

# CONSULTATION

## 2017 REVIEW OF BATHING WATERS IN NORTHERN IRELAND

**MARINE & FISHERIES DIVISION**

**12 December 2016**

## Equality Statement

You can obtain a copy of this consultation document in other formats by contacting:

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## **CONTENTS**

### **1 PURPOSE**

### **2 HOW TO RESPOND**

### **3 CONFIDENTIALITY OF CONSULTATIONS**

### **4 REVIEW OF BATHING WATERS**

4.1 Introduction

4.2 Identified Bathing Waters

4.3 Nominated Bathing Waters

4.4 Proposal

4.5 Next Steps

### **5 MANDATORY CONSULTATION ARRANGEMENTS**

5.1 Equality Impact Assessment

5.2 Human Rights Act 1998

5.3 Rural Proofing

5.4 Initial Regulatory Impact Assessment

**Annex A – results of 2016 usage surveys**

**Annex B – list of consultees**

## **1 PURPOSE**

This consultation paper seeks your comments on the Department's 2017 Review of Bathing Waters in Northern Ireland.

## **2 HOW TO RESPOND**

Please forward your comments on the review to:

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Email: [david.steele@daera-ni.gov.uk](mailto:david.steele@daera-ni.gov.uk)

Responses should reach us by 3 February 2017, although earlier responses would be appreciated.

A summary of the responses received will be issued after the consultation has closed. We will not respond individually to the points you raise nor will we acknowledge receipt of individual responses unless requested.

Additional copies of this consultation paper are available on written request to the address or email above or by telephoning 028 9056 9286.

It is also available at:

<https://www.daera-ni.gov.uk/consultations/review-bathing-waters>

### **3 CONFIDENTIALITY OF CONSULTATIONS**

The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority, namely the Department in this case. This includes information provided in response to a consultation. The Department cannot automatically consider information supplied to it in response to a consultation to be confidential.

However, it does have a responsibility to decide whether any information provided by you in response to a consultation, including information about your identity, should be made public or be treated as confidential. If you do not wish information about your identity to be made public please include an explanation in your response. However, please be aware that confidentiality cannot be guaranteed, except in very particular circumstances.

The Department will process your personal data in accordance with the Data Protection Act 1998, should you respond in an individual capacity. This means that your personal information will not be disclosed to third parties should you request confidentiality.

You should be aware that the Department will publish a synopsis of responses to the consultation.

### **4 REVIEW OF BATHING WATERS**

#### **4.1 Introduction**

The referendum on 23 June 2016 resulted in a decision that the UK should leave the European Union. However, until such time as exit negotiations are concluded, the UK remains a full Member of the European Union, and all the rights and obligations associated with EU membership remain in place. EU legislation will continue to be negotiated, implemented and applied during this period. It is the outcome of those exit negotiations that will determine the arrangements that should apply in relation to legislation in the future once the UK has left the European Union.

The purpose of the Bathing Water Directive (2006/7/EC) is to preserve, protect and improve the quality of the environment and to protect human health.

The Directive lays down provisions for the monitoring, classification and management of bathing water quality; and for the provision of information to the public.

It applies where the Department of Agriculture, Environment and Rural Affairs (“the Department”), as the competent authority in Northern Ireland, expects a large number of people to bathe, and where bathing is not permanently prohibited or where permanent advice against bathing has not been issued.

It does not apply to swimming pools and spa pools; confined waters subject to treatment or used for therapeutic purposes; or to artificially created confined waters separated from surface water and groundwater.

The Bathing Water Directive was transposed in Northern Ireland through The Quality of Bathing Water Regulations (Northern Ireland) 2008 (as amended), which lists the 23 currently identified bathing waters in Northern Ireland.

The Department’s “Review of and Consultation on the Identification of Bathing Waters in Northern Ireland” in 2011 gave a commitment to undertake the next review of bathing waters in 2017 and to subsequent reviews taking place every 6 years thereafter.

## **4.2 Identified Bathing Waters**

The Department decided not to review the status of the 23 currently identified bathing waters in Northern Ireland on this occasion.

These bathing waters are well-established, have recognised bathing water operators in place at each site, and do not have permanent prohibitions in place or permanent advice issued against bathing. The only reason for de-identifying any of those bathing waters would have been on the grounds of lack of usage.

Therefore, the Department decided that undertaking usage surveys at each of those 23 sites - which are clearly important recreational and tourism assets for Northern

Ireland - would have been neither an effective use of the Department's resources at this time nor in the wider interest.

### **4.3 Nominated Bathing Waters**

Notwithstanding this, a review also provided the Department with an opportunity to invite nominations for other sites that could be taken forward as candidates for identification as bathing waters.

The Department, therefore, wrote to the Chief Executives of councils and to key stakeholders on 29 February 2016 inviting nominations for any additional coastal or inland waters which could meet the following criteria:

- bathing is not prohibited or inadvisable for reasons of safety;
- usage at the site exceeds a guide value of 45 bathers on at least one occasion or 100 beach users on at least two occasions within a maximum of 8 survey dates during the bathing season (1 June – 15 September 2016); and
- there is an appropriate body willing to take on the formal responsibility of bathing water operator.

In response to this invitation, Ards and North Down Borough Council nominated Cloughey; and Newry, Mourne and Down District Council nominated Kilclief, Ballyhornan and Killough.

The Department subsequently conducted usage surveys at each of those sites over the course of the 2016 bathing season. Despite it being a relatively mixed summer, the Department selected some of the better days in terms of the weather conditions and temperatures, so as to reflect the greatest numbers using those sites.

In addition, usage surveys were undertaken both on weekdays and weekends - with one completed on a public holiday and another on a bank holiday weekend - so as to cover a broad range of days and times.

A total of 7 usage surveys were completed at each of the nominated sites. The results can be found at annex A. These show that:

- Cloughey exceeded the guide value of 45 bathers on one occasion and 100 beach users on one occasion (both on 19 July 2016);
- Kilclief exceeded the guide value of 45 bathers on one occasion (19 July 2016) and 100 beach users on three occasions (17, 19 July and 15 August);
- Ballyhornan exceeded the guide value of 45 bathers on one occasion (19 July 2016); and
- Killough did not exceed the guide value of 45 bathers or 100 beach users on any occasion.

While not a purpose of this review, it is worth observing that the relatively limited, formal car-parking facilities at Kilclief and Ballyhornan are likely to be a constraint on the numbers visiting those locations.

#### **4.4 Proposal**

The Department proposes that Cloughey, Kilclief and Ballyhornan should be taken forward as candidate sites for identification as bathing waters in Northern Ireland; and that Killough should not be taken forward as a candidate site for identification as a bathing water in Northern Ireland.

This proposal is subject to the Department being satisfied that bathing is not prohibited or inadvisable for reasons of safety; and that there is an appropriate body willing to take on the formal responsibility of bathing water operator.

#### **4.5 Next Steps**

The Department, subject to any responses received to this consultation paper and the Minister's approval, would amend Schedule 1 to The Quality of Bathing Water Regulations (Northern Ireland) 2008 (as amended) so as to include any successful candidate sites in the list of identified bathing waters.

The intention would be to have those identifications in place for the start of the 2017 bathing season.



**The Department welcomes your comments on this review of bathing waters in Northern Ireland.**

**A synopsis and analysis of the comments received will be published.**

**A list of consultees is at annex B.**

## **5 MANDATORY CONSULTATION ARRANGEMENTS**

### **5.1 Equality Impact Assessment**

The Department has completed a preliminary screening exercise on the proposal contained in this consultation paper. There is no evidence that there would be any impact on issues related to equality. Therefore, the Department does not consider it necessary to undertake a full Equality Impact Assessment.

### **5.2 Human Rights Act 1998**

The Human Rights Act 1998 implements the European Convention on Human Rights. The Act makes it unlawful for any public authority to act in a way that is incompatible with those rights.

The Department considers that the proposals contained in this consultation paper are compatible with the Human Rights Act 1998.

### **5.3 Rural Proofing**

Rural proofing is a process to ensure that all relevant Executive policies are examined carefully and objectively. It determines whether or not those policies have a different impact in rural areas from that elsewhere, given the particular characteristics of rural areas.

Consideration should be given to the policy adjustments that could be made to reflect rural needs so that, as far as possible, public services are accessible on a fair basis to the rural community.

The proposal that Cloughey, Kilclief and Ballyhornan should be taken forward as candidate sites for identification as bathing waters can be seen as making a positive contribution to the rural communities in those locations. Formal identification should increase the profile of those areas, improve the potential for tourism and provide for increased spend in the local economy.

## **5.4 Initial Regulatory Impact Assessment**

The policy objective behind the review is straightforward. It is “to preserve, protect and improve the quality of the environment and to protect human health by complementing the Bathing Water Directive”. This 2017 Review of Bathing Waters in Northern Ireland does not go beyond the minimum requirements of the Bathing Water Directive.

This means identifying locations where the competent authority (the Department of Agriculture, Environment and Rural Affairs) expects a large number of people to bathe, and where there is no permanent bathing prohibition or no permanent advice against bathing has been issued.

There are already 23 identified bathing waters in NI. The consultation paper explains the Department’s decision not to review each of those sites on this occasion. Consequently, there are no additional costs or benefits associated with those identified bathing waters, and for that reason they are not the subject of this initial Regulatory Impact Assessment.

The Department did, however, receive nominations from Ards and North Down Borough Council for Cloughey; and from Newry, Mourne and Down District Council for Kilclief, Ballyhornan and Killough for potential identification as bathing waters.

The consultation paper proposes that Cloughey, Kilclief and Ballyhornan should be taken forward as candidate sites for identification as bathing waters, based on having met the Department’s criteria (see page 6). Therefore, this initial Regulatory Impact Assessment concentrates on those three locations.

### **Costs**

Should the three locations be identified as bathing waters, the Department would incur additional water quality monitoring costs of approximately £15,000 - £20,000 per annum.

There would also be some costs associated with a review of any discharge consents at those locations, and with assessing compliance once they have been added to the sampling schedule. However, these costs are expected to be minimal.

In addition, the bathing water operator at each of those sites – which in this case should be Ards and North Down Borough Council for Cloughey; and Newry, Mourne and Down District Council for Kilclief and Ballyhornan – would be expected to provide the necessary signage on which to present information to the public. This has been estimated previously at approximately £2,000 per sign, with ongoing maintenance costs.

There is the potential for Northern Ireland Water to incur additional costs, should it be required to provide improved waste water treatment in the relevant catchments. This would be necessary to comply with the stringent bathing water quality standards required by the Bathing Water Directive.

The Bathing Water Directive does provide for the application of an “infeasible or disproportionately expensive” argument, but only when a site is an identified bathing water and a “sufficient” classification is considered unachievable. In those circumstances, the Department would issue permanent advice against bathing at that site.

The Department, therefore, expects any potential costs to Northern Ireland Water to become clearer once any identifications of bathing waters have been made; and in the course of the Department making an assessment of those bathing waters.

Should a decision be taken to identify any of those sites as bathing waters, it would be necessary to amend The Quality of Bathing Water Regulations (Northern Ireland) 2008 (as amended) to add the site(s) to the list of identified bathing waters. Any comments received to this initial Regulatory Impact Assessment would inform a final Regulatory Impact Assessment that should accompany those amending Regulations.

## **Benefits**

The principal benefits, should the sites be identified as bathing waters, mirror those of the policy objectives – that is, preservation and protection of the environment and an improvement in its quality; and the protection of public health.

This would be achieved through the placing of general duties on the Department, such as establishing bathing water profiles; monitoring of bathing waters and

provision of information to the public; and the assessment, classification and management of bathing waters.

The raised profile of those areas following any identification as bathing waters should also improve the potential for tourism and provide for increased spend in the local economy.

## RESULTS OF 2016 USAGE SURVEYS – NOMINATED SITES

## CLOUGHEY

Date	Time	Number of people in water (excluding those with canoes, jet skis, surfboards etc)	Number of people on beach (excluding those with canoes, jet skis, surfboards etc)	TOTAL number of people (excluding those with canoes, jet skis, surfboards etc)	Number of people engaged in water sports/recreational water activities
5 June	5.20pm	0	27	27	0
12 July	11.50am	0	17	17	0
	12.10pm	0	27	27	0
17 July	4.30pm	5	33	38	0
	5.00pm	11	37	48	0
19 July	3.15pm	56	123	179	2
15 August	1.55pm	0	17	17	0
16 August	11.05am	17	30	47	0
28 August	3.55pm	4	50	54	2

## KILCLIEF

Date	Time	Number of people in water (excluding those with canoes, jet skis, surfboards etc)	Number of people on beach (excluding those with canoes, jet skis, surfboards etc)	TOTAL number of people (excluding those with canoes, jet skis, surfboards etc)	Number of people engaged in water sports/recreational water activities
5 June	4.00pm	10	62	72	0
	4.15pm	13	74	87	0
	4.30pm	10	75	85	0
12 July	1.05pm	0	24	24	1
	1.35pm	3	21	24	3
17 July	3.00pm	23	77	100	0
	3.30pm	28	103	131	2
19 July	4.05pm	96	130	226	0
15 August	3.00pm	7	103	110	1
16 August	12.10pm	21	91	112	0
28 August	3.05pm	3	28	31	0

## BALLYHORNAN

Date	Time	Number of people in water (excluding those with canoes, jet skis, surfboards etc)	Number of people on beach (excluding those with canoes, jet skis, surfboards etc)	TOTAL number of people (excluding those with canoes, jet skis, surfboards etc)	Number of people engaged in water sports/recreational water activities
5 June	2.55pm	13	85	98	0
	3.00pm	16	88	104	0
	3.20pm	26	81	107	0
	3.40pm	18	93	111	0
12 July	1.55pm	5	47	52	0
	2.25pm	6	60	66	0
17 July	1.40pm	6	43	49	0
	2.05pm	6	57	63	0
	2.45pm	12	54	66	0
19 July	4.30pm	80	88	168	0
15 August	2.25pm	5	46	51	0
	2.40pm	0	65	65	0
16 August	12.20pm	11	35	46	0
28 August	2.55pm	0	18	18	0



## KILLOUGH

Date	Time	Number of people in water (excluding those with canoes, jet skis, surfboards etc)	Number of people on beach (excluding those with canoes, jet skis, surfboards etc)	TOTAL number of people (excluding those with canoes, jet skis, surfboards etc)	Number of people engaged in water sports/recreational water activities
5 June	1.50pm	7	12	19	2
	2.20pm	10	13	23	3
12 July	2.45pm	0	0	0	0
17 July	12.55pm	0	7	7	7
	1.15pm	4	12	16	7
	1.25pm	2	20	22	7
19 July	4.55pm	25	28	53	0
15 August	1.55pm	0	17	17	0
16 August	12.35pm	5	18	23	0
28 August	2.30pm	0	0	0	0

**LIST OF CONSULTEES**

Committee for Agriculture, Environment and Rural Affairs

Antrim and Newtownabbey Borough Council

Ards and North Down Borough Council

Armagh City, Banbridge and Craigavon Borough Council

Belfast City Council

Causeway Coast and Glens Borough Council

Derry City and Strabane District Council

Fermanagh and Omagh District Council

Lisburn and Castlereagh City Council

Mid and East Antrim Borough Council

Mid Ulster District Council

Newry, Mourne and Down District Council

Causeway Coast and Glens Heritage Trust

Coastwatch

Council for Nature Conservation and the Countryside

Countryside Access and Activities Network

Down Rural Area Partnership

Friends of the Earth

Keep Northern Ireland Beautiful

Lagan River Trust

Lecale Conservation

Marine Conservation NI

Marine Conservation Society

Mourne Heritage Trust

National Trust

NI Environment Link

Northern Ireland Biodiversity Group

Northern Ireland Marine Task Force  
Northern Ireland Water  
Outdoor Recreation Northern Ireland  
Rathlin Development and Community Association  
Royal National Lifeboat Institution  
Royal Yacht Association  
Rural Community Network  
Section 75 groups  
Strangford Lough and Lecale Partnership  
Surfers Against Sewage  
The Crown Estate  
Ulster Angling Federation  
Ulster University  
Ulster Wildlife Trust  
Waterways Ireland  
Wildlife and Countryside Link  
World Wildlife Fund