

Minutes

Meeting of the Board
Wednesday 2 February – 9am
Online via Microsoft Teams

Members

Julie Hill MBE	Board Member
Professor Dan Laffoley	Board Member
Dr Paul Leinster CBE	Board Member
Professor Richard Macrory CBE	Board Member
Natalie Prosser	Interim CEO
Dame Glenys Stacey	Chair

Attendees

Peter Ashford	General Counsel
Simon Brockington	Chief Insights Officer
REDACTED	Principal Natural Scientist (item 22.08)
REDACTED	Principal Complaints Manager (item 22.09)
Alexis Edward	Head of Finance and Corporate Services
Neil Emmott	Head of Monitoring of Environmental Law and Advice
REDACTED	Natural Science Analyst (item 22.08)
REDACTED	Principal Business Officer (item 22.10)
Mike Fox	Head of Communications and Strategic Relations
Andy Gill	Head of Environment and Climate Analysis (items 22.07 and 22.08)
Tim Graham	Head of Natural Science Analysis (items 22.07 and 22.08)
Richard Greenhous	Chief of Staff
REDACTED	Northern Ireland Lead (item 22.08)
Louise Jakobsson	Head of Strategy, EIP Monitoring and Reporting (items 22.07 and 22.08)
Andy Lester	Head of Business Strategy and Planning (acting as Board Secretariat)
REDACTED	Senior Environmental Law Officer (item 22.08)

22.04 **Apologies for Absence and Declarations of Interest**

There were no apologies for absence and no declarations of interest.

22.05 **Minutes and Matters Arising**

The Board **AGREED** the minutes of the meeting of 14 December 2021 and the extraordinary meeting of 19 January 2022. The matters arising were noted.

The Board sought and received assurance on plans for prompt publication of prior minutes.

22.06 **Report of the Interim CEO**

The Interim CEO presented her report. Each of the three major programmes that had formed the substance of the OEP's work to date had reached a major point of delivery.

The establishment programme has in substance delivered a functionally independent OEP, and transition has largely been smooth. A small number of issues are being managed to resolution, with programme activity moving to the established teams. An update on the progress of estates was provided.

The OEP's strategy programme has reached consultation stage, with the consultation published to plan. Feedback from those who attended the launch event, and early feedback on the strategy itself, has been positive. An updated slide pack to explain the strategy for Board members use is to be circulated. **ACTION** Head of Communications and Strategic Relations.

The 25YEP monitoring report programme is progressing well, with the draft report the subject of a later agenda item.

An update on those matters on which the OEP may provide advice was provided. **ACTION** The Chief Insights Officer to consider how our views on issues related to the marine strategy review can be appropriately provided to Defra.

The Board recognised important questions about the nature of our advice, and the level at which it is given, as our role is not policy making, but oversight and scrutiny. The Board requested that the forward look on consultations, and possible strategic litigation be reviewed by the Board regularly. **ACTION** Head of Monitoring Environmental Law and Advice, General Counsel.

The Board discussed and emphasised the importance of the stakeholder strategy to be developed, and recommended that our relationship with the Environmental Law Foundation be considered.

The Board was informed that the Chair and Interim CEO would appear before the Environmental Audit Committee on 23 March, with a focus on our strategy, 25YEP monitoring report and issues in our establishment.

The Board discussed the position in relation to OEP's ring-fenced budget. Recent discussions at official level suggested that the allowable headcount and amount of funding the OEP would receive from Defra in 2022/23 would be sufficient for the OEP's activities in England. This included flexibility for up to 10 posts on short-term employment arrangements according to need, and an opportunity to seek additional funding towards the necessary investment in the complaints, intelligence and investigations management system once that had been fully scoped.

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

The Board noted and endorsed the Interim CEO's view. It urged Officers to explore all routes to secure the amount and security of funding sufficient for the OEP to deliver its functions.

22.07 **25-year environment plan monitoring report**

The Chair summarised the significant progress made so far and sought views on the draft report.

The Board considered the report could say yet more on the poor condition of the environment, and stress more firmly the urgency of the situation. Our recommendations could be sharper and bolder also.

The Board discussed the chapter on targets and agreed our view: there should be targets for each goal in the environmental improvement plan, and a rationalisation and taxonomy of targets. This is not an argument for a proliferation of targets.

The Board was of the view that the chapter on governance could be improved by including leadership, and delivery to make things happen. Additional emphasis on the importance of the environmental principles could be helpful. Whilst this report does not cover delivery arrangements in any detail, it was appropriate to signal the need for coherent delivery arrangements aligned with the 25YEP and taking into account of the role of local delivery partners, and those across government.

The Board noted the work remaining. It was recognised that while publication ahead of the Chair and Interim CEO's appearance before the Environmental Audit Select Committee would be most courteous to the committee, the actual publication date will depend on progress in the next few weeks.

The Board **AGREED** the continuing delegation of remaining work needed to the draft report, and of the launch arrangements, to the Steering Group and executive. It further **AGREED** to consider the report at its next meeting, or by electronic business if necessary.

22.08 **Advice on the draft Northern Ireland EIP**

The Board considered a proposal to provide advice to Northern Ireland on its draft EIP, and considered timing considerations, given the expected (but not certain) date of the commencement of the OEP's functions in Northern Ireland. It is understood that our advice will accompany the current draft EIP when put to the Executive and, following discussion with the Executive, will inform the review of the EIP post consultation.

The Board stressed the importance of ensuring alignment between this advice and our 25 year EIP report. Our report relates to England, clearly, but the strategic approach to environmental stewardship we propose is equally relevant to both England and Northern Ireland. The Board suggested that the advice be reframed explicitly using the building block approach of our report, with our advice specific to the draft NI EIP but within a consistent framework.

The Board also noted some key differences to consider. These include the different delivery challenges in Northern Ireland, for example from the different structure of its institutions, and the different ways in which water supply is funded. Policy infrastructure was also highlighted, noting that some of the key policy levers intended for England (such as local nature recovery strategies) were not planned in Northern Ireland.

Environmental differences and the nature of agriculture in Northern Ireland were also discussed. The Board recognised that environmental pressures and priorities necessarily

differ in Northern Ireland, and asked to be advised on the detail at a future board event – **ACTION** Chief Insights Officer.

Meanwhile, the Board considered but decided against proposals for testing and socialising our draft advice with experts and stakeholders in Northern Ireland, as the OEP's remit is not yet confirmed.

The Board **AGREED** that advice be provided, and that the draft advice be reviewed by the 25YEP Steering Group. The Board **AGREED** that the final draft advice should be submitted to the Board for agreement via electronic business.

22.09 **Handling of complaints received by Interim OEP**

The Board considered a proposal for the OEP to adopt wholesale all complaints received by the interim OEP and the former secretariat.

The Board considered an alternative – seeking confirmation from each complainant – but saw downsides, for example the risks for any who did not respond, and an unsatisfactory experience for those whose complaints the OEP subsequently confirms to be out of scope.

It was requested that the Interim CEO consider which parts of the paper could be open. **ACTION** Interim CEO.

The Board **AGREED** to formally adopt all of the complaints that were received by the Interim Environmental Governance Secretariat or Interim Office of Environmental Protection prior to the legal formation of the OEP on 17 November 2021. This includes complaints relating to both Northern Ireland and England. It **AGREED** to formally decline to progress further any adopted complaints that have been determined to not fall within the OEP's remit.

The Board **AGREED** that the OEP should review adopted complaints relating to England that are within scope, but refrain from formally investigating or otherwise resolving these cases until the publication of the final post-consultation strategy and enforcement policy. It also **AGREED** to defer making any decisions as to adopted Northern Ireland complaints until the OEP receives formal powers to consider complaints from Northern Ireland.

22.10 **Risk framework and strategic risk register**

The Board considered a proposed risk framework and an accompanying risk register, together with a summary of the feedback that had been provided by the Audit and Risk Assurance Committee. The Board was informed that the Committee proposes to undertake deep dives of risk, and to seek assurance on mitigation and delivery of expected outcomes.

The Board discussed the framework. It noted that Board discussion of risk appetite is key, and received assurance that this was intended within the programme of work to develop and embed our risk approach. The Board recommended that Officers ensure there is real clarity on the role of the Executive, Committee and Board for the management, assurance and oversight of risk.

The Board **AGREED** to approve the proposed risk framework.

The Board considered the strategic risk register. It noted that it addressed those risks the Board judged to be strategic, including the cumulative operational risk of the OEP's start-up phase.

22.11 **Delegation of functions**

The Board considered proposals for delegation, noting that they had also been considered by the Audit and Risk Assurance Committee. It was explained that the delegations proposed were an interim step, to deal with specific decisions that need to be made in the short-term, ahead of further development of the delegation policy in the coming weeks.

The Board sought assurance on the controls for cumulative decisions just below a threshold for escalation. Operational controls and guidance could be considered. **ACTION** Chief of Staff to consider and provide assurance to the Board.

It was noted that the OEP has not yet developed its management information to give assurance to the Board on its operations. This was emphasised as important, and was confirmed to be in current work plans.

The Board **AGREED** to adopt the delegation policy, financial scheme of delegation and limited non-financial scheme of delegation pursuant to paragraphs 10(1) and 10(2) of Schedule 1 to the Environment Act 2021. The Board further **AGREED** to amend the Board's Governance Framework pursuant to para 11(1) of Schedule 1 to the Act to reflect that decision.

22.12 **Finance Paper**

The Board discussed the financial summary provided. It was informed that a detailed exercise had been undertaken at the end of Q3 to fully scrutinise spending projected. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

The Board sought assurance on the extent to which there is confidence in the forecasting, noting that the establishment phase presented particular risks and challenges to this. It queried whether this could be an area of focus for internal audit.

The Board recommended planned flexibility in expenditure, so that value for money ways to use any underspend purposefully were identified, scoped and ready to proceed. This may require upfront investment in preparation and procurement. The Board emphasised the benefits of flexible procurement models for expertise, and recommended the approaches of the JNCC and EU commission for comparison.

The Board noted that the NAO had confirmed it was expected the OEP would lay its first accounts in September in this first year.

22.13 **Appointment of executive members to the Board**

The Board noted the statutory requirement for 1-3 executive board members in addition to the CEO, and discussed a proposal to rotate executive director membership of the Board every six months and limited to one executive board member at any one time. It noted the strong desire to ensure that the executives are of equal status, and hence the rotation

proposed and its duration. The Board recognised the role of the General Counsel as distinct, as set out in the paper.

The Board recommended that clarity be given to any executive member on the expectations of that post, and to provide appropriate support to members as they assume it. The Board also recommended that clarity be provided on how the executive member would participate in a vote, if one were called. **ACTION** Interim CEO.

The Board noted that the proposed rotation would be effective provided that all other executives are present, and able to actively participate in discussion as executives, albeit not Board members. It was confirmed that this practice and expectation would remain.

The Board **AGREED** that one executive member is appointed to the Board. It further **AGREED** that member should be appointed for a six-month term on rotation between the Executive Directors, with the exception of the General Counsel and that the first member appointed is the Chief of Staff, Richard Greenhous, followed by the Chief Regulatory Officer and then Chief Insights Officer in a repeated cycle, and with effective from 1 February.

In the event that any post is temporarily vacant at the relevant time, the Board **AGREED** that the next in this sequence shall be appointed in their stead.

22.14 **Any other business**

The Board **AGREED** that the Interim CEO should review all papers proposed as closed, with a view to ensuring that all papers that can be open be reclassified as such.