



MEMORANDUM OF UNDERSTANDING

between

OFFICE FOR ENVIRONMENTAL PROTECTION

and

OFFICE OF THE NORTHERN IRELAND PUBLIC SERVICES OMBUDSMAN

PARTIES

1. The Office for Environmental Protection (“OEP”) of Wildwood, Wildwood Drive, Worcester WR5 2QT, and
2. The Office of the Northern Ireland Public Services Ombudsman (“NIPSO”), Progressive House, 33-37 Wellington Place, Belfast BT1 6HN.

1 PURPOSE AND SCOPE

- 1.1 This Memorandum sets out the framework for the working relationship between the OEP and NIPSO. It is intended to inform our staff and the public about how our organisations wish to work together.
- 1.2 The OEP and NIPSO are independent bodies that recognise each other’s statutory powers and responsibilities. Their duties and powers are not limited in any way by this Memorandum, including the statutory right of each body to investigate or regulate the other. This Memorandum is not legally binding, and no legal duties, rights or obligations arise from it. However, the OEP and NIPSO may collaborate and co-operate, where appropriate and lawful to do so, to further their shared aim of improving environmental legislative compliance.
- 1.3 Each organisation will take steps to ensure that relevant staff are aware of what is in this Memorandum. They will keep staff updated about any changes to it and the responsibilities it places on each organisation and the work that they do.

2 LEGISLATIVE FRAMEWORK AND CORE FUNCTIONS

OEP

- 2.1 The OEP was established under the Environment Act 2021. Its principal objective is to contribute to environmental protection and the improvement of the natural environment.
- 2.2 The OEP’s remit covers both Northern Ireland and England, as well as certain UK-wide reserved matters. It has statutory functions to hold public authorities to account for their environmental commitments. These include enforcement

functions, under which the OEP may, amongst other things, receive complaints and undertake investigations into public authorities' suspected failures to comply with environmental law. The OEP can undertake investigations only where it believes there has been a "serious" breach of environmental law. The OEP's functions also include providing scrutiny of the Executive's environmental improvement plan (once adopted), advising Northern Ireland departments on environmental law and related matters and monitoring, and reporting on the implementation of environmental law.

- 2.3 Public authorities must co-operate with the OEP, and give it such reasonable assistance as it requests, including through the provision of information. Except in limited circumstances the OEP must keep such information confidential until after it decides not to take further steps in relation to a matter.
- 2.4 Under section 23 of the Environment Act the OEP must prepare a strategy which, amongst other things, sets out how it intends to avoid overlap between the exercise of its complaints handling functions and functions of relevant ombudsmen, which include NIPSO.

NIPSO

2.5 NIPSO was established in April 2016. This was in accordance with the Public Services Ombudsman Act (Northern Ireland) 2016 ("the 2016 Act"). NIPSO' primary functions are to:

- 2.5.1 Consider complaints about the majority of public services in Northern Ireland after the complaint has been considered by the public body. This includes health and social care, central government, local government, housing, and education including schools;
 - 2.5.2 Make recommendations to provide individual redress as well as recommendations to bring about systemic improvement;
 - 2.5.3 Improve how public bodies manage complaints by introducing a simple standardised process for handling complaints in the public sector focused on resolution and learning from complaints;
 - 2.5.4 Conduct investigations into wider systemic issues to bring about systemic improvement or address systemic injustice without the need for a complaint;
 - 2.5.5 Publish reports and decisions and prepare and share insights to bring about wider learning and improvement from complaints and investigations;
 - 2.5.6 Use the outcomes from its work to engage effectively and influence positive change in public services and public policy.
- 2.6 NIPSO also holds the Office of the Local Commissioner for Standards ("the Commissioner") and the Office of the Northern Ireland Judicial Appointments Ombudsman ("the NIJAO"). The relevant powers and responsibilities are set out in the Local Government Act (NI) 2014 and the Justice (NI) Act 2002 respectively.

2.7 Investigation of complaints or investigations conducted under NIPSO's own initiative powers are conducted in private by virtue of section 30(5) of the 2016 Act. However, the Ombudsman may publish reports of her investigations where she considers it is in the public interest to do so.

2.7.1 Section 49 of the 2016 Act creates a clear framework regarding what information obtained by NIPSO as part of its investigative functions may be shared. Section 49 creates a statutory bar on the sharing of information otherwise than in accordance with section 49. Section 49 also impacts on NIPSO's obligations under the Freedom of Information Act 2000, the UK general Data Protection Act and Regulations and the Environmental Information Regulations.

2.7.2 The restrictions and obligations under section 30(5) and section 49 apply before, during and after the completion of an investigation. These restrictions apply to the NIPSO and all other persons, including the parties to, and witnesses to, an investigation and other non-parties to the investigation.

3 PRINCIPLES OF COOPERATION

3.1 NIPSO (including the Commissioner and NIJAO) and the OEP will:

- a. Respect each other's independent status.
- b. Secure openness and transparency between the two organisations in their dealings with each other and in how they exercise statutory powers requiring the release of information, subject to any legal restrictions.
- c. Secure collaborative working between the parties in areas where their functions overlap, to minimise conflicting activities.
- d. Respect the provisions of section 30(5) and section 49 as it applies to request for information under the Information Acts.
- e. Respect the provisions of section 91 of the 2002 Act (NIJAO investigation) in respect of confidentiality exemptions under the Information Acts.
- f. Consult in the event of a request to either party, regarding a matter involving the sharing of information obtained under the Information Acts, prior to responding to such a request, and shall have due regard to any submission made by that other party.
- g. Respect the protections to publishing information obtained and which holds a quality of privilege, and which would be prohibited or restricted from publishing or disclosing information under their respective statutory schemes.

4 CONSULTATION AND AREAS OF COOPERATION

4.1 The OEP and NIPSO must consult with each other before taking steps that may affect the other party, particularly if they discover that they are investigating the same or related incidents. The intention of such consultation will be to discuss

what, if any, practical arrangements should be put in place so that both parties can fulfil their respective functions as fully, effectively, efficiently as possible and comply with statutory duties under their respective legal schemes.

- 4.2 The OEP and NIPSO will endeavour to signpost complainants to each other as necessary.

5 LIAISON MEETINGS

- 5.1 Representatives of NIPSO and the OEP will meet as appropriate to consider matters of mutual interest arising from their respective functions.

- 5.2 Each party will ensure the other has been provided with an appropriate named contact or named role to liaise with as required to carry out day to day cooperation.

6 CONFIDENTIALITY

- 6.1 NIPSO and the OEP will handle all information exchanged appropriately and in line with their respective privacy notices, in accordance with data protection legislation and statutory prohibitions on disclosure and confidentiality as set out in the respective legislative schemes.

- 6.2 The participants do not intend that this Memorandum shall cover any sharing of personal data by the participants and will take account of each other's statutory responsibilities in relation to the disclosure of sensitive information.

- 6.3 Where either party receives a request for information under the Information Acts or the Data Protection Act 1998 or 2018, the party must consult each other and adhere to the Principles of Cooperation listed at 3.1d above and 2.8.3.1 to 2.8.3.5 above.

7 MONITORING AND REVIEWING THIS MEMORANDUM

- 7.1 Either party may recommend amendments to this Memorandum but the approval of both will be required to make a change.

- 7.2 This Memorandum commences on the date set out at the top of page one. The Memorandum will be reviewed after 12-18 months of the operation and thereafter every two years or when changes to either party's legislation or directions are made. It will also be reviewed if the principles described above need to be altered and/or cease to be relevant for any other reason.

8 KEY CONTACTS AND DISPUTE RESOLUTION

- 8.1 Details of key contacts will be maintained by NIPSO and the OEP.

- 8.2 Where either party identifies problems or disputes in operating this Memorandum, it will seek to resolve them quickly and informally. Representatives of the signatories agree to discuss how best to resolve the issues at an appropriate level but if this is not possible then the Ombudsman and the Chief Executive of the OEP will take responsibility for achieving a mutually acceptable resolution. The parties agree that their decision will be final.

Signed on behalf of the OEP:



..... Date: 5/3/24
Name and job title: Richard Greenhous, Chief of Staff

Signed on behalf of NIPSO:



..... Date: 14/5/24
Name and job title: Margaret Kelly, NI Public Services Ombudsman