

**Date**

17 March 2022

**Title**

Report of the Interim CEO

**Report by**

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Paper for information

Open in part

## Summary

1. The OEP continues to shift its focus from set up to full operations. The pace remains intensive with high demand on staff across all teams. We do however continue to make material progress against all of our workstreams and this is our first Board where we have a full Executive team now in post. As our work focus has moved, going forward, my paper will focus more specifically on our substantive work programmes linked to our strategic objectives.
2. The OEP's remit in Northern Ireland was confirmed on 22 February, following the decision of the Northern Ireland Assembly, and Executive. We held our first dedicated NI stakeholder engagement on 24 February. Our NI functions commenced on 28 February. Significant effort is required to build our operations, strategy and resources to deliver these functions. We have asked DAERA to confirm the associated additional resources required. At the time of writing, we expect further budget discussion and appointment of the NI NED soon.
3. Our consultation on our strategy and enforcement policy will close on 22 March 2022, four weeks after the Assembly's decision. We have engaged extensively with stakeholders through the consultation period, through nine dedicated workshops. At the time of writing, we have had a low number of formal responses but understand a number of stakeholders plan to respond before the deadline.
4. The Board's business in this meeting includes consideration of significant items of delivery through our 25-year environment plan monitoring report, and potential consultation responses on proposals for biodiversity net gain, and statutory targets. These are tangible examples of how our activity is increasingly occupied with delivery against our mission.

5. The delivery of this activity and other priorities is exerting demand on the organisation at, and arguably beyond, our operational capacity at this point of our maturity. Significant efforts are underway to understand the recurring resource needs of our ongoing work, and propose priorities for our first business and corporate plan. A key intent is that our commitments and resources are better balanced, and that we identify those priority areas where the OEP can exert most difference, in line with our strategy.

## Recommendations

6. The Board is recommended to note the issues outlined in this paper *this section has been redacted as its publication would be prejudicial to commercial interests.*

## Strategic Objective 1 - Sustained environmental improvement

7. The OEP is preparing to deliver its first report on progress under the government's 25 Year Environment Plan. The report, entitled 'Taking stock: protecting and improving the environment in England' is on the Board's agenda for approval.
8. The Northern Ireland Executive consulted on its first environmental improvement plan between 11 November 2021 and 18 January 2022. The plan is presented as a draft Environment Strategy and DAERA requested our view on its suitability as Northern Ireland's future Environmental Improvement Plan. Now that our NI functions have been commenced, this is a request for our advice under Schedule 3, paragraph 3(1) of the Environment Act. With the report on the 25 YEP now almost completed, we are scoping an initial analysis for NI's Environment Strategy based on the Building Block framework, with initial results by 18 March. We expect to provide a submission to the OEP board for its April 2022 meeting.
9. Given the NI Executive is no longer operational, the timeline for our advice to be provided has changed. We expect to provide our advice in May, when a new Executive may be constituted and at the point when it may be able to consider its Environment Strategy further. In the interim we have met with DAERA officials to explain the principles underpinning the 'building blocks' of our report and to better understand how the future EIP will be taken forward towards a proposed publication date in late 2022.
10. In week commencing 14 March 2022, we expect that Defra will open a consultation on the environmental improvement targets, and the interim targets, required under the Environment Act 2021. Ensuring that government has a comprehensive and effective targets regime is a key responsibility for OEP and we are preparing to respond to the consultation. A proposal on our approach to responding to the government's proposals on targets is on the Board's agenda today.

## Strategic Objective 2 - Better environmental law, better implemented

11. We continue to use the decision tool to screen consultations. We have identified the consultation on the Joint Fisheries Statement as a consultation which could merit a response. The Board is to consider our response under a specific item on today's agenda.
12. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

13. We understand the government's Nature Green Paper will launch concurrently with the targets consultation in the week of 14 March for an eight week consultation. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* We have started to plan this work and have secured external legal expertise in support. I would also like to thank Professor Laffoley for offering his expertise to assist with our thinking.
14. At our last meeting, the Board asked us to reconsider whether OEP should respond to consultations on River Basin Management Plans (RBMPs) and Flood Risk Management Plans (FRMPs), where we had recommended that we not respond. We have done so and our original recommendation stands. Although these are important consultations and although we could add value, we consider that other areas of work should take greater priority. Instead, we will consider the wider priority of water quality in our prioritisation of our activities for 2022/23, which the Board will discuss as part of the item on our Business and Corporate plans.

## Strategic Objective 3 - Improved compliance with environmental law

15. We wrote to the European Commission in January, asking them to provide information on the status of environmental cases the Commission has open against the UK. Three cases remain open – one related to the Urban Waste Water Treatment Directive (relevant to the complaints we have received on CSOs) and one relating to the ongoing failure of the UK to meet air quality standards for NO<sub>2</sub>. The third case applies to Wales and Gibraltar. We are currently considering these cases as part of our work on prioritisation and business planning. Cases closed by the Commission have also influenced the selection of issues in our prioritisation, as the Commission informed us that some cases were closed despite the issue not being fully resolved. The reasoning for this is not provided and we will therefore want to form our own view. We will not attach any additional weight to matters falling within these cases.
16. We continue to work towards a Government Digital Services Assessment in the Spring and are acting on expert accessibility advice from our suppliers to improve the complainant user journey. This includes the introduction of an eligibility checker to help prospective complainants understand if they can complain to the OEP and the revision of the complaints form to ensure it is easy to understand and written in plain English.
17. Work has continued to resolve the web accessibility issues on the OEP website. Our website supplier, Civic is coming to the end of a proof-of-concept phase to test the technology solution to enable an improved complaints experience. If successful, we will determine the timelines and costs for the final solution. Alongside this, we are assessing a proposed solution for our need to provide our reports in an accessible format.
18. The OEP has seen a small increase in complaints volumes this year. We received with 5 new complaints in January and 5 in February 2022. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.*
19. There has also been a significant increase in the number of enquiries received, both relating specifically to breaches of environmental law, and wider OEP queries.
20. As the Board agreed in its last meeting, the OEP has reconsidered all of the complaints received by the Interim OEP and legacy bodies and has now corresponded with every

complainant to advise them whether or not the OEP will be progressing their complaint through the validation and assessment phase. Where possible we have signposted and supported complainants whose complaints have been deemed unsuitable for the OEP.

21. The internal Complaints, Assessment and Investigations procedures are being refined and finalised. Valid complaints are now being assessed in working groups comprising members of the complaints, investigations and legal teams, using these new procedures to determine recommendations for the most appropriate course of action, once the OEP strategy has been formally adopted.

## Strategic Objective 4 - Organisational excellence and influence

### Organisational Development

22. Through engagement with staff we have completed a diagnoses of the culture of the OEP and what we think we will need to have in place to succeed in delivering our mission. We have engaged staff, including new starters, on the values and behaviours that we will need to uphold to underpin this culture and present these in a draft charter for discussion with the Board today.
23. We are developing proposals for how to secure expert advice, scrutiny and insight for OEP activities and for the Board. This is likely to take a number of forms, including retaining panels of individual experts or organisations who can undertake commissioned work for us and critical friend/peer review arrangements. We also consider that it may be desirable to have a specific expert group that could be constituted as an advisory committee of the Board with members appointed on the basis of their experience and expertise. This could provide a rich source of insight to inform our work across many of our functions. There are a number of possible approaches that we could take and will provide options for the Board to consider at its April meeting.
24. Our newly formed 'intelligence management group' met for the first time this month. The group includes members from across the organisation who come together to allow us to collate and log insights and intelligence from a range of sources. We intend for the group to meet each month to peer review the entries and discuss any emerging trends. Each member is responsible for gathering intelligence from across their work area and cascading messages back to their team. This provides us with an embryonic centralised system of intelligence in advance of wider system development intended. We will keep our approach under active review.

### Budget

25. Following our participation in the bespoke business planning process created to support allocation of the OEP's budget, the Secretary of State has verbally confirmed the budget the OEP will be provided in 2022/23, the amount to be ring-fenced during the spending review period, and an indicative 5-year budget.
26. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
27. During Minister Poots' closing speech to the NI Assembly on 22 February, he publicly stated that DAERA were expecting to provide between £700-800k to the OEP for the first year of operation (2022/3), *this section has been redacted as its publication would be prejudicial to relations within the United Kingdom.* However, DAERA's actual contribution has not yet been

agreed. We await a meeting of Defra's Budget Assurance Board, to which DAERA and the OEP will contribute, to discuss further.

## **Establishment**

28. For the completion of the OEPs successful establishment, there are some strategically significant outstanding activity yet to be finalised. With the programme formally closing by Defra by the end of March, this presents the following areas of risk:
- a) The closing financial position at vesting still needs to be finalised with Defra colleagues, this is a critical point for establishing the OEP, and should be complete in the coming weeks,
  - b) There is ongoing work to conclude the novation of contracts to the OEP, and
  - c) Defra are yet to transfer to us certain intellectual property, including copyright in our legacy records and the OEP branding. We are working with Defra to understand why this is and what further steps are required to expedite this.
29. Discussions are continuing relating to the creation of the Defra Corporate Services Partnership Agreement, which outlines the longer term arrangements for Defra group corporate services against OEP identified needs.
30. We have formally ended the IT establishment phase with Boxxe and are now in live running. Alongside this we're beginning a new project with Boxxe focused on security with activity to address the remaining items identified in the recent IT Health Check; BCP and disaster recovery; self-serve password resets; OEP training for information security and spotting common cyber-attacks. Good progress on proposal for home printing for board members. options, costs and timelines are expected w/c 7 March.

## **Human Resources**

31. 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, completing this phase of the OEP's establishment.
32. Building on the constructive engagement with Defra Trade Unions in support of the Staff Transfer Scheme, an invitation to seek recognition has been extended to the Prospect Union. A Partnership Agreement will be development in the coming months.
33. Wave 3 of our recruitment commenced in late December, with a number of roles in the Chief Insights Officer and Chief of Staff Directorates. Progress on further outstanding roles has been paused whilst the Northern Ireland resourcing needs are finalised – as such it is anticipated that the next campaign will start in late March.
34. Recruitment for the permanent CEO position is ongoing, co-ordinated by Gatenby Sanderson. The application period closed on 11 February, short-listing is underway with final interviews scheduled for April 2022. We are grateful for the Board's support in this assessment process.
35. We continue to welcome a number of new colleagues to the OEP, following prior recruitment completing. Our permanent headcount has now reached 34, with 16 further staff employed on a range of secondment, short term and continent arrangements pending final recruitment. Since the Board's last meeting, the following have joined:

OEP Role	Staff Member	Start Date
<b>Principal Communications Officer</b>	REDACTED	1 <sup>st</sup> February 2022
<b>Head of Litigation and Casework</b>	Kate Tandy	1 <sup>st</sup> February 2022
<b>Head of IT and Digital Services</b>	Richard Marsh	1 <sup>st</sup> February 2022
<b>Principal Analyst</b>	REDACTED	23 <sup>rd</sup> February 2022
<b>Senior IT and Digital Officer</b>	REDACTED	23 <sup>rd</sup> February 2022
<b>Chief Regulatory Officer</b>	Helen Venn	1 <sup>st</sup> March 2022

## Accommodation

35. *This section has been redacted as its publication would be prejudicial to commercial interests.*
36. Given the delay, the executive has carefully considered the benefits and desirability of entering into the lease as planned. *This section has been redacted as its publication would be prejudicial to commercial interests.* The County Council is conducting a wider occupancy review of its premises, but this will not complete for 12 months.
37. The current temporary premises cannot be a medium term solution given their configuration, size and the constraints placed on effective flexible working. The Board is asked to note the intention to enter into the lease.
38. In the interim, following the recent relaxation of the Covid-19 restrictions a review of our office space in Worcester and the approach to attendance at the office has been conducted. We will retain one bank of socially-distanced desks, and otherwise increase our occupancy to 28 people. We are in discussions with teams to make a positive case for a flexible return to the office.

## Framework Document

39. We provided an updated mark-up of the OEP's Framework Document to Defra before Christmas, and have recently received Defra's and DAERA's comments. This incorporated the Board's feedback from its meeting on 14 December 2021 *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

## Communications and Stakeholder Relations

40. We continue to develop our communications and engagement strategy as we plan our work and approach with stakeholders. Proposals will be presented to Board in April.
41. A series of stakeholder engagement activities has taken place over recent weeks to further support participation in the strategy and enforcement policy consultation and look ahead to the 25YEP Monitoring Report and the Corporate Plan. This included workshops with eNGOs,

ALBs, UKELA, ADEPT, the cross-government Embedding Environment Deputy Directors Group, and the Aldersgate Group and Broadway Initiative.

42. We undertook two general sessions open to a broader set of stakeholders to tell them about the OEP and to encourage them to respond to the consultation. Internal engagement sessions have begun with our staff, called 'Bringing our strategy to life' to seek views on the draft strategy and embed it in work being done across the organisation. We have also now awarded the contract for public engagement on the strategy to YouGov. They will be surveying 5,000 members of the public and running six workshops to explore public perceptions on our strategic approach, and establish a baseline for public understanding of the OEP.
43. A notice was published on the OEP website on Tuesday, 22 February, to mark the Northern Ireland Assembly decision to go ahead with our functions, and a quote from Dame Glenys was contributed to a DAERA news release. More significantly, on Thursday, 24 February the OEP hosted its first event for NI stakeholders, taking them through the content of the strategy launch event on an on-line platform. Feedback from this event was positive.
44. We have used a series of speeches and engagements to begin to position the role the OEP will play, and to signal some of the key messages of our upcoming work. Dame Glenys has given two speeches – a business breakfast event for BDB Pitmans during which she focused on opportunities and challenges, and a key-note speech at an Aldersgate Group event looking at the Environment Act from ambition to delivery. The Aldersgate event also featured former Prime Minister Teresa May and the Secretary of State. Both speeches were promoted on social media and published on the OEP website and were well received. Dame Glenys also spoke at the launch of the Institute for Government's annual Westminster assessment. Chief of Staff Richard Greenhous represented the OEP at an event for the Association of Excellence in Public Service: a local authority audience.
45. We continue to meet with a wide range of stakeholders to promote understanding of the OEP's work and our strategy consultation. We have recently met with the Secretary of State and Minister Pow, several Defra officials, the National Audit Office, National Infrastructure Commission, Office of Rail and Road, Environment Agency, Marine Management Organisation and RSPB Northern Ireland. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
46. Looking ahead, there is a busy period of communications activity anticipated in May and June, with a number of important publications planned. This includes the 25YEP Monitoring Report, the OEPs Strategy, Corporate Plan, our response to the Biodiversity Net Gain, Green Paper and Targets consultations and our advice on the NI Environment Strategy. There are a number of reasons these are focused in a fairly narrow band of time, the pre-election period in April perhaps the most significant.
47. The executive has proposed that the 25YEP should be the first publication due to its reputational significance.

## **The OEP's draft strategy**

48. To date (7 March) 5 consultation responses have been received. We expect the majority of consultation responses to be submitted in the last week of the consultation period (week commencing 14 March).
49. Feedback on our draft strategy and enforcement policy from our stakeholders (through activities detailed above) has been generally positive, noting that it is clear and well written,

and addresses all of the relevant points that they would expect it to. Some key areas of feedback which we will address include the need to clarify in the strategy:

- a. the meaning of environmental law, for example how the OEP may interact with planning laws
- b. our role in monitoring and advising on international law and environmental targets
- c. which environmental targets the OEP will monitor, and whether these are just those that come under the Environment Act, or include other environmental targets where these fall under the definition of environmental law
- d. how the OEP will gather intelligence other than via our complaints function

50. The most substantive feedback to date has centred on our description of our work and role in Northern Ireland. In particular, some stakeholders have suggested we have not yet sufficiently reflected the differences of the Northern Irish institutions, and the transboundary issues and non UK stakeholders with a role to play in environment governance in Northern Ireland. Given the extent to which we were able to engage and test our approach in Northern Ireland ahead of publication, this feedback is not surprising. We have established a working group to consider specifically how we are to address this, and the extent to which this can be achieved in the strategy adopted now, or developed in the year ahead.

51. Given the apparent time in which we are to receive the substance of consultation responses, the implications for the time in which our external contractors can report (now confirmed), and the knock-on impact on our work plan, we no longer think it feasible that we can present that final strategy to the Board for approval at the end of April, despite the external resources now in place. We now aim to publish as soon as possible after Whitsun recess in early June.

## Impact Assessments

### Risk Assessment

52. The Strategic Risk Register continues to develop and be actively updated as part of our core business with routine review by Leadership Team on a monthly cycle. The register and the risks that have been considered by deep dive for January – March 2022 will be presented at the next ARAC with an update to Board thereafter.

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

58. We will further develop the risk register and risk management approach.

### Equality Analysis

59. None arising from the issues in this paper

### Environmental Analysis

60. This report gives an overview to the Board of the strategic organisational developments across the whole of the OEP which supports the mission and principal objective to protect and improve



the environment. Each of the Directorate aligns activities to the 4 strategic objectives to ensure our work is focused, prioritised and make valuable contribution.

61.

Paper to be published	In part
Publication date (if relevant)	With meeting minutes
If it is proposed not to publish the paper or to not publish in full please outline the reasons why with reference to the exemptions available under the Freedom of Information Act (FOIA) or Environmental Information Regulations (EIR).	<p>We aim to be as transparent as we reasonably can.</p> <p>We seek to be clear and open about what we are doing and why.</p> <p>FOIA/EIR exemptions for which we propose not to publish this paper in full are:</p> <ul style="list-style-type: none"> <li>• publication would harm relations between UK and NI governments (s.28)</li> <li>• publication would harm the effective conduct of public affairs, including the Board's ability to receive candid advice and engage in free and frank discussion (s.36)</li> <li>• publication would harm the OEP's commercial interests (s.43)</li> </ul>

## ANNEXES LIST

*Annex A – This section has been redacted as it contains information for future publication.*

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