

Date

12 January 2023

Title

Report of the Chief Executive

Report by

Natalie Prosser, Chief Executive

Paper for information

[Open in part](#)

Summary

1. As we pass the milestone of our first birthday and begin 2023, I reflect on how much we have grown and developed as an organisation. At the end of this month, I will be pleased to gather all of our staff together for their second, in person, all staff event. We will use that as an opportunity to reflect on our first year and look ahead to the future.
2. Following the briefing at our last meeting, I am pleased to provide the Board with the final report on our influence and voice. We are seen as the independent, expert and strategic organisation we set out to be.
3. In December, we welcomed the publication of environmental statutory targets, another cornerstone of the environmental governance framework established by the Environment Act. We are confident that, were it not for our actions, we would have seen further delay to their publication.
4. As we meet on 18 January, we will be laying our first statutory Environmental Improvement Plan (EIP) Monitoring Report in Parliament.
5. I am pleased to bring project initiation documents (PIDs) for 2 new projects on, intelligence and statutory deadlines for discussion. In addition are two papers updating you on our litigation and casework activity, namely *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* and a proposed Supreme Court

intervention. Finally, we ask you to agree our proposed approach to responding to the draft ammonia strategy for Northern Ireland consultation.

6. We continue negotiations on our budget and headcount and work to mitigate risks around procurement, recruitment, the delivery of priorities and our Northern Ireland remit.

Recommendations

7. The Board is recommended to note the progress in delivery of our strategic objectives. We continue to prioritise as reported to the Board at its last meeting.
8. The Board is asked to:
 - a. discuss and confirm the strategy and objectives of two proposed projects on: reform intelligence (looking at emerging changes in law and policy of environmental significance); and compliance with statutory deadlines. The strategies and objectives in the PIDs (Annexes 1-2) are subject to Chief Executive approval in consultation with the Board.
 - b. agree that our strategic response to the draft ammonia strategy for Northern Ireland consultation should focus on systemic issues; and that Malcolm Beatty should act as the critical friend for response, and
 - c. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Strategic Objective 1 - Sustained environmental improvement

Environmental Improvement Plans work programme

Northern Ireland

9. We are engaging with DAERA in relation to their development of the Northern Ireland EIP. In the first instance, we will undertake a series of workshops highlighting our approach to EIP assessment in England.
10. We have identified our knowledge gaps for Northern Ireland and set these out in a PID for baseline evidence assessments. In line with the scheme of delegation, as a non-strategically significant project, I have approved the PID and Insights Directorate are commissioning work to address the most significant gaps. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and its publication would be prejudicial to relations within the United Kingdom.*
11. These assessments will form part of the foundations for establishing our scrutiny function in Northern Ireland and enable us to fulfil our Corporate Plan commitments. Board may wish to note that we are testing whether *this section has been redacted as its publication would be*

prejudicial to the effective conduct of public affairs can be jointly commissioned with Environmental Standards Scotland, who have similar interests at this time. This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and its publication would be prejudicial to relations within the United Kingdom.

England

12. On 5 January the Board approved our first statutory EIP monitoring report and we are progressing the steps required to lay it in Parliament and to publish. Progress falls far short of that required to meet government's objective to leave the environment in a better state for future generations. The report provides a picture of, at best, modest progress with the 25 Year Environment Plan. It looks forward to implementation of a revised Environmental Improvement Plan which is more effective, following the January 2023 review and refresh.
13. We are grateful to Board members for their input, counsel, and challenge in preparing the report. We plan to respond promptly to the EIP revisions and conclusions on the 'Significant Improvement Test', once these are published by the UK Government, at the end of January.
14. We will then take stock and review our reporting process over the past two years with a continuous improvement mindset. This will be supported by specialist expertise from a newly recruited Grade 6, with experience of similar evaluation exercises across Europe.

Access to evidence, external expertise and advisory support

15. Recent recruitment to the Insights team has provided the capacity needed to progress development of our research and evidence programme. This will allow us to more effectively assess the evidence, expertise and advice needed to achieve our objectives. We will present our proposed approach to the Board with the aim of beginning work at the start of next financial year.

Soil health programme

16. We are scoping activity to take forward the intention stated in our Corporate Plan to consider the UK Government's Soil Health Action Plan for England and evaluate the drivers and pressures, governance for and monitoring of soil health in light of the action plan government proposes. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Strategic Objective 2 – Better environmental law, better implemented

Reform Intelligence

17. This programme of interrelated projects aims to build our organisational intelligence, capacity, and ability to effectively influence reform issues that are a priority for us in England and Northern Ireland. In the short-medium term we are focused on four projects:

- a. Retained EU Law (Revocation & Reform) Bill (REUL Bill)
 - b. Planning reform (including Investment Zones, and the Levelling Up Bill)
 - c. Agri-environment schemes - Environmental Land Management Schemes (England), and Environmental Farming Scheme (NI) and the Land Use Framework
 - d. Public body reform
18. These projects are supported by broader programme management to deliver effective governance, horizon-scanning, scenario planning, stakeholder mapping and mapping of interdependencies - specifically in relation to the environmental political landscape.
19. Projects (themes) will be scoped in or out depending on the intelligence we gather, with active prioritisation through the programme team and governance structure. Part 1 of the PID is attached at Annex 1.
20. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Environmental Principles

21. We continue to actively monitor progress of the publication of environmental principles policy statements (EPPSs) in England and Northern Ireland. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and to relations within the United Kingdom.*

Nature programme

Application to intervene in *Finch v Surrey County Council*

22. The decision whether to apply to intervene in the Supreme Court appeal of *Finch v Surrey County Council* is to be considered by the Board at this meeting under a separate paper.
23. We thank Richard Macrory for his advice on the proposed *Finch v Surrey County Council* intervention.

Protected Sites

24. We continue to progress our project to produce environmental law implementation reports on aspects of the designation and management of terrestrial protected sites in England and Northern Ireland. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
25. An immediate priority is to finalise a public call for evidence, which we hope to launch shortly.
26. We are engaging with Defra and DAERA to inform them of our plans. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Environmental Assessments

27. We continue with our work on environmental assessment regimes (Habitats Regulations Assessment (HRA), Strategic Environmental Assessment and Environmental Impact Assessment (EIA)) in England and Northern Ireland. External contractors (WSP) are assisting us in a significant programme of stakeholder engagement which includes two questionnaires (one for practitioners and a more qualitative one for key stakeholders), stakeholder interviews and a call for evidence.
28. We have commissioned other contractors (LUC) to review international comparators. External counsel (39 Essex Chambers) have undertaken an extensive literature review in relation to environmental assessment regimes. Our next step is to consider where we should focus our reports, *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
29. We are grateful to Dan Laffoley for his advice as critical friend on the nature programme.

Water programme

30. We have begun activity to monitor and report on the implementation of environmental law that supports freshwater and coastal water quality. We have started engagement with Defra and DAERA and held our first stakeholder meeting, which included government bodies, representative groups and eNGOs. We will continue to engage regularly.
31. The Environment Agency [published](#) the English River Basin Management Plans (RBMPs) on 22 December 2022. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and to relations within the United Kingdom.*
32. We have awarded contracts for a review of RBMPs to inform our view on their quality and any further action, a water quality stocktake and comparative approaches to river basin management in jurisdictions outside England and Northern Ireland. We have sent out initial requests or information to support the projects to the relevant government bodies. A fourth tender on bathing waters is currently live.
33. We are grateful to Dr Paul Leinster for his advice as critical friend on this programme.

Air quality programme

34. We have progressed scoping ambient air quality issues, to ensure we are ready to respond to government plans for tackling air quality issues.
35. We have commenced our stock take of air quality issues in England and Northern Ireland, using external suppliers. The technical work to support consultation responses is drafted and we will review it in January.
36. We are commissioning an additional piece of work to consider non-UK jurisdictions and inform our response to the draft Ammonia Strategy for Northern Ireland consultation.
37. To support our understanding of air quality regulations in England and NI, we have also reviewed the key legislation for managing air quality. This information will help inform our assessment of government plans.

38. We expect a consultation on England's Air Quality Strategy in January or February for England.

Upcoming government consultations

39. We continue to screen government consultations in England and Northern Ireland. There have been few government consultations of relevance since the last update. We intend to bring a forward look of upcoming consultations to the next Board meeting.

40. DAERA released a draft Ammonia Strategy consultation on 4 January. The consultation closes on 3 March. In our Corporate Plan, we committed to respond to this draft Ammonia Strategy consultation once published by DAERA. The Board is therefore asked to discuss and confirm our proposed approach to responding to this consultation, at Annex 3.

41. In the context of the Levelling-Up and Regeneration Bill (LURB), the Department for Levelling Up, Housing and Communities (DLUHC) released a consultation on 22 December on possible reforms to national planning policy. We will be screening this in accordance with our normal process. The consultation includes proposed updates to the existing National Planning Policy Framework (NPPF), though with no proposed changes in the environmental section (other than a proposed change to a footnote on agricultural land). There are also some minor amendments proposed to the section on planning for climate change.

42. Within the current planning consultation, the Government also commits to a more substantive consultation on the development of a revised NPPF once the LURB has completed its Parliamentary passage, which may be of greater importance in respect of environmental implications. We also await an anticipated consultation from DLUHC on the Environmental Outcome Reporting (EOR) approach which is being developed under the LURB. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Strategic Objective 3 - Improved compliance with environmental law

Complaints and enquiries

43. Since 1 January 2021 we have received a total of 71 complaints and 501 enquiries.

44. In total, 32 complaints meet all the criteria for complaining to the OEP. We have completed the assessment of 25 of these, one assessment is on hold and six are ongoing.

45. Twenty-seven complaints do not meet the criteria and we have let the complainants know and signposted them to the correct public authority, where appropriate. The remaining 12 are being validated.

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

47. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs, to relations within the United Kingdom, it contains legally privileged advice and it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.*

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

EU infraction cases

48. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and it contains legally privileged advice.*

Statutory Deadlines

Environment Act Targets

49. Our interest in statutory deadlines focused on the missed deadline for the long-term environmental targets required by the Environment Act.

50. On 16 December Defra announced the targets, which are to be set via statutory instruments. Drafts of those statutory instruments were laid in Parliament on 19 December. We made a public statement on Friday 16 December. *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.*

51. The announcement about targets was covered in the national media, with some negative commentary from NGOs and campaign groups. ENDS report published an article on our decision not to progress with the Green Alliance complaint, with positive references to our approach and work on this issue.

52. Whilst we have welcomed the targets, and the fact that some of our advice has informed several of them *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* This will form part of the wider work of the Insights Team, once work on the EIP report is concluded.

53. We are confident that our engagement on this matter assisted in accelerating Defra's activity to confirm and set the long-term environmental targets and has drawn wider attention to the culture surrounding statutory deadlines within Defra.

Wider work on statutory deadlines

54. Throughout our engagement with Defra on the Environment Act targets we also sought to highlight other missed or impending deadlines and wrote to Defra and other government departments to raise our concerns. We continue to monitor these deadlines.

55. To ensure we act in a planned and coordinated way, and to influence to greatest effect, we propose a wider programme of work. This will enable us to actively hold government and other public authorities to account for the effective implementation of environmental law (to achieve

environmental protection) in England and Northern Ireland, through the lens of monitoring compliance with statutory deadlines and corresponding requirements.

56. The work will involve the identification and analysis of missed and upcoming statutory deadlines that are relevant and a priority for the OEP.

57. The proposed programme is set out more fully in Part 1 of the PID at Annex 4.

58. An initial project priority will be to develop an environmental law report on post implementation reviews, to be considered by the Board at this meeting under a separate paper.

Strategic Objective 4- Organisational excellence and influence

Finance

59. The forecast for the year was thoroughly reviewed by Exco in mid-December. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* We believe this to be a prudent approach.

60. There is still some uncertainty around several projects, the most material of these is the Estates project. Revised estimates have been used where these were available. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Future Funding and Business Planning

61. The Board received an update on future funding at its 5 January meeting, following which our Chair has corresponded further with David Hill to underline our case. Since then, we have begun our business planning activities for the period 2023/24 to 2025/26.

62. We aim for a 3-year corporate plan, signalling our priorities for the medium term, and a 1-year detailed business plan to underpin how we use our resources and what we will deliver next business year.

63. We are inevitably developing our plans without certainty on the resources we'll have. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs relations within the United Kingdom.* We are seeking to ensure flexibility in our plan to different outcomes, with a focus on preparations necessary to ensure pace in our mobilisation of new projects, recruitment and spend as soon as our budgets are settled, or in advance where the balance of risk justifies doing so.

64. We aim to hold a dedicated planning session with the Board in February or at the planned March meeting, and to develop the plan for approval in mid-April alongside associated budget delegations.

Website

65. We are progressing procurement of a supplier to work on the website improvement project.

66. The invitation to tender is live on the [Digital Marketplace](#). We are hopeful we can have a supplier in place by the start of February.

People Strategy

67. We have progressed several procurements to support the delivery of our people strategy including line manager training, communication preference profiling and a people survey. We are looking forward to an all-staff event on 27 January.

Procurement

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

Recruitment and Resourcing

69. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* The permanent Chief Insights Officer campaign has concluded, and an offer has been made and accepted, subject to contract.

70. Of the seven permanent offers made to roles (SEO-G6) in Insights, six are either in post or have start dates agreed for January 2023. One offer (SEO) was provisional whilst the candidate awaited their visa, and unfortunately it is now confirmed that a visa will not be granted. Recruitment will be repeated and set in the light of current needs in Insights.

71. This financial year, overall, we have successfully recruited 21 staff into permanent roles with a further two provisional offers recently made. Of 16 temporary roles, we have successfully filled 10 with a further three filled, or in the process of being filled, by contingent labour.

72. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and to relations within the United Kingdom.*

73. A detailed organogram can be found in Annex 5.

Office premises

74. We expect to finalise the lease for Wildwood in late January. If this happens, we expect the office to be ready for occupation in around June 2023. The lease will need Board approval before it can be signed. Due to its uncertain timing, we propose that this is done by electronic business. We have been working closely with Defra to ensure that adequate capital funding remains aligned with the latest timeline.

75. We procured serviced office accommodation (a 'touchdown space') in Northern Ireland at the Scottish Provident Building (Belfast) in late November, which staff have used since December. Rent of *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs* per month includes two dedicated working rooms with 9 desks in total, with access to a host of conference and meeting rooms. This means we can more easily meet

and gather in Northern Ireland and Northern Ireland based staff (all contractually home based) can gather and collaborate in a neutral, professional environment if necessary.

76. Work finding a London touchdown space has stalled, *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Framework document

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

Board effectiveness review

78. The Board must review its effectiveness annually; the review must be conducted externally once every 3 years. In August, the Board was asked to note the proposed scope of its first Board effectiveness review by electronic business. A competitive tender for a review of this scope was subsequently undertaken.

79. We received little interest in the review at the scope envisaged. Consultants expressed interest only in a full review of the Board's effectiveness, at commensurate cost. We have since appointed *this section has been redacted as it includes personal data* to work with the Board and executive on the review. Each Board member will be asked to participate in a semi-structured interview with *this section has been redacted as it includes personal data*, who will observe the Board's March meeting. A report will be presented to the April Board meeting.

Strategic Engagement

80. Before our appearance at the Lords Environment and Climate Change Committee on 16 November, Dame Glenys and I met with the CEO and Chair of Environmental Standards Scotland together with the Interim Environmental Protection Assessor for Wales.

81. We also met with Baroness Brown and Chris Stark of the Climate Change Committee. In November, Dame Glenys and I met with Tony Juniper and Marian Spain at Natural England, we have these meetings every six weeks.

82. In December I met with Chris Stark at the Climate Change Committee alongside Kate Tandy, to discuss the *Finch v Surrey County Council* case.

83. Our Chair met with both Baroness Parminter, Chair of the Environment and Climate Change select committee and Philip Dunne, Chair of the Environmental Audit Committee to discuss the Government's statutory deadlines and our upcoming EIP report.

84. In January, strategic engagement will include speaking at the Social Contract Summit on the regulatory framework and systems thinking approach, specifically looking at the water industry and Dame Glenys will also be appearing on Wild Live hosted by The Wildlife Trusts.

85. Our Chair and Malcolm will also be taking part in an online event hosted by the Green Alliance, which will discuss the four nations' environmental governance alongside the ESS and IEPAW.

Dame Glenys will also be speaking to Aldersgate Group on nature priorities for 2023 and Chief Regulatory Officer Helen Venn will be speaking at the Wastewater 2023 conference towards the end of the month.

86. We will give evidence to the Environmental Audit Committee on 1 February 2023. The Committee is interested in discussing our EIP Progress Report and our current capacity and future requirements.
87. In early-January, we welcomed a second Principal Communications and Engagement Manager. This role will be focused on development and implementation of the Stakeholder Engagement Plan, including tools and processes to support stakeholder engagement at all levels of the OEP in a consistent way. The role covers the full OEP remit, but the new starter is based in Northern Ireland and will also increase our understanding of the communications and stakeholder landscape there, helping us to better plan our activity.
88. We have also been successful in recruiting a Digital and Communications Co-ordinator to be responsible for the systems, processes and products used to support and deliver our activities, including the website. We hope to confirm their start date soon.
89. The ENDS Report included a substantial positive reference to our Chair and the organisation itself in its end-of-year review podcast, including her among its 'Heroes of the Year' category.

Research on OEP influence and voice

90. The draft report of Woodnewton Associates is appended at Annex 6. This builds from the presentation and discussion at the Board's December meeting. The report will influence our future communications and engagement strategies, and the approach we will take to similar activities in the future.

OEP sustainability strategy

91. We have let a contract to a niche sustainability consultancy to work with us to develop our first sustainability policy, and associated action plan, as we committed to in our corporate plan.
92. This work will establish a current baseline and level of ambition for our environmental impact, including the impacts from our supply chain; establish an action plan and measurement approach for us to manage our environmental risks and opportunities to achieve this ambition along with the governance and review mechanisms to sustain and improve it over time.
93. We expect to bring the strategy to the Board's April meeting, and subsequently publish it to explain our approach publicly.

Delivery update

94. At Annex 7 we update the Board on delivery of our key priorities, and against our corporate plan commitments. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

95. Annex 8 sets out the performance indicators we will report to Defra this quarter. This is the first time we report indicators. Since the Board agreed these in principle in May, we have discussed them in more detail with Defra resulting in those proposed. They remain at an early stage of development and will mature.

96. Impact Assessments

Risk Assessment

97. The current full strategic risk register is appended as Annex 9 to this paper. This has been updated by risk owners with some variation since last scrutiny by ARAC on 30 November.

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

99. An overview of the current position of the strategic risks and issues is in Figure 1 below.

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

Equality Analysis

100. No material equality implications arise from the issues in this paper. Equality, diversity and inclusion will be a relevant consideration as we develop the People Strategy.

Environmental Analysis

101. This report gives an overview of strategic organisational developments which support the OEP's principal objective. Consideration has been given in each case to how the activity contributes towards environmental protection and enhancement, and to ensuring the OEP meets relevant duties in environmental law.

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).	FOIA/EIR exemptions for which we propose not to publish this paper in full are: <ul style="list-style-type: none"> • publication would harm relations between UK and NI governments (s.28) • 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) • publication would harm the OEP's commercial interests (s.43)

ANNEXES LIST

Annex 1- *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Annex 2- Letters sent to Defra Ministers and Director General 30 November - 30 December 2022.

2a 221202 Minister Harrison letter to Dame Glenys on REUL

2b 221209_Dame Glenys to Trudy Harrison on environmental targets.pdf

2c *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

2d *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Annex 3– *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Annex 4- *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Annex 5 – *This section has been redacted as it includes personal data.*

Annex 6- *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Annex 7- *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Annex 8- *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Annex 9- *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*