

Board Paper

Paper 23.67

Date

22 August 2023

Title

Report of the Chief Executive

Report by

Natalie Prosser, Chief Executive

Paper for information and decision**Open in part**

Summary

1. Several significant and long-term programmes of work are moving towards key milestones or conclusion. In the Board's discussions in this meeting and from now through to March next year, much of our focus will be on scrutinising our analyses and agreeing the direction and intent of our recommendations. We will need to ensure that each of our programmes of work is positioned for influence individually but also that we can draw the common themes between them, to present a coherent and compelling picture. This is likely to be a period of proof for the OEP as multiple strands of work come to fruition.
2. We also now begin our work towards the longer-term future – including our bids for the resources we need this autumn, our plan for how we use that resource to best effect in 2024/25 and to the strategic review we are committed to complete within the next 12 months. We must progress this in a period of particularly acute political uncertainty in both England and Northern Ireland.
3. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
4. Our financial and other management information continues to develop, such that we have increasing confidence in our grip of the organisation at a strategic and operational level.

Recommendation

5. The Board is recommended to note the progress in delivery of our strategic objectives.

Strategic Objective 1 - Sustained environmental improvement

Monitoring Environmental Improvement in England

6. Monitoring progress on the England EIP is proceeding broadly in line with plans. A more detailed update on this work is reported to the Board under a separate paper at this meeting. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* While this has impacted on the scope and content of our assessment, the timings of our programme and the report quality is relatively unaffected.

Research and evidence development

7. Four research projects are in progress: UKCEH are assessing species abundance indicators and targets, ICF are analysing the Improving Nature goal, IPSOS are working on futures approaches, and Resource Futures are analysing waste management in Northern Ireland. We have committed £413K of the £637K forecast spend on research with four further projects in the pipeline on marine (x2), soils and ELMs.
8. IPSOS has now completed a long list of studies developed across the public sector and wider to anticipate the future state of the environment and evaluate pathways towards achieving stated long-term goals and targets. Work is now underway to develop a shortlist of these studies for more detailed review, including methodological and thematic. This work is supported by a seconded expert from Natural England who is also developing resources to upskill OEP staff on futures methods.
9. Our baseline assessment of waste management and illegal disposal in Northern Ireland includes an assessment of: the relevant legal provisions and associated measures relating to waste; the duties and responsibilities for monitoring and reporting; the impact on the natural environment (terrestrial, aquatic, and marine) and public health; the legal/regulated and illegal sources, pathways, and receptors of waste in Northern Ireland; transboundary waste management and illegal disposal within and between the UK, and internationally; and an evaluation of best practice approaches to monitoring, assessment and reporting. This project will support our scrutiny function within Northern Ireland.
10. We are refining the scope of our marine work programme. We are developing a joint project to identify data gaps and their implications with Environmental Standards Scotland. We aim to conduct market sounding and to work with the College of Experts and other stakeholders to shape this project ahead of a procurement launch later this year. We are developing a small tactical project to get expert opinions on key fisheries management plans to support scrutiny of these, as they are consulted upon.
11. We will shortly be tendering for a project on regulatory aspects of soil health and “sustainable management” of soils, as required by the EIP. Publication by the JNCC of a recent research contract has informed thinking on indicators of soil health, though development is certainly complex, particularly in respect of generalising across local contexts. A single, or simple, indicator looks like an unlikely prospect.

12. We have mapped the contribution of ELMs to EIP goals and submitted a data request to Defra. We do not propose to undertake any further analysis until the response to the data request is received or we have evidence of the take up of ELMs.

Strategic Objective 2 - Better environmental law, better implemented

Retained EU Law (Revocation and Reform) Act

13. By the time the Board meets, we plan to write further to the Secretary of State in respect of REUL following the Board's discussion at its last meeting. This letter will set out more explicitly our analysis behind our concerns about the revocation of the National Emission Ceilings Regulations (NECR) and our concerns regarding risks of environmental regression resulting from the REUL Act 2023. *This section has been redacted as its publication would be prejudicial to relations within the United Kingdom.*
14. Whilst we do not anticipate our letter carrying much direct influence on the legislative programme for Autumn 2023, we consider this to be an opportunity to make a further, unequivocal public statement that will support our ongoing work on REUL, and in relation to the EIP and statutory targets.

Special Protection Area review

15. Through our work on protected sites, we identified areas of possible concern with the implementation in both England and Northern Ireland of Special Protection Area reviews. These reviews cover all four nations of the UK and we have worked with ESS and the Interim Environmental Protection Assessor for Wales to write jointly to the Joint Nature Conservation Committee asking for an update. This is the first joint action undertaken by the three environmental oversight bodies for the four nations, and a copy of the letter is provided at Annex A.

Environmental principles

16. Our advice on the development of a Northern Ireland Environmental Principles Policy Statement (EPPS), which the Board approved in draft form on 17 August, is expected to have been submitted to DAERA and published before 5 September.
17. The English EPPS is already finalised and the duty on ministers to have due regard to it in making policy will apply from 1 November. We have met with Defra, and arranged meetings with other departments, to progress the development of our evaluation methodology which we will implement after the duty commences.

Protected Sites

18. The House of Lords' Environment and Climate Change Committee's report "[An extraordinary challenge: Restoring 30 per cent of our land and sea by 2030](#)" was published in July. [We publicly welcomed it](#). The findings and recommendations align closely with the key messages from our stakeholder work and the early results of our research. We will be considering how we build on the relationship we have with this committee as part of our plan for successfully launching our reports next year.

19. We continue to gather and analyse evidence secured through our call for evidence, contracted research, targeted stakeholder interviews, information requests and legal research. By the end of September we plan to have identified the key themes for further, deeper analysis to enable report-writing to begin in January with publication and laying expected in Spring.
20. Gaps in stakeholder engagement are being identified and managed. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and as its publication would be prejudicial to relations within the United Kingdom.* We will continue to reach out to seek to build a relationship that enables constructive ongoing engagement and volunteering of relevant information.

Strategic Objective 3 - Improved compliance with environmental law

Complaints and enquiries

21. Since January 2021 we have received a total of 819 enquires and 89 complaints. Since my last report to the Board on 5 July, we have received one new complaint and handled 64 enquiries. We currently have six open complaints in the assessment phase.
22. *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.*

EIP23 Quality

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

This section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement and as its publication would be prejudicial to relations within the United Kingdom.

24. On 7 August, we received a response from DAERA to our May information request, providing substantial documentary evidence to assist with our investigation. We are evaluating the 254 files received and consider this a model example of the duty to cooperate in action. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs, to relations within the United Kingdom and it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.*
25. Since the launch of the investigation, DAERA's decision to pause issuing ammonia planning advice under the Operational Protocol has received regular media attention. The decision is likely to have stalled progress for some agricultural development proposals and has attracted criticism from the Ulster Farmers Union. *This section has been redacted as its publication would be prejudicial to relations within the United Kingdom and it contains information provided in confidence.* We are monitoring but do not intend to make any comment at this time.

26. On 21 July, DAERA launched a Call for Evidence setting out proposals for a revised Operational Protocol. *This section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement and as its publication would be prejudicial to relations within the United Kingdom.*

Post implementation reviews

27. Following our [report](#) of the 27 March 2023, and publication of the [official response from the Defra Secretary](#) of State on the 27 June 2023, we wrote to Defra on 30 June to seek information as to how our specific recommendations were being considered/addressed. Defra responded on the 28 July but did not address all our questions. We are scheduled to discuss with Defra before the Board meets.

28. Since publication of our report, we have received two updates as to Defra's progress to address the backlog of post implementation reviews. Progress is broadly on track, but with slippage in some areas. Defra have been subject to further parliamentary scrutiny on progress in the form of [parliamentary questions](#) on the 6 July.

Statutory Deadlines

29. The statutory deadline for publishing an EIP for Northern Ireland by the 25 July 2023 was missed. We wrote to the DAERA Permanent Secretary on the 26 July and received a response on the 9 August. We published the exchange of correspondence on our [website](#).
30. We understand that a decision as to whether the EIP will be published, in the absence of Ministers, is imminent. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
31. We are also considering what we will do in the likely event that the Nutrient Action Plan for Northern Ireland will not be published, as required, by the 11 October 2023.

Strategic Objective 4 - Organisational excellence and influence

Financial management

32. The Board will consider a finance update at this meeting, setting out progress in managing our risk of overspend and underspend this year. The Executive is scrutinising actual and forecast expenditure alongside delivery progress across our programmes closely this week, with the benefit of ARAC's steer following its consideration of this in August. The balance of risk may now be tipping towards underspend, and our actions therefore to how this is mitigated.

Resource Bid

33. We must again bid for resources from Defra and DAERA this autumn. Work is starting on our approach, collating the evidence we now have, and any revisions to the models we developed in 2022 we should make. We expect we must provide our bid in early November.
34. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* The table below compares the funding we have in 2023/24 (notable is RDEL of £9.48m), to the funds we set out we would need to be fully established (RDEL of £12.51m)

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and the funds committed in our ring-fenced budget in England (RDEL £7.4m). We have no long-term commitment to funding in Northern Ireland, and no long-term commitments to the increased RDEL needed to meet our increased permanent headcount.

35. Our ring-fenced budget is therefore significantly less than required to continue as we are, let alone grow as we deem we should and indicated in 2022. The gap is £1m-£3m in England and £1m-£2m in Northern Ireland. We shall seek the board's guidance and support for our approach as it develops.

	2023/24			Established (est. 2022)			Ring-fenced budget		
	Total	Defra	DAERA	Total	Defra	DAERA	Total	Defra	DAERA
Headcount	75	65	10	95	75	20	65	65	
RDEL	9.480	8.380	1.100	12.510	10.345	2.165	7.400	7.400	
CDEL	1.100	1.100							
Total	10.580	9.480	1.100	12.510	10.345	2.165	7.400	7.400	

36. We are also planning now for how we business plan with uncertainty in resourcing, and in order to conclude our planning earlier than we achieved in the last two years. Our aim is to settle our business plan before the start of the business year.

Recruitment and accessing expertise

37. We expected the bulk of our new recruits to be in post by the end of October. Our early recruitment progressed ahead of schedule, but current progress suggests this may not be sustained with 10 posts at interview, offer or with starts agreed and an opening assumption of 15 further posts filled by end October. We will scrutinise impacts on our capacity and pay forecasts carefully.

Forecast of FTE to be in post relative to progress to date.

	31 August	30 Sept	31 Oct	30 Nov	31 Dec	31 Jan
Original forecast	5	13	24	24	25	
Actual to date	9					

The remaining recruitment to complete is at this stage.

	Chief of Staff	Gen. Counsel	Insights	Regulatory	Total
In Draft	3		1	2	6
Live	2				2
At Sift		2		1	3
At Interview	2			1	3
At Offer		1	3		4

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Start Agreed	2	1			3
In Post	2	4		3	9

38. Our College of Experts recruitment campaign closed on 30 July. 106 applications were received with a large number of high-quality applications covering a wide range of disciplines and career stages. The sift is complete and successful members of the college will soon be appointed. We are finalising the terms of appointment and associated governance and controls.

Premises and hybrid working

- 39. The construction work at Wildwood is progressing very well, and all major work on the office is still expected to be finalised for handover to OEP on 26 September.
- 40. Detailed planning for staff transition is complete, setting out the critical path of activities needed in order to fulfil the aims and benefits agreed. A comms plan has been developed, and staff FAQs related to the office move have been published.
- 41. The plan currently commits us to a 'soft launch' of the office in early October – this will give staff a chance to be trained on new equipment and familiarise themselves with the new space. The first 'regular' day at the new office is expected to be 9 October.
- 42. Staff reception to the transition, FAQs and clarified expectations around office attendance has been, broadly, neutral, though specific issues are still being discussed with teams and remain to be resolved with a handful of staff, with some support from the union.
- 43. In Northern Ireland, we will shortly extend our occupation of our current touchdown space by a further 1 or 2 years having engaged staff and others.

People Strategy

- 44. We launched our first People Strategy in August, at Annex B. This outlines our people offer and our commitment to ensure we support our staff well in a workplace where they can thrive. The strategy is informed by the annual people survey which was undertaken by 96% staff in March.
- 45. We will continue to actively engage and listen to our people as we delivery our strategy, beginning with some staff 'open-door' engagement sessions in September. These present the opportunities to share experiences, feedback and ideas with a member of the Executive Committee present and to find out more about the commitments we have made.
- 46. Since we concluded our Partnership Agreement with the Prospect Union, effective from 1 June 2023, engagement has been positive and the union is being proactive in building membership.

Working with our sponsor departments and agencies

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47. We have been working with Defra on our ways of working, principally in relation to information requests from the OEP to Defra. The interaction is constructive with the sponsorship team, who are working hard to address difficult issues.
48. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
49. We are now in receipt of Defra's first draft of a document intended to codify the approach we have been working to develop. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
50. Our working relationships with DAERA continue to be generally constructive. We have set up new, quarterly meetings with DAERA and NIEA at more senior levels beginning in August. Information exchange occurs more readily.
51. Relations with ALBs remain similarly constructive. Our on-going engagement has identified some concern about the volume of information requests being made by us, particularly from the Environment Agency and Natural England. This is driven by several factors, most notably a 'bottle-necking' of some requests and resourcing issues in ALBs, exacerbated by the summer leave period. We have held an initial meeting to discuss the concerns and ways to alleviate them. The key issue is the need for engagement ahead of requests being made to identify what is required and what is feasible. We aim to produce some guidance on ways of working with ALBs to set out practical steps to mitigate against issues, and to make our requests more predictable. This will be informed by the work already done on similar themes with Defra.

Selected stakeholder engagement

52. In July we ran four on-line events to present the new Corporate Plan to stakeholders, two for England and two for Northern Ireland. The events featured a presentation on the priorities and workstreams in the Plan, and an open Q+A session. Although not well attended, most likely due to the time of year, the quality of attendees was high in terms of targeted audiences. We also took this opportunity to promote the College of Experts recruitment and ask for views on future engagement approaches. This has generated feedback and ideas that will steer our approach to engagement with NGOs going forward.
53. Stakeholder engagement work continues to progress well in Northern Ireland. A comprehensive mapping exercise involving many of the NI based staff took place on 4 August. This has helped set out the stakeholders and required levels of engagement needed to help the OEP meet its goals in NI, and identified gaps in our engagement that can now be addressed in future activity.
54. We anticipate that our political engagement, including engagement with opposition parties, will increase from September with the resumption of parliamentary business. Additionally, occupation of our office premises in October will enable us to host stakeholders in Worcester.

Delivery update

55. We will present our full quarterly delivery update to the Board in its next meeting. Our programme for the year was always planned to be loaded to the second half, to reflect the

recruitment we planned and increased capacity that will result. There are indicators of some delay to planned timescales which the Executive is scrutinising closely this week, to inform scheduling decisions.

56. Key to these is the sequence of publications and other public facing outputs to our work, how these build and work together and preserving the space for each to make its mark in a way that is appropriately supported by our communications resource.

Whistleblowing

57. In September we will publish our first annual report in our role as a prescribed person under relevant whistleblowing legislation. We have had no qualifying whistleblowing disclosures.

Impact Assessments

Risk Assessment

58. ARAC reviewed the strategic risk register in its August meeting, and the executive has since reviewed again, and considered ARAC’s steers.

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

Equality Analysis

60. No material equality implications have been identified in this paper.

Environmental Analysis

61. 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. No specific proposal in this paper has a direct bearing on those duties.

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

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