

## Board Paper

### Date

19 February 2024

### Title

Report of the Chief Executive

### Report by

Natalie Prosser, Chief Executive

### Paper for information and decision

### Open in part

## Summary

1. The return of the political institutions in Northern Ireland is both an opportunity for progress in environmental improvement and protection and a change to how we must work in Northern Ireland if we are to succeed. We are well prepared. In this meeting, the Board will consider our general approach, and the implications for some of our specific work programmes.
2. In England, our recent focus externally has been engaging well with a range of stakeholders on the key messages of our EIP progress report in England to seek that our messages are heard and have influence. We are pleased with the reception and audience our report has had to date, and highlight key elements of the next phase of activity planned.
3. The Board will also today consider our report on the implementation of the water framework directive regulations in England, which we aim to be no less prominent and impactful. Its findings are stark.
4. This report also highlights progress in matters progressed through our compliance activities, and the Board will separately consider next steps in relation to serious issues of non-compliance, in conjunction with our sister organisations in the devolved authorities. This is a welcome example of the cooperation we intend where interests align.

## Recommendation

5. The Board is recommended to note the progress in delivery of our strategic objectives.
6. The Board is recommended to note that we aim to engage with suppliers to undertake market soundings as part of work to develop an additional approach for procurement of evidence.

## Political change in Northern Ireland

7. The Northern Ireland Assembly and Executive was restored on 3 February 2024, following a period of suspension since March 2022. Andrew Muir, of the Alliance Party, has been appointed as DAERA Minister. A [briefing on this restoration](#) has been provided to Board and staff.
8. The period of suspension has resulted in a series of delays across NI Government, not least to a number of environmental statutory deadlines, including the approval of the Environmental Improvement Plan.
9. The restoration of the Assembly will alter how we engage in NI, and provide some new opportunities. We have written to the First and Deputy First Ministers, the new DAERA Minister, and the Chair and Deputy Chair of the restored AERA Committee. We are also writing to all MLAs to introduce the OEP and our work in Northern Ireland.
10. The Board will have opportunity to consider these changes, and how it should impact our work in Northern Ireland, in a specific agenda item.

## Strategic Objective 1 - Sustained environmental improvement

### Monitoring environmental improvement in England

11. We published our latest EIP progress report on 18 January. Our first phase of engagement focussed on activities immediately at and after publication. These included media engagement, digital content and in-person and on-line stakeholder engagement in the lead-up and following the launch of the report.
12. The report was generally well-received, with the messaging around government needing to speed-up, scale-up and plans needing to stack-up resonating well with a range of audiences.
13. This engagement also included a focus on Parliamentarians and Parliamentary staff. The report prompted a number of questions to be tabled in the House of Lords and mentions in debate. By the time the Board meets, Dame Glenys and I will have given evidence to the Lords' Environment and Climate Change Committee and the Commons' Environmental Audit Committee on our latest progress report and wider work. Dame Glenys spoke at the Environment APPG debate – assessing the impact of the EIP.
14. Activities also included an online event where our team presented to key stakeholders (the day after the report launch itself), which was extremely well attended and included a supportive Q&A discussion at the end. We have also had a range of speaking engagements to highlight our findings. Dame Glenys spoke at the EPIC launch event on earlier this month and I will be speaking at the Westminster Forum on the topic of Future of Environmental Standards, Policy and Regulation later this month. In March we will speak at the APSE Parks Seminar about environmental protection and improvement through effective governance, and at an Aldersgate members' event.
15. More widely, the communications team will continue to identify opportunities over the coming weeks and months to continue to promote the report's findings and its key messages to 'speed

up, scale up and stack up' in social and other media. This includes conferences and meetings of relevant networks and organisations at which we can disseminate the report. We have a common presentation for staff to use and tailor for different audiences.

16. We have also met with Defra officials to present the EIP progress report section on a new and informative APR and discussed the future development of Annual Progress Reporting. We have agreed to have follow up discussions on the APR 2024 and on the approach to evidence base development with the OIF team in the coming months.

### **Monitoring environmental improvement in Northern Ireland**

17. We aim to bring a substantive update on our report on the drivers and pressures impacting biodiversity to the Board in March. Progress is on track, and we are developing options to launch and communicate the report later in the Spring, aligned with our broader engagement with the Assembly.

18. We have commenced a coherence analysis of the draft Environment Strategy and the Climate Action Plan. Due to a delay in the publication of the CAP this work is currently focusing on policies/strategies underpinning both, particularly Future Agricultural Policy, Peatland Strategy and Energy Strategy.

### **Marine**

19. Our call for evidence on the drivers, pressures and data gaps affecting the achievement of Good Environmental Status in UK marine waters closed at the end of January. We received 20 responses and have been asked for extension by the EA, MMO and AFBI. The consultants supporting the analysis of responses have started their review and are about to commence a series of workshops with stakeholders to support this and widen the coverage of views.

20. We have appointed two short-term staff with marine expertise to undertake rapid assessments of OSPAR<sup>1</sup> Quality Status indicators, and Fisheries Management Plans. These projects will complement the call for evidence and add to the evidence base we will use to identify critical policy leverage points in the period ahead.

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

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

### **Protected Sites**

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<sup>1</sup> The inter-governmental mechanism to protect the marine environment of the North-East Atlantic. [About | OSPAR Commission](#).

21. In the next phase of our analysis, we have submitted information requests to each of Northern Ireland Environment Agency and Natural England and expect to receive information in early March. In the meantime, we are reviewing the large volume of evidence that we have already obtained from stakeholders and published material to develop our findings and recommendations on our key themes – legislation, governance, resources, monitoring, management and designation. We have established a panel of experts to test and challenge our thinking.<sup>2</sup> We continue to aim to publish our reports in September.

### **Compliance Assurance**

22. At its last meeting the Board queried whether it would be beneficial to also consider local authority inspection regimes within the scope of this project. The project consists of two stands – a deep dive of how effective inspections are in the waste and installations sector, and a broader review of when and how inspections are required under environmental law. As part of the broader (but shallower) review, we will seek information from all 317 local authorities in relation to statutory nuisance and incinerators. We are also looking at inspections undertaken by other bodies, such as APHA, HSE, MMO, the Fish Health Inspectorate and the North Sea Transition Authority.

2. We continue progressing the deep dive with a view to reporting later this year. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

### **Environmental Assessments**

23. We now are winding down our proactive planned stakeholder engagement in relation to our October report, following a series of in-person events and webinars. We will continue low-level engagement with Government departments, ready to re-engage if appropriate as Environmental Outcomes become more developed. We now understand a draft statutory instrument is unlikely before 2025.

## **Strategic Objective 3 - Improved compliance with environmental law**

### **Complaints and enquiries**

24. Since January 2021 we have received 1,159 enquires and 113 complaints. Since my last report, we have received nine new complaints and handled 104 enquiries. We currently have 12 open complaints in the assessment phase.

### **Casework and interventions**

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

## **Financial management**

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

26. We judge we remain on track for our target total RDEL cash underspend of up to £100k. This maximises our ability to secure value from our resources in year and provides headroom to allow for any adjustments as may be necessary if identified through our year-end audit. Notable risks and opportunities include:

- a. That expenditure slips in the final quarter of the financial year, reducing in year expenditure and placing additional burden into the next financial year.

27. That utilities costs for Wildwood are accrued based on outdated historic data, as no invoices have yet been received. We have scheduled meetings with the landlord ahead of year end.

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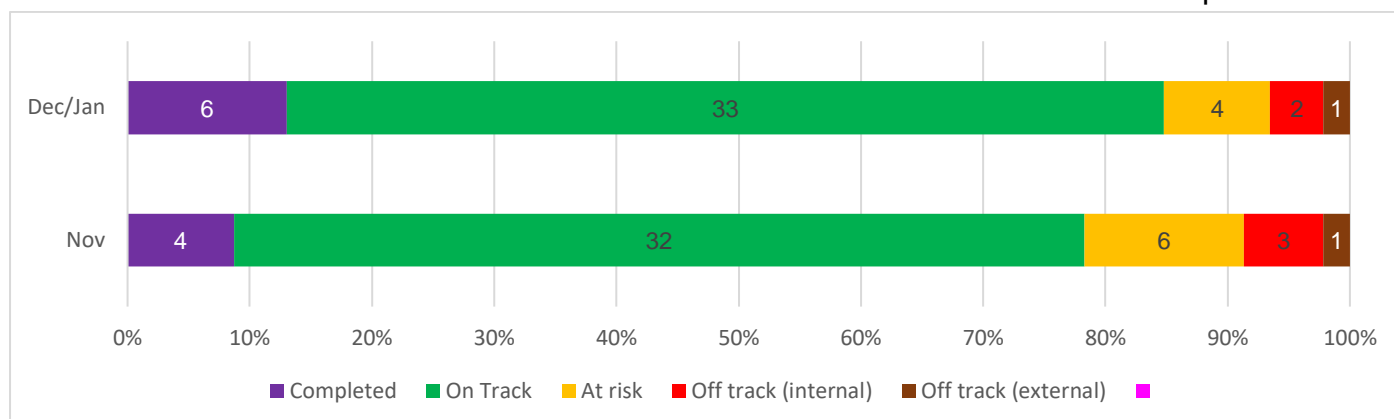
29. We are closely managing the year-end outturn and have set out a timetable for all staff. Our finance team is actively supporting Executive Directors' budget monitoring to ensure the latest forecast position can be sustained.

## **Delivery report**

30. At the end of January, we were on track to deliver 39 of the 46 commitments in our Corporate Plan – 85%. Four commitments are at risk, and three are off track.

- a. The Board has previously been notified that our reports on both protected sites, and on bathing waters will not be published this business year and are therefore off track. We intend to publish our protected sites reports by September, and are considering the timing of our work on bathing waters in our business planning.
- b. Our commitment to develop the ways we work with Defra and DAERA and agree and publish a framework document is off track, for reasons known to the Board.
- c. The four commitments at risk each relate to our objective of organisational excellence. We will not complete all the work we intended this year aligned to our commitments to prioritise and manage our resources; operate efficient corporate services; implement and embed our people strategy, culture and ways of working; and further extend the reach of our stakeholder engagement. Much work aligned with these commitments will however complete in year. We expect to report them partially complete at year end.

31. Annex A provides a detailed summary of progress, including the status of individual projects which relate to each commitment.



### Resource Bid and Business Planning

32. We have no clear understanding of the prospects of success of our request for additional resourcing. We understand Defra may make decisions on its allocation of resourcing in the next month, with the timetable in Northern Ireland likely to be later. The Board will separately receive an update on progress of our business planning and budget setting in this context.

### Accessing expertise

33. We are seeking to streamline our approach to procuring evidence in our priority work areas. We are proposing to explore options for the efficient procurement of our evidence requirements, reaching up to about 50% of our evidence spend, either through a large-scale contract or bespoke framework.

34. This procurement approach will enable us to procure a range of projects, up to a specified ceiling, quickly and efficiently. Maintaining half of the evidence budget outside of this arrangement will enable us to maintain a broader pool of suppliers where these are better placed to deliver projects. It is envisaged that this procurement approach will run for 3 years with option to extend by a further 2 years. The value is likely to be £300-£500K p.a., hence the total value could be £1.5-£2.5M over the contract lifetime.

35. With approval from Board, which is required for a financial commitment of this scale, we will move towards scoping the content, approach and procurement of this new mechanism. Our next immediate step will be to undertake market soundings, in line with procurement advice and guidance.

### Working with our sponsor departments and agencies

36. We have committed to replicate some of the features of our ways of working with Defra with its arm's-length bodies. Our key initial aim is to create a single source of information requests for each agency, and a robust forward look of likely information requests into the medium term. We expect to produce this in March/April as our business planning concludes. Arm's-length bodies tell us that this is critical to their ability to plan, particularly where their contributions are discretionary but add significant value – such as in calls for evidence and similar activity.

37. Our engagement with arm's-length bodies remains constructive. The Environment Agency appears to have some concern in respect of the compliance assurance project set out above.

We are engaging to explain the project and its intent clearly, so as to encourage effective cooperation in it.

### **Selected stakeholder engagement**

38. Much of our engagement activity has been focussed on our progress report. We are now stepping up our engagement in Northern Ireland, and with relevant stakeholders in anticipation of our report on the water framework directive.
39. More broadly, in February, we met with the Shadow Secretary of State for EFRA, Steve Reed MP and continue to seek wider opportunities to meet with key opposition and wider parliamentarians.
40. We have continued to engage as part of our business planning and strategy review presenting on our emerging priorities with EES, IEPAW, a wide range of eNGOs and ALBs. The eNGOs' session held on this particular topic is the first in a series of engagements we plan to hold with this stakeholder group to engage regularly and meaningfully with this sector every quarter.

### **IT and website**

41. We are on track to deliver all planned changes to our website by the end of the year. We have started to roll out some of the improvements to the live website, with a new look Reports and Publication and News section and improvements to navigation. We will shortly improve the layout of the 'Who we are' section and add new top banners and a new look homepage.
42. We have completed our IT health checks and received and are analysing a detailed report from our National Cyber Security Centre approved supplier, Cyberfort. At a high level, our network is secure from external attack but remediation work is required to improve our ability to lockdown access to our infrastructure if it were to be breached, or we were to have an internal 'bad actor'. We are working with Boxxe to assess the remediation work required.

### **Capacity and Recruitment**

43. In January, we reported that a number of temporary roles are scheduled to conclude at the end of March 2024. Having considered the balance of risks, 12 appointments will end as planned; five roles will be extended to August and September to cover permanent recruitment timelines. This therefore remains a critical transition point in our staffing and capacity. Recruitment continues broadly to plan.

## **Impact Assessments**

### **Risk Assessment**

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

### **Equality Analysis**

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

### **Environmental Analysis**

46. 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).	<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 reveal information subject to legal professional privilege (s.42)</li> <li>• publication would harm the OEP's commercial interests (s.43)</li> </ul>

## ANNEXES LIST

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