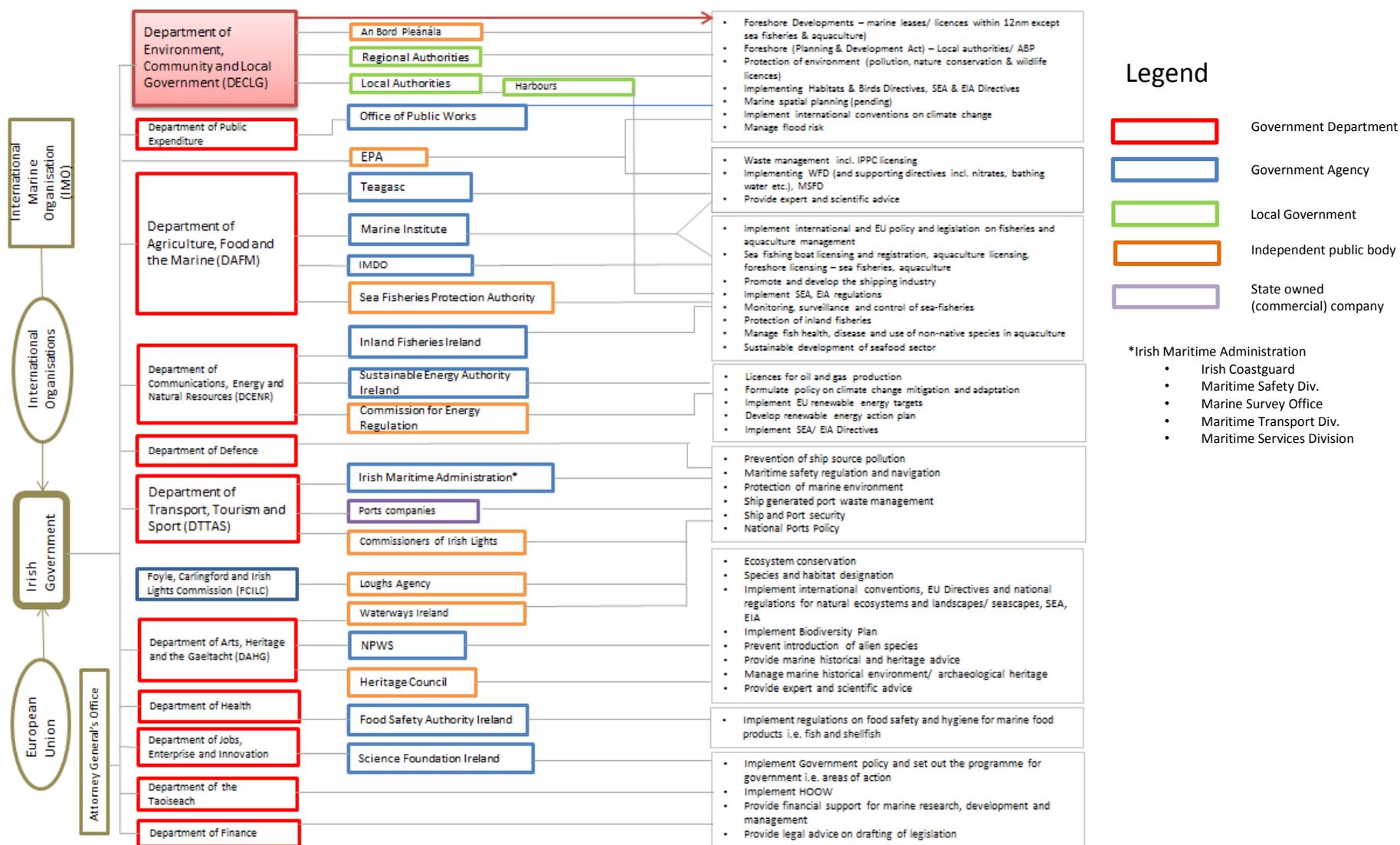
Current Governance Structures in Ireland

The majority of existing Irish environmental law is the product of legislative enactment, often in response to international and European directives and is therefore mainly sector specific. However, as the Irish Government begins to take a more holistic approach to marine management, endorsing the ecosystem-based approach as set out in *Harnessing Our Ocean Wealth: An Integrated Marine Plan for Ireland* (Marine Coordination Group, 2012) new legislation has the potential to enforce policies that focus on various inter-related policy goals.

The Irish Government is currently proposing legislative changes under the General Scheme of Maritime Area and Foreshore (Amendment) Bill 2013 (Draft Foreshore Bill). However it would appear that a continued fragmented approach to the management of the coastal zone may be advanced if current proposals under the General Maritime Scheme are realised. A new nearshore area is proposed to be created in law which will come within the remit of the planning authorities while other agencies will be responsible for the authorisation of large-scale developments within the nearshore and foreshore area i.e. An Bord Pleanála will be responsible for strategic infrastructure projects and projects subject to Environmental Impact Assessment (EIA) or Appropriate Assessment (AA). The Minister for the Environment, Community and Local Government will be responsible for foreshore lease/ licences and the Minister for Communications, Energy and Natural Resources will be responsible for petroleum exploration and prospecting. The Minister for Agriculture, Food and the Marine will be responsible for aquaculture, sea fisheries and developments within fishery harbour centres; and the Environmental Protection Agency will be responsible for dredging and dumping at sea (Environment Committee, 2013). This may represent a lost opportunity to effectively address and minimise the complexity that exists within current governance structures which has responsibilities for estuarine and coastal management divvied up among a range of different government departments, national agencies, local government, public bodies and state-owned companies and across different territorial scales. This is illustrated in Figure 2 which highlights this fragmented approach within an Irish context, an adaptation of the 'organogram' developed by Boyes and Elliott (2015).

The implications of continuing with this fragmented approach can result in conflicts or complementarities among social, economic, and environmental objectives being given little consideration with the result that many of the activities are constrained and overall environmental quality, or economic growth is hampered. The development of such a fragmented approach in Ireland is not dissimilar to other countries where comparable arrangements often emerge from profoundly entrenched conventions and constrained by previous decisions that create a 'path dependency' i.e. where 'choices must be made the option most likely to be chosen is that which most closely resembles existing practice or previous choices' (Kirk et al., 2007, p.252) that tend to reproduce fragmentation and conflict. These may also transpire as a result of institutional or policy 'layering' which helps explain 'gradual institutional transformation through a process in which new elements are attached to existing institutions and so gradually change their status and structure' (van der Heijden, 2011, p.9). Accordingly it is important to appreciate that many of the current management or institutional arrangements do not necessarily emerge from a grand design, but as a result of ad hoc incrementalism albeit in response to legislative demands, international conventions, EU Directives and regulations that must be implemented.

Figure 2: Government departments and agencies with responsibilities for estuarine and coastal management in Ireland (Source: Adapted from Boyes and Elliot t's organogram (2015))



An evaluation of applying the principles of IEM

The 15 principles of IEM developed in Working Paper I are applied and evaluated within a worked Irish example. The hypothetical example focuses on the development of marine renewable energy within Irish coastal waters. The results indicate that the current fragmented governance arrangements and lack of integrated policy for estuarine and coastal management do not appear to be appropriate and if continued, may result in adverse inter-connected and cumulative impacts. On the other hand, an approach which encompasses the principles of IEM should ensure more effective compliance with existing regulations, cost effectiveness, the development of synergies, effective stakeholder engagement, improved ecosystem status and the management of cumulative impacts. A comparison with other international case studies will provide additional detail which can be considered within the development of the proposed framework later in the project.

Conclusions

As discussed in Working paper I, integration is an ambitious concept in terms of delivering sustainable environmental management. While it is acknowledged that the concept does not come without challenges i.e. while trying to be everything, it may end up being nothing; if based on sound environmental philosophies and principles of integration, it has the potential to address the current complex governance and institutional arrangements which currently exist in Ireland. As illustrated in figures 1 and 2, if the status quo is maintained (and this is very likely under the arrangements proposed as part of the Draft Foreshore Bill), this continued dis-jointed, uncoordinated approach to estuarine and coastal management in Ireland may result in ineffective decision-making, duplication of functions and inefficient administration. Thus in an era of new emerging national coastal and marine legislation, it is timely to reflect on the best and most effective ways of sustainably governing and harnessing our natural resources for the benefit of all. Accordingly sectoral, territorial and organisational integration will be explored further in Working Paper III where a proposed framework of EMMS specific for Irish estuaries and coasts will be developed and piloted in the next stage of the project.

References

Please refer to the main report on the [IMMERSE website](#) for references cited in text.