

Date

2 February 2022

Title

Report of the Interim CEO

Report by

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Paper for information

Open in part

Summary

1. In the last six months, I have reported at each meeting on the three material work programmes of the OEP – establishment, strategy and functions, and our 25-YEP monitoring report. Each of these is now nearing its conclusion and we are moving to a new phase of the OEP’s operations.
2. On 1 January 2022 all existing permanent staff of the OEP transferred from Defra. The OEP commenced its legal powers on 24 January 2022.
3. Our work now focusses on delivering our functions which are legally commenced in England, and are anticipated in Northern Ireland shortly. We are actively business planning for our first year’s work.
4. Our strategy and enforcement policy have now been published for consultation following the extraordinary meeting of the Board on 19 January 2022. They can be found at <https://www.theoep.org.uk/consultations> and will be live until 22 March 2022. Our draft strategy consultation covers both our remit in the UK and in respect of devolved matters in NI. This does not pre-judge the Assembly decision but instead demonstrates how we would exercise our functions should the Assembly approve the Commencement Order. We are planning for NI specific stakeholder engagement as soon as our remit in NI has been confirmed.
5. Further engagement is planned with those stakeholders who shared their views with us pre-consultation and we will now engage with broader interested organisations. Following positive feedback on the engagement of the Board members and their role in presenting the previous workshops, the Board is requested to consider whether

they wish to be involved by chairing the forthcoming workshops to be held during February and March.

6. Business Planning activity for 2022-23 is in action – highlights will feed into the Board Workshop on the Corporate Plan development, arranged for 10 February 2022.
7. I would like to note the significance of the milestones that we have now achieved and in particular the material achievement of publishing our strategy consultation. This is the culmination of a major programme of work involving many of our people, including the members of this Board.

Recommendation

8. The Board is recommended to note the issues outlined in this paper.
9. The Board is recommended to consider if Board Members wish to be involved in chairing the forthcoming stakeholder workshops which support the strategy consultation.

Monitoring of the 25YEP

10. A draft report and key messages paper has been sent to the Board to provide an opportunity to review it and discuss the sign-off process and further work needed. The full Board will have further opportunity to see the report before publication. We have agreed on a launch date of March 9 (press launch March 7). We are now progressing with making arrangements for this.
11. We are beginning to develop our governance process for the next monitoring report. In addition to learning from the responses from our current report (when published), we have established a lessons learnt programme in the OEP to capture how best to deliver our monitoring reports in the future.

Complaints and Enquiries

12. The complaints procedure was updated to reflect our powers and was published on the OEP website last week. Further updates are being made to the complaint pages of the website, reflecting upon user testing to deliver accessibility improvements. For example, helping complainants to better identify if their complaint should come to us and moving the complaint portal so that the form sits on the main website rather than a satellite site.
13. The number of complaints and enquiries remains relatively low, with 2 new complaints received in December 2021 and 2 in January 2022 (as at time of writing) Annex A provides further detail in the dashboard for December 2021.
14. The team has re-considered all of the complaints received by the OEP and legacy bodies and a specific paper to the Board today will seek agreement to formally adopt these, and how and when we intend to communicate with those complainants who will

not have their complaints further investigated in line with the OEP strategy and enforcement policy.

Advice and Monitoring Environmental Law

15. As reported previously, the Northern Ireland (NI) government recently consulted on their environment strategy. This will become their first EIP if the Assembly agrees to the Environment Act extending to NI. Although the consultation closed on 18 January, we received a letter from DAERA, on behalf of Minister Poots, requesting our advice. This means we can respond after the consultation deadline. Our advice is discussed in further detail in agenda item 22.08.
16. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
17. Whilst the Green Paper, including proposed amendments to the Habitats Regulations, is further delayed (now expected early February), the government's consultation on Biodiversity Net Gain has now launched – delayed from July 2021. The team are currently evaluating the consultation documents to determine where to focus our efforts. We have also heard from Defra that the targets consultation is expected to launch in mid-February. This will be a key consultation for us and the Board previously agreed that we should respond to it.
18. The team has also been considering the consultations related to the water environment, in particular the River Basin Management Plan (RBMP) consultation and on Flood Risk Management Plans (FRMPs) (the consultation on Flood Risk Management Plans (FRMPs) has now closed but it remains open to us to consider providing advice). We will progress our thinking further on this topic and will provide the Board with a proposal at the March meeting as to whether we should take either of these further.
19. More generally, we continue to use the decision tool to screen consultations. We have screened out consultations such as JNCC's quinquennial review of species listed in schedules to the Wildlife and Countryside Act. This is because the consultation is technical in nature and does not present an opportunity for us to provide strategic advice in line with our oversight role. However, this will be an important consultation for us to track, as changing the level of protection for certain species could be something which triggers subsequent complaints, or becomes evident in our monitoring work – both the 25YEP and targets, and environmental law.
20. With regards to our monitoring environmental law work, we have begun initial discussions on how we will identify area/s to prioritise for monitoring in depth. We will continue to progress this work over the next couple of months. The team have also set up a working group to trial an 'intelligence management system'. The group will comprise members from across the organisation who will add information – sourced internally and externally - to a database. Each month, they will meet to peer review the entries and discuss any emerging trends. Each member will be responsible for gathering intelligence from across their work area and cascading messages back to their team. This will provide us with a centralised system of intelligence.

Establishing the OEP

21. The Board agreed that the operational establishment of the OEP would be completed in four phases. All of these are now broadly complete with some outstanding activity to be finalised. We report below on the most notable delivery, and the areas of particular risk in the establishment programme. The programme will formally be closed by Defra by the end of March.
22. **Staff transfer scheme:** Working with Defra, its shared service provider and Midland HR we successfully transferred 24 staff from Defra to the OEP on 1 January. *This section has been redacted as it includes personal data.* All necessary employee liability data, personnel files and pay data has been transferred. We have successfully onboarded to our new HR Service Provider (Midland HR) in preparation for the first pay run which is due to be completed before the Board's meeting.
23. *This section has been redacted as it includes personal data.*
24. **Interim staff:** New contractual arrangements are in place for all interim staff. These include new secondments to the OEP, and a small number of informal arrangements where Defra staff will continue to work for the OEP up to the middle of February. 1 January marked a material transition in OEP staff, with six staff leaving the division.
25. **Asset transfer:** Certain physical and intangible assets (including documents, records and other data) are transferred to the OEP. We are working to resolve some outstanding matters in this regard:
- a. we are working with Defra to establish a final closing financial position, which will dictate the notional financial value for the transferred assets so that our and Defra's accounts can be reconciled with each other
 - b. we are waiting for Defra to provide necessary paperwork to conclude the novation of contracts to the OEP, and
 - c. the transfer of intellectual property rights (IPR), including the OEP branding, is not yet complete as this requires Keeper of Public Records consent. Defra is to use best endeavours to procure this consent. In the meantime we are using the IPR on licence from Defra, and Defra has an obligation to safeguard the IPR, including by applying to trademark the OEP brand. We are following up with Defra to offer support and ensure it progresses these matters expeditiously.
26. **Corporate services:** We have arrangements in place to enable the OEP to continue receiving Defra group corporate services support to the end of the financial year, against identified needs. Longer term arrangements continue to be discussed.
27. **IT establishment:** On 25 January, all staff within the OEP transferred operationally to OEP devices, and OEP records management. Users have been supported with induction and training to make the most of the new equipment. A further phase of the IT project will focus on user experience, disaster recovery and business continuity. Our Head of IT and Digital Services starts on 1 February.

28. We launched the consultation service on our website after compliance and assurance testing. We continue to work to improve the accessibility of the case management system, *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and to commercial interests*. Our remedial work is delayed, and we have redeployed resource to seek to expedite improvement.
29. **Human Resources:** All core HR and Health and Safety Policies have been agreed and have been prepared for publication on the intranet. During January a number of HR drop-ins were hosted for staff to promulgate them. The full Defra group range of employee benefits; retail discounts, salary sacrifice schemes and access to the mindfulness Headspace application are now available to all staff.
30. We worked effectively with Prospect, Public and Commercial Services Union (PCS) and The Association of First Division Civil Servants (FDA) representatives during the Staff Transfer Scheme consultation, *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs*.
31. **Finance and procurement:** The accounting system (Sage 200) has recently been installed on the OEP laptops, and the set-up has commenced.
32. The Board is to discuss delegation of financial and non-financial decision-making under Agenda item 22.11. The finance function (including procurement) is expected to become operational on 1 February 2022. Development of the associated policies and procedures is well underway and they are anticipated to be in a first draft form by 31 March 2022. The suite of policies will then be tabled to ARAC and the Board for formal sign off.
33. A travel booking service for use by OEP employees to search and book train tickets and hotels has been procured through a Crown Commercial Service framework. Its online booking portal is due to be operational by the beginning of March.
34. **Recruitment:** Our final outstanding wave 2 recruits are due to arrive in February, whilst our third recruitment wave commenced at the start of January, principally Analyst roles with additional Complaints, Legal and legal roles planned for February, in anticipation of greater clarity regarding our Northern Ireland remit.
35. Recruitment for the permanent CEO position, co-ordinated by Gatenby Sanderson who managed the Executive Director campaigns, started on Monday 17 January and will close on 11 February 2022.
36. The details of staff who took up their roles in the OEP since the last meeting may be found within the table below:

OEP Role	Staff Member	Start Date
Head of Complaints, Investigation and Enforcement	Joe Hayden	29 December 2021

General Counsel	Peter Ashford	1 January 2022
Principal Environmental Analyst	<i>This section has been redacted as it includes personal data.</i>	1 January 2022
Chief of Staff	Richard Greenhous	17 January 2022
Chief Insights Officer	Simon Brockington	24 January 2022
<i>This section has been redacted as it includes personal data.</i>	Senior Investigations Officer	24 January 2022
<i>This section has been redacted as it includes personal data.</i>	Head of Litigation and Casework	1 February 2022
<i>This section has been redacted as it includes personal data.</i>	Principal Communications and Engagement Officer	1 February 2022

37. The Organisation Structure as of January 2022 can be found at Annex B.

38. The diversity of applicants applying for roles within wave 1 and 2 of recruitment can be found at Annex C.

39. **Estates:** We have now received Cabinet Office clearance to enter into a lease for a property outside the government estate. *This section has been redacted as its publication would be prejudicial to commercial interests.*

40. We have agreed a partnership agreement with Defra which includes provision for the OEP to continue to occupy the dedicated space in Worcestershire County Hall from 1 January 2022 until 31 March 2022 (and we anticipate extending these arrangements until the permanent office space is ready). Working space will be limited due to Covid restrictions and internal arrangements will be put in place to use the space as effectively as possible.

Communications and Launch

41. Activity in the Communications and Strategic Relations function has focused on the induction of new Head of Service Mike Fox and supporting the publication of the draft strategy and enforcement policy through a communications plan, launch event and website updates.

42. The launch was marked with an online event for stakeholders held on 25 January. This was a scaled back approach from previously discussed proposals for a larger launch event for the organisation due to Covid restrictions. Plans will now be

considered for a larger organisational launch around the finalised strategy, enforcement policy and corporate plan.

43. The launch of the consultation was also supported by a press release to key journalists in the sector. A social media plan will be implemented to support the consultation through the period it is live.
44. Ahead of the launch, Dame Glenys gave a speech at a Westminster Forum event looking at the future of environmental regulation. This was used as an opportunity to give a positive update on progress in establishing the OEP as an independent body and look ahead to the strategy launch and the 25YEP monitoring report. I also took part in the Coastal Futures conference event on January 18, participating in a session titled 'The legal and political context for the next decade' giving an update on progress in establishing the OEP.

Stakeholder Relations

45. Much of the stakeholder engagement work in recent weeks has been focused on preparation for the launch of the strategy consultation and ensuring that invites to the online event were targeted appropriately. The aim was to engage with stakeholders already interested and involved with the OEP and to try and broaden the reach to include relevant organisations and agencies not yet contacted. The aim was for this to be a non-political, 'working' event to support quality responses to the consultation. Further, targeted stakeholder events are being planned for the consultation period. We are also seeking support from a professional research company to develop an approach to engage the general public in the strategy consultation.
46. Alongside the preparation for the launch, we have continued with a programme of meetings and briefings with stakeholders. This included an Embedding Environment Deputy Director Ambassadors workshop on the strategy. This is a subgroup of the cross-Government 25 YEP Board who are the point of contact for the cross-government embedding work, alongside the review and refresh of the 25 Year Environment Plan and Environmental Principles. The workshop was well received, and participants were keen for it to be the start of continued engagement between their departments and the OEP. We have also met with the local authorities in Northern Ireland for a session organised by RSPB NI, during which I gave a presentation on the OEP.
47. Following the strategy consultation launch, additional capacity was released for focus on preparation and planning for the publication of the 25YEP Report in March.
48. Work has also been carried out to consider our approach to working with other organisations and the role of Memorandums of Understanding (MOUs). *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
49. Now with permanent staff in place, the Communication and Strategic Relations function will be working on a stakeholder relations strategy to support the OEP strategy and build on the good work achieved so far.

Business and Corporate Plan

50. We aim to publish our corporate plan alongside our adopted strategy and enforcement policy in April 2022, and for this to be supported by detailed operational business plans and budgets for each OEP function.
51. The corporate plan development is underway with a dedicated workshop for the Board scheduled for 10 February. This will give an opportunity to consider environmental priorities that could inform our focus for our first whole year of operation in 2022-23.
52. All OEP teams have been actively involved in business planning conversations within and between functions to effectively plan our resources for the financial year 2022-23.
53. The development of the corporate plan and business planning are co-dependent and run concurrently to ensure alignment of our activities. We will similarly develop our operational approach to prioritisation, in line with the principles set out in our strategy.

Spending Review

54. The last report to the Board outlined concerns on the governance and approach to allocating OEP resources through Defra's business planning process.
55. We have been in active discussion with Defra on an alternative governance structure. An 'OEP business planning board' has been established, chaired by Defra's NETL Director and which I attend. This is intended to provide a vehicle for Defra to scrutinise OEP's budget in a forum which limits conflicts of interest that may arise through Defra's ordinary processes.
56. This business planning board will make recommendations to the Director General of ERM on the budget to be provided to, and ring-fenced for, the OEP through a spending review period, and for any adjustment the OEP seeks to that budget in annual planning rounds. There remains work to do to firmly set out how the ring-fence is operationalised. It is understood this is largely to be through the OEP's budget being excluded from all savings and efficiency exercises between spending review allocations. It is understood this will be set out in letters confirming the OEP's delegated budget and through political statements made to Parliament. Defra is reviewing all Ministerial commitments made in respect of the OEP's budget.
57. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Northern Ireland

58. Both the AERA committee and the NI Executive have now approved the draft Commencement Order (CO) to commence the OEP's role in Northern Ireland. This was laid on 25 January 2022. It is expected that the NI Assembly will give their approval on 21 or 22 February, with our functions expected to commence on 28 February 2022, at the same time as a NI Board Member commences in post. The interviews have now been completed for this NI Board member position. At the time of writing, it is expected that Minister Poots may soon have selected his preferred candidate from the unranked list and details of any appointment will be verbally updated at the Board meeting

59. We have provided DAERA with a revised funding estimate *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs* for our first year of operation, however, the actual amount that DAERA will contribute will be agreed between DAERA and Defra.
60. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
61. There is also a planned election in NI on 5 May which means that NI will move into their pre-election period on 24 March 2022.

Governance

62. Following the Board's steer in December, we have continued discussions with Defra in respect of our framework agreement, with an emphasis on ensuring the independence of the OEP is appropriately reflected in the draft. These discussions have paused whilst clarity on some important aspects of this (for example, in respect of budgetary governance) are defined. We expect discussions to begin in earnest, shortly.

Litigation

63. *This section has been redacted as it contains legally privileged advice.*

Culture

64. The launch of the strategy, OEP HR policies and IT kit signal a big step towards establishing the OEP identity. We have given these space to embed and over the next month we will engage at a team level on the emerging OEP values, trust and curiosity, to test if these are the right values to deliver our mission and position ourselves as an independent, expert and strategic organisation. We will also explore what these values mean for individuals as we start to translate them into a behaviour charter.
65. We are also developing a culture map that will bring together all of the people initiatives across OEP to check that they complement the culture we are aiming to develop and advertise them coherently.

Impact Assessments

Risk Assessment

66. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Equality Analysis

67. Equality related matters arise largely in relation to recruitment. We have strategies in place to make every effort to recruit and retain as diverse a range of staff as possible and that we remain an inclusive employer.

ANNEXES LIST

Annex A – This section has been redacted as it relates to information recorded for the purposes of OEP’s functions relating to investigations and enforcement.

Annex B – This section has been redacted as it includes personal data.

Annex C – OEP Wave 1 and 2 Recruitment Diversity