

Public Engagement in Water Framework Directive Implementation: A Review of Developments as of September 2016, with Recommendations

SWAN Submission to Department of Housing, Planning, Community and Local Government (DHPCLG), October 2016

Since the transposition of the EU Water Framework Directive (WFD) into Irish law in 2003, SWAN has supported its implementation with energy and commitment, participating whenever opportunities have arisen. Further, SWAN has consistently made the case for meaningful public engagement, in which stakeholders realise their full potential to contribute to achieving the objectives of the WFD.

Several earlier SWAN documents (2009; 2012; 2014) as well as the wider literature (Deli-Priscoli 2004, Meadowcroft 2004, HARMONICOP 2005, OECD 2015) have illustrated the diverse benefits of effective public participation. SWAN welcomes the commitment to developing a genuine engagement strategy on the part of the Department of Housing, Planning, Community and Local Government (DHPCLG). However, ultimately a Department-wide commitment to stakeholder engagement, in which other government Departments and agencies with a role in WFD delivery also demonstrate their willingness to adjust plans in light of stakeholder input, remains underdeveloped.

SWAN welcomes the recent proposals from the DHPCLG to improve public (stakeholder) engagement in WFD implementation, as well as the fact that these include some of the recommendations made by SWAN. These developments are in keeping with the international “move towards more structural forms of stakeholder engagement” currently taking place in water management (Ahkmouch & Clavreul, 2016, p.204), and such systemic, inclusive and foresighted approaches to water policymaking are more likely to result in better outcomes and returns on investment, in terms of time and money (OECD, 2015). The conditions necessary for inclusive water governance that such initiatives seek to deliver have been well-documented (OECD, 2015) and can be achieved through committed action and good design.

To support the success of DHPCLG’s initiatives, this document, a follow-up to our 2015 [Delivering meaningful public participation in water governance WFD implementation, SWAN Recommendations.](#), presents a number of matters that remain to be addressed. This is done in two parts:

- I. Regarding the public engagement measures that DHPCLG has indicated it will put in place, this document identifies what will be necessary for these measures to deliver effective engagement, and what challenges to success are likely to arise.
- II. This document also examines what else, in addition to current DHPCLG proposals, remains to be addressed in order for the proposed public engagement provisions to be effective.

1. Public Engagement Measures Planned by DHPCLG

The Department of Housing, Planning, Community and Local Government has indicated that it proposes to:

- Promote and support **sub-catchment-based stakeholder groups** throughout the country; and
- Establish a **National Stakeholder Forum**.

SWAN supports both these mechanisms for stakeholder engagement providing they are enabled to fulfil meaningful and effective roles: if it is worth doing, it is worth doing well. Simply put, this means that these initiatives must demonstrate certain characteristics, the most essential of which we outline below.

1.1 Sub-Catchment-based Stakeholder Groups

There is a risk that these local grassroots groups are mostly limited to river walks, clean-ups and “balsam bashing” exercises. In reality, they have the potential to significantly augment the collective capacity to deliver WFD objectives across the State by identifying local issues and participating in collaborative action to address these. It is vital that the potential of these groups is recognised, and that their number and efficacy are encouraged to increase over time. In order to be fully effective, these groups need:

- A. To be autonomous medium/long-term stakeholder groups;
- B. To have the clear primary goal of protecting the aquatic environment, without being compromised by other priorities;
- C. To be catchment or sub-catchment focused so as to dovetail with the best-practice, integrated catchment management approach adopted by the Environmental Protection Agency in WFD implementation;
- D. To engage active participation from across *all* stakeholder interests in the relevant sub-catchment;
- E. To be facilitated and supported with adequate resources by relevant agencies so that they can:
 - i. Raise awareness locally of the value of their aquatic environments;
 - ii. Identify the pressures on these (including undertaking citizen surveys, monitoring, etc.);
 - iii. Agree actions in response to those pressures to achieve healthy water and WFD objectives;
 - iv. Address issues at a local level to the maximum extent possible;
 - v. Secure necessary funding to resource their activities;
- F. To receive support for the further development of their capacities including through the hiring of full-time staff; and
- G. To have clear, functional links and regular dialogue with the various agencies involved in implementation of the WFD, and to be integrated into the structures and mechanisms for delivery of the Directive.

This last point is vital. If stakeholder groups are to successfully seek solutions to problems that exceed their capacity for local resolution, they will need to be linked to wider structures and systems also working on these issues who can progress such challenges which the group itself cannot. It is equally important that the governance structures in place are responsive when such issues arise at this local level and also that they have the capacity to refer groups efficiently on to other stakeholder bodies working at a national scale on occasions when such bodies are in a better position to address the issue in question. Thus there is a need for a clear communications pathway to be provided and facilitated between grassroots local groups and the proposed National Stakeholder Forum.

The ultimate goal in facilitating these local stakeholder sub-catchment groups is successful collaborative actions to address pressures on aquatic environments. Such collaboration requires constructive dialogue between the sub-catchment groups and the officials of relevant authorities. It is suggested that the newly appointed **community water officers** are ideally placed to broker such liaisons.

Whether or not a single model (“one size fits all” approach) for sub-catchment stakeholder groups is appropriate is unclear. It is important that a number of different models be explored, ideally through pilot

projects, to identify successful options and criteria for their operation. In order to develop a better understanding of the optimum approach, it is important that DHPCLP commit to the future of these groups with support both political and financial. Pilot projects would also provide the opportunity to raise awareness among the public of such initiatives, as well as demonstrate the need for them.

These local initiatives must be flexible so that they may grow organically, actively and continually seeking to engage and include all interested stakeholders within the sub-catchment. Those involved may be local groups, individuals, or formal community structures whose common interest is the protection of the aquatic environment. It is inappropriate and inadequate to attempt to prescribe the membership of such groups, and reliance on structures such as the Public Participation Networks (PPNs) demonstrates a fundamental failure to understand both the limitations of the PPNs' role and the active role of stakeholder sub-catchment groups.¹

1.2 National Stakeholder Forum

While it has enormous potential, there is a risk that a National Stakeholder Forum could be an ineffectual talking shop if it is simply 'bolted on' alongside the governance structures set up for WFD delivery and other structures already in place. In addition, it requires very careful design so that it is not a political lobby-type structure but instead delivers the significant potential of a high-level policy advisory group, benefiting from extensive specialist sector-specific expertise.² To be effective, such a national forum must be:

- A. **Established with support from independent expert(s)** and with the clear goal of achieving the objectives of the WFD, which is enshrined in the Terms of Reference;
- B. Clearly tasked to explore means of addressing **issues that either by their nature (e.g. national regulations) are clearly not appropriate to be tackled at local level**, or which are referred from sub-catchment stakeholder groups for this or other reasons (e.g. intractable issue with the relevant public authority). The Forum would be required to **explore possible solutions**, assessing the extent of agreement possible amongst stakeholders;
- C. Have a **specific, participatory, working role** rather than 'overarching' remit, in order to consider and address matters of substance (as described in B. above) and meet as regularly as is necessary (either in plenary or sub-committee) in order to do this effectively, and not less than once every two months;
- D. Made up of **balanced representation of stakeholder groups** through participation of national representative organisations, each of which commits to work as tasked;
- E. Allowed **autonomous operation**, so that stakeholder representative groups can **work separately from officials** while they explore possible policy responses that are mutually acceptable;

¹ While The PPN are an entirely appropriate *source* of representatives to WFD stakeholder bodies, they cannot constitute or replace local citizen action groups such as the stakeholder sub-catchment groups, since this is not a function of PPNs, which are purely representative. Moreover, the PPN are Local Authority bodies and so do not align with catchment units. In addition, the PPN do not represent all stakeholders: they represent the community and voluntary, social inclusion and environmental organisations, but not commercial interests, such as business, industry and farming. Therefore the PPNs cannot be the default engagement mechanism.

² Involving stakeholders through a high-level policy advisory group can secure a range of benefits, which include: the contribution of extensive sector-specific expertise and specialist policy knowledge; the opportunity for stakeholders to discuss matters among themselves (i.e. not within a wider committee of officials, etc.), so that they can develop an understanding of one another's interests and concerns and reach agreed positions (whether consensus or qualified agreement), which they can then communicate to the relevant state agencies AND to their own constituencies; enabling focused and productive dialogue between the WFD staff and stakeholder policy groups, contributing a clear understanding of what the regulatory challenges are for implementation and allowing the stakeholders to take this into consideration in their deliberations; the possibility to secure support for measures that might otherwise prove difficult to implement and enforce.

- F. Equipped with **independent, skilled facilitation** and agreed terms of engagement (e.g. consensus/ qualified consensus, Chatham House rules/ confidentiality, protocols for communications between representatives and their constituent members, etc.) and
- G. Supported with **clear mechanisms for integration with the regulatory and administrative frameworks**, and linked with the proposed stakeholder sub-catchment initiatives in ways that allow for two-way communication and dialogue.

There are two immediate and practical challenges facing delivery and effective operation of both the stakeholder sub-catchment groups and the National Stakeholder Forum, and they are mutually reinforcing. The first of these is the almost total lack of public awareness of the Water Framework Directive, and the second is the present dearth of sub-catchment stakeholder groups (or entities that could fulfil this role).

Lack of public awareness: Since there is little or no public awareness of the WFD or, more importantly, of what it is trying to achieve, citizens have not had the opportunity to identify their interest in its implementation. In this situation it is extremely difficult to encourage engagement. This undermines the possibilities of initiating sub-catchment stakeholder groups and involving the necessary range of stakeholders. (The development of pilot schemes as recommended above would positively reinforce attempts to raise public awareness.)

Provision of a comprehensive website on WFD implementation in Ireland (www.catchments.ie) is to be welcomed, but without a significant and effective accompanying national initiative to raise public awareness, it cannot be successful or sufficient. There are existing proposals (SWAN 2009) and ever-evolving innovative and cost-effective ways in which this could be done (e.g. Guimaraes-Pereira et al, 2003, Jonsson 2005) that merit attention.

Present lack of sub-catchment stakeholder groups: Currently there are very few groups in existence that fit the description of sub-catchment stakeholder groups envisaged here, and their assisted establishment will take time. Most significantly, however, this paucity of groups operating at grassroots level means that the base from which a national stakeholder forum would be informed about issues that cannot be resolved locally is not present.

In response to this, SWAN proposes that the Department reconsider adopting a regional stakeholder forum network (previously proposed by SWAN) as an interim measure. This would enable local water officers to bring together stakeholder groups, often more easily identifiable at the larger scale, to begin to look together at the challenges in delivering WFD objectives and how this might be done. Such a mechanism would serve the fourfold purpose of:

- A. Raising awareness among stakeholder groups and organisations at that level;
- B. Engaging participants in looking at pressures and working collaboratively toward responses to these (modelling how sub-catchment stakeholder groups will ultimately work);
- C. Enabling the creation of links between such stakeholder groupings and those at the appropriate regional level within the relevant authorities; and
- D. Enabling participants to identify intractable issues for referral to the national stakeholder forum for consideration.

2. Additional Conditions Necessary for Success of Public Engagement

In addition to the above, delivering meaningful public engagement will require that the structures and procedures established for WFD implementation to incorporate certain additional elements and measures in order to be effective and secure the public's confidence.

The following recommendations are supported by current best practice in the management of aquatic environments (US EPA, 2015) and public administration (Cooper *et al* 2006, Yang *et al* 2011).

2.1 Technical Support in Process Design

Whatever the structures put in place for public engagement, it is vital that the Department employ skilled engagement expertise in order to ensure that the operational processes set up are serviceable, robust and efficient. This would involve details such as integrating the tiers of engagement, communication systems, and setting out clearly the facilitation role in support of the National Forum and the necessary provisions for support of local stakeholder catchment groups.

2.2 Consistent Application of Integrated Catchment Management Approach

Integrated Catchment Management (ICM) is the internationally accepted best-practice model for managing the aquatic environment. This has been reflected in the shift from traditional top-down administrative approaches to those that are more deliberative, inclusive and bottom-up (OECD, 2011). While the EPA has adopted the ICM model, the details of Tier 3 (see Figure 1 below) of the present governance structure for WFD implementation which relate to the local authorities, who are responsible for implementation, do not reflect or apply a catchment approach. Nor is it clear how the EPA Programme of Measures Working Group or National Implementation Group can fulfil this function.

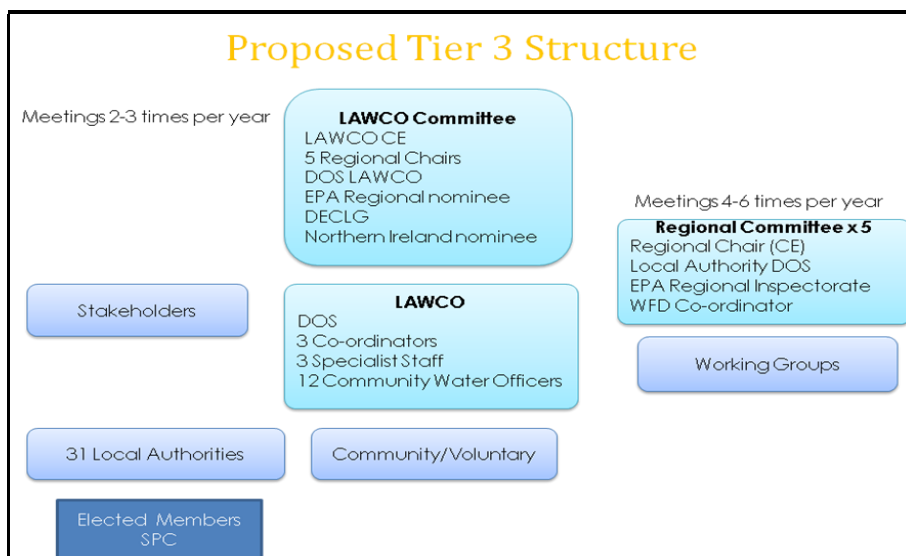


Figure 1. Proposed structure of Tier 3 in present governance arrangements (LAWCO presentation to SWAN, 11-02-2016)

Absolute clarity is needed as to which structures are vested with the necessary authority to provide catchment-based management, and where decisions are taken regarding the selection and implementation of measures at a catchment level. Similarly, details are needed as to how those proposed structures which are not coincident with catchments can effectively deliver catchment-management plans, and how they will mediate between these and other non-catchment based administrative provisions, such as development plans. Finally, stakeholder groups operating (appropriately) with a sub-catchment focus need to be clear on how they can relate to such structures in a meaningful or effective way.

It is imperative that the governance structures demonstrate the consistent application of ICM. If the proposed structures continue as presently set out, and do not reflect such an approach, then convincing provisions must be made (and made public) as to how they can adequately support an ICM approach.

	<i>Prediction and control regime</i>	<i>Integrated, adaptive regime</i>
<i>Management paradigm</i>	Prediction and control based on a mechanistic systems approach	Learning and self-organization based on a complex systems approach
<i>Governance</i>	Centralized, hierarchical, narrow stakeholder participation	Polycentric, horizontal, broad stakeholder participation
<i>Sectoral integration</i>	Sectors separately analysed resulting in policy conflicts and emergent chronic problems	Cross-sectoral analysis identifies emergent problems and integrates policy implementation
<i>Scale of analysis and operation</i>	Transboundary problems emerge when river sub-basins are the exclusive scale of analysis and management	Transboundary issues addressed by multiple scales of analysis and management
<i>Information management</i>	Understanding fragmented by gaps and lack of integration of information sources that are proprietary	Comprehensive understanding achieved by open, shared information sources that fill gaps and facilitate integration
<i>Infrastructure</i>	Massive, centralized infrastructure, single sources of design, power delivery	Appropriate scale, decentralized, diverse sources of design, power delivery
<i>Finances and risk</i>	Financial resources concentrated in structural protection (sunk costs)	Financial resources diversified using a broad set of private and public financial instruments
<i>Environmental factors</i>	Quantifiable variables such as BOD or nitrate concentrations that can be measured easily	Qualitative and quantitative indicators of whole ecosystem states and ecosystem services

Table 1. Comparison between the current system and an integrated, adaptive water management regime (Pahl-Wostl, 2007)

The international paradigm shift away from traditional predict-and-control models of resource management towards adaptive management regimes requires an integrated approach to the human, physical, biological, and biogeochemical components of the water system and their interactions (Pahl-Wostl 2007; see table 1. above for a summary of differences in approach and the subsequent diagram overleaf that illustrates the integrated and iterative nature of adaptive management). Such a management approach is focused on increasing the adaptive capacity of water systems³, so that they are more ecologically and socially resilient and better equipped to handle stresses that are increasingly complex and difficult to predict. So, just as the scientists consider factors related to aquatic resources in an integrated way, the administration and management of those resources must reflect this integration also in order to enable effective, future-proofed management.

The enhanced features of the adaptive model shown in Table 1. enable improved responsiveness and a better ability to cope with increasingly complex and challenging pressures. Figure (2) below illustrates how adaptive management operates cyclically, rather than in a linear and sequential approach. This can be seen in particular in the 'Response (R)' stage of the DPSIR model (see especially the emphasis on assessment and monitoring). It also demonstrates the need for an effective integrated approach to governance of water

³ Including water management systems

management in order that all the relevant variables can be considered and addressed cohesively, as is required for successful integrated catchment management.

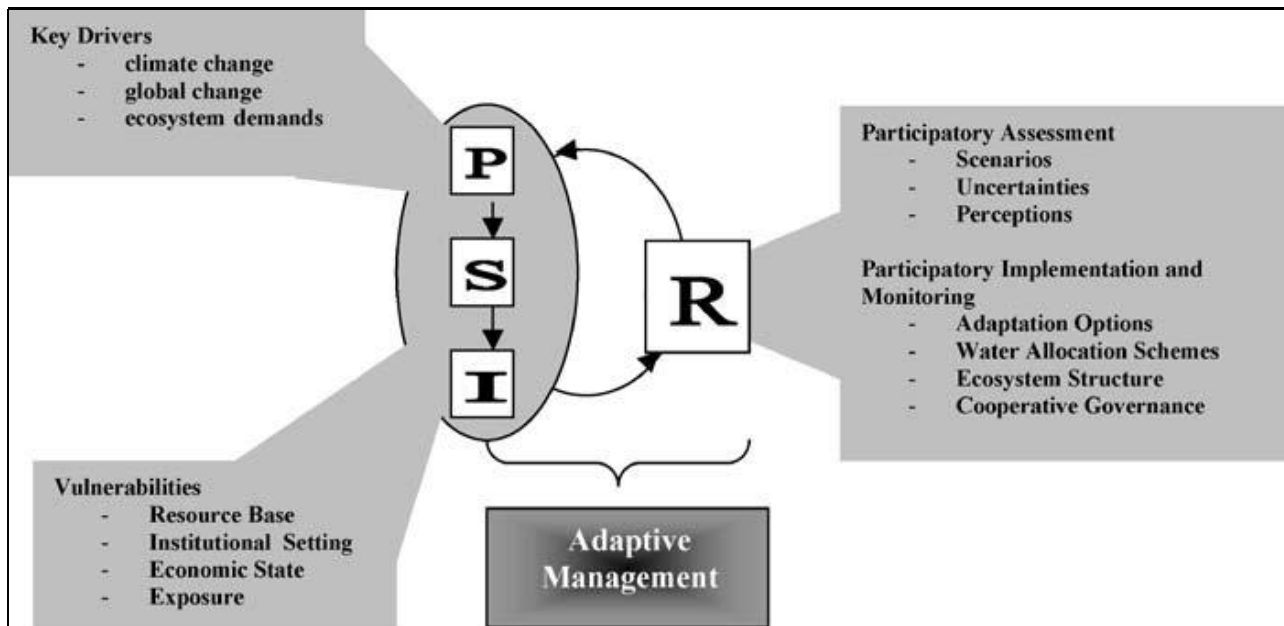


Figure 2. Adaptive management represented in an extended PSIR (Pressure-State-Impact-Response) framework (Pahl-Wostl, C., 2007). (The boxes indicate the type of variables and processes that are of importance.)

In addition to the importance of clarity of roles and collaboration within governance to deliver results, it is vital to develop and sustain the capacity of all parties (authorities, experts, interest groups and the public) to effectively manage their (sub-) catchments. This social learning embraces “collective action and the resolution of conflicts require[ing] that people recognize their interdependence and their differences and learn to deal with them constructively. The different groups need to learn and increase their awareness about their biophysical environment and about the complexity of social interactions.” (Pahl-Wostl 2007, p.56).

2.3 Culture of Openness and Transparency

As highlighted by the OECD (2015), transparency and openness at all levels both between agencies and with stakeholders is vital in water governance. Moreover it is also a fundamental prerequisite of the adaptive management approach, as outlined above.

While the minutes of WPAC meetings are now available and this is welcomed, this practice is not being applied consistently across the various elements of the governance structure. There is no public information about the membership or work of key structures, such as the National Implementation Group and Programme of Measures (and other) Working Groups, which now appear to be making key decisions regarding the contents of the PoMs, the central tool for WFD implementation. The lack of transparency around their operation is emblematic of a traditional, outdated and ineffective ‘Centralized [and] hierarchical’ (Pahl-Wostl, 2007) command-and-control approach to water governance.

Building successful collaborative relationships demands an open approach. This requires a commitment within implementation structures whereby the sharing of information becomes standard practice rather than the exception.

2.4 Appropriate Staff Skills and Resources

It is SWAN's understanding that the full staffing complement under the existing structures are now in place. It is to be hoped that these individuals have skill sets suited to their roles. It remains important that they are provided with opportunities for additional training where this is found to be necessary, particularly in relation to establishing successful relationships with stakeholders and facilitating the work of the stakeholder sub-catchment groups, including providing conflict resolution.

2.5 Elucidate Operation of Governance Structures and Undertake Regular Reviews

SWAN has repeatedly made clear its contention that appropriate, fit-for-purpose governance structures are a necessary prerequisite for both the successful delivery of WFD objectives and for meaningful public participation in this. The vital importance of effective governance in water management has been clearly recognised by the EU and OECD among others; these bodies also see the need for accountability as contributing to a compelling imperative to evaluate stakeholder engagement in governance of water management (OECD, 2015).

For engagement processes to be relevant and effective, they must balance what they are trying to achieve, the resources they require and the degree to which they succeed in reaching the intended objectives (Akhmouch & Clavreul, 2016). It is therefore vital to critically review the design and performance of engagement structures and outcomes to ensure that this balance is achieved.

These engagement structures are of course part of the wider governance system. SWAN maintains that the governance overhaul necessary to secure the active integrated collaboration of diverse government departments and relevant state agencies, and to earn the confidence of stakeholders, has only very partially been achieved in the 3 Tier "operational structure" which is now established.

The information provided publicly on this operational structure fails to give adequate details of how the various tiers relate to one another, how the structures within individual tiers relate, or on the functions of the structures concerned. Nor is there any articulation of how these structures will engage with other state agencies and with stakeholders. This information is necessary in order to assess whether the structures have the potential to function effectively. (The proposal in 2.1 above for technical support in process design is proposed so as to ensure that these structures can operate as intended.)

If in practice this wider governance system is not serviceable, the public engagement structures discussed above cannot function as intended and effective participative governance cannot be delivered. It is therefore of equal importance that the performance of the overall water governance provisions is also critically reviewed.

The OECD (2015) has identified the five key obstacles for effective stakeholder engagement, namely;

1. a lack of political will and leadership;
2. a lack of clarity on the use of stakeholder inputs;
3. institutional fragmentation;
4. lack of funding to sustain the engagement process; and
5. conflict of interest and consultation "capture".⁴

⁴ Consultation capture includes the challenges in handling differences of opinions and positions from diverse stakeholder interests and how these are to be adequately collected, understood, communicated, and used constructively, avoiding the temptation simply to collect responses and do nothing with them.

It is clear that each of these have been present in the Irish context. In light of this, SWAN proposes that DHPCLG commit to a regular review (every 5 years) of the governance provisions for WFD delivery, including public engagement provisions, in order to assess how effectively these obstacles have been addressed. The review would identify lessons learned and adjust for future improvements, consistent with social learning and adaptive management best practice (Ahkmouch & Clavreul, 2016).

[2.6 Willingness to Adapt and Incorporate / Respond to Stakeholder Inputs](#)

A crucial determinant of the success of public engagement, once the opportunity for it has been adequately provided, is the ability of stakeholders to influence outcomes. This is determined by the willingness (or otherwise) of those involved in the relevant agencies and structures, both technical and administrative in capacity, to allow the adjustment or adaptation of plans in light of significant quality inputs from stakeholders. Without this, investment in good structures and processes of engagement can be no more than window dressing.

Experience has demonstrated that such change represents a significant challenge for individuals and institutional culture, and demands an appreciation of, and exposure to, the superior results that can be achieved by effective engagement. Having adopted the OECD Principles on Water Governance (OECD, 2015b), there is now a real opportunity for Ireland to demonstrate its commitment to promoting stakeholder engagement for informed and outcome-oriented contributions to water policy design and implementation in the delivery of the Water Framework Directive. This represents not only an opportunity to bring about enhanced water management, but it would also “trial-run” an integrated approach, potentially very useful in future for other resource management challenges and administrative functions in Ireland.

Conclusion

SWAN welcomes the recent undertakings of DHPCLG to embrace stakeholder engagement, and will support related initiatives. However, we issue the stiff caution that this approach needs to be wholehearted and committed, addressing the issues raised above (among others) to ensure success. Without institutional change and the necessary resources devoted to growing and supporting stakeholder groups, the DHPCLG risks establishing a structure that look good on the outside but is ultimately lacking in substance, thus rendering its own best efforts toothless.

Ireland is now ideally placed to learn from the mistakes of other Member States and to benefit from the significant work done by reputable bodies like the EEA and OECD very recently in order to design a modern and cost-effective public engagement strategy that contributes significantly to achieving WFD objectives and to securing a sustainable future for Ireland’s water resources.

When combined with well-designed and well-delivered mechanisms which enable stakeholders to participate in a constructive way that generates high-quality contributions to a collaborative process, the possible gains from public engagement, both for the aquatic environment and for civic relationships, will be immense.

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