

Board Paper

Date

4 December 2024

Title

Report of the Chief Executive

Report by

Natalie Prosser, Chief Executive

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

Summary

1. The autumn is a particularly active period for us in Northern Ireland, after publication of our environmental law reports into the Water Framework Directive Regulations, and the drivers and pressures affecting biodiversity, and our investigation reports into two concluded investigations. This change in our activity is noted by Ministers and officials and welcomed by stakeholders. We see a number of indicators of the impact of our work in Northern Ireland, through the reception of our work, and the actions taken in light of our investigations.
2. In England, we are actively seeking to engage with Defra's rapid review of the EIP, the water commission examining the future of the water industry in England and Wales, and a growth-focused regulatory review. We have concluded and in-flight activity which can be of material assistance to government in these reviews and wish to be positioned to be of influence as they progress.
3. Our wider work programme progresses. Notably, the Board will in this, and its next, meeting consider decisions on issues of compliance for the first time in England since the general election and is invited to give its feedback on our annual progress report in England ahead of seeking the Board's approval later in November. Each of these, and our other compliance and scrutiny work, will be important in establishing how we fulfil our independent scrutiny role as the new government sets out its priorities and programme.

Recommendations

4. The Board is recommended to:
 - a. Consider and comment on progress against our strategic objectives
 - b. Note and comment on the emerging findings of our work in relation to the Environmental Principles Policy Statement (EPPS) in England

Strategic Objective 1 - Sustained environmental improvement

Monitoring environmental improvement in England

5. The Board will separately consider a near final draft of our EIP progress report, to provide feedback ahead of considering whether to approve the report later in November.
6. Minister Creagh [confirmed to Parliament that a revised EIP will be published in Spring 2025, with early findings in early 2025](#). We continue to engage with Defra officials to press for insight on how the review is being progressed and its findings. Defra have scheduled a workshop with us on the 11 November at which they will provide an update on the EIP review and delivery plans, including how they propose to engage with us on these in the coming months.

Monitoring environmental improvement in Northern Ireland

7. Our report on the drivers and pressures affecting biodiversity in Northern Ireland was published on 15 October. We held a number of in person briefings including with Minister Muir, senior DAERA officials, NI Environment Link and the Department of Infrastructure. Each broadly welcomed the report, saying it set an important baseline and provided strong evidence to support the work that needs to be undertaken. We will shortly meet Minister Muir's special advisor to discuss the report and our nutrient programme in more detail. We also held four well attended online presentations with eNGOs, local authorities, public bodies and academia, and secured a good level of media attention, including a BBC interview with the Chief Insights Officer.
8. The report was criticised by the Ulster Farmers Union, as taking 'another swipe at NI farmers' both in a meeting and in a subsequent statement. In contrast, a meeting with NI Agricultural Producers Association was more positive though they raised concerns about the pressures being placed on farmers.
9. The NI Environmental Improvement Plan was published on the 27 September. We have carried out a short analysis of the quality of the EIP provided to the Board as an Annex to the separate paper on our annual progress report for England. A paper on our next steps, following the publication of the EIP, will be brought to board at a later date.

Other programmes

10. This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs. We expect to respond, as set out in the scope of the Northern Ireland focussed nutrients programme the Board has considered. Within this programme, externally commissioned projects on the Northern Ireland wastewater system, a review of the application of environmental assessment in nutrient management and on regulatory divergence relating to nutrient management are progressing.
11. Work continues on our projects under our marine programme, and we have recently met with Defra to get an update on the UK Marine Strategy. We have appointed 3 short term secondees to deliver our chemicals work and are currently onboarding them.

Strategic Objective 2 - Better environmental law, better implemented

Environmental law reports and related activities

12. The Board will separately consider progress in relation to our study of EA inspections of regulated facilities in the waste sector.
13. Subject to final confirmation, we intend to lay and publish our bathing waters reports in relation to England on 12 and in relation to Northern Ireland on 19 November. This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs. We may therefore need to consider whether to adjust our own timings slightly to allow for the most effective management of our communications and stakeholder engagement activities on the reports.
14. Our final workshop with responsible authorities for Local Nature Recovery Strategies (LNRS) took place on 23 October. We will now start to assess our chosen 12 LNRS, and commence analysis of the barriers and enablers to developing effective LNRS. We published our first [OEP blog](#) on 16 September in relation to this work and intend to publish further similar blogs through the life of this project. We received positive feedback on this approach from stakeholders involved in our strategy consultation.
15. On 24 September [we responded to the Government's consultation on the National Planning Policy Framework \(NPPF\)](#) to call for policy coherence and a clearer role for LNRS in planning decision taking.
16. The Board will be asked to approve our Northern Ireland report into the designation and management of protected sites at its December meeting, for publication in February. We also expect to present our England executive summary, including recommendations, to the Board in December.
17. DAERA published a draft EPPS for consultation on 30 September. In correspondence, Minister Muir noted that our advice "made the current draft a significantly more robust document that will undoubtedly strengthen environmental governance in Northern Ireland when it is fully operational." He also noted "we will continue to work closely with the OEP as we endeavour to make the final EPPS the powerful tool you describe."

The UK Government's review of regulation and water commission

18. The UK Government has announced a major review of the water sector, through an independent water commission to be chaired by Sir Jon Cunliffe, the former Deputy Governor of the Bank of England. The commission is to deliver recommendations next year, to which the UK and Welsh Governments will respond with the proposals they intend to take forward. It will be supported by a panel of experts and has an expected duration of 6-9 months, thereby informing potential further legislation at the end of the first Parliamentary session (July 2025) or during the second session (September 2025 onwards).
19. The terms of reference state that its scope is limited to the water industry in England and Wales and the strategic planning framework under the Water Framework Directive (WFD) Regulations and River Basin Management Plans. The review therefore provides an opportunity for the OEP to contribute based on our recent report on the WFD Regulations as well as other work. Our Chair has written to both the Environment Minister, Emma Hardy, and the Commission Chair, Sir Jon Cunliffe, welcoming the review and the OEP's involvement in it.

20. Separately, the Government has also launched a growth-focused regulatory review of Defra's regulations and regulators under the leadership of Dan Corry, the former head of the Number 10 Policy Unit for Gordon Brown. This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs. They expect an interim report in January, although we understand Dan Corry will not take up his post until mid-November. Our Chair has written to set out the OEP's interest in environmental regulations, and a meeting is being arranged. We are also planning a workshop in December with members of the Board and the OEP's College of Experts to further develop the OEP's position on what 'good regulation' looks like.

Emerging findings in relation to the EPPS in England

21. Having received the final report from our contractor, RPA, we are drafting our report and testing our findings and recommendations with others, such as our advisory group (made up of environmental law and policy experts) the Regulatory Policy Committee, eNGOs, Defra and the EPPS cross government working group.

22. Whilst we see some positive indications in terms of the processes and tools put in place to support implementation of the EPPS duty, there is still much to be done to fully embed it across the government's policymaking cycle. This spans both the practical and the cultural – from ensuring the EPPS is incorporated into key guidance and templates for policymakers, to seeing political leadership around the significance of, and need for, the EPPS.

23. We consider there is a need for greater transparency, so that government itself, and those holding government to account can see how policymaking is contributing in practice to the improvement of environmental protection and sustainable development, as intended.

24. Whilst we have sufficient evidence to draw findings and recommendations that can inform Defra's evaluations, and future monitoring and scrutiny, there are limitations for how strong our recommendations can be, given the early stage of implementation, and the challenges faced in obtaining information from some government departments. This is particularly the case when considering the impact of the EPPS duty on individual policy decisions. That said, we have received feedback from our advisory group and eNGO's that our early assessment will prove useful. Defra have reflected that our findings and recommendations will help to inform their own evaluation.

25. We will discuss in our report the advice that the OEP previously provided about the EPPS, and those of our recommendations not addressed in the final statement. Whilst we consider it too early to make an exact determination as to whether these omissions have resulted in any negative effects, we will comment where our earlier advice still stands, and why.

26. Overall, we are conscious of the shift in political context resulting from the new government. The majority of evidence underpinning our report was gathered during the previous government. Our report needs to look forward, to the opportunities now, and the importance of the EPPS being applied in substance to the development of new or revised policies forming, for example, for planning and infrastructure reform and Defra's regulatory review. The EPPS affords opportunities to the new government for improved policy coherence and for maximising opportunities for contributing to its environmental commitments and ambitions across government. We will bring our full report before the Board on 11 December.

Interventions

27. We have filed our application to intervene in the Court of Appeal case *Rights Community Action v Secretary of State for Housing, Communities and Local Government* relating to the correct interpretation of the duty to have due regard to the Environmental Principles Policy Statement. We now await the court’s decision on whether it will hear the appeal and, if so, whether we will be permitted to intervene.
28. We have been granted permission to intervene in the Court of Appeal case *Pickering Fishery Association v Secretary of State for Environment, Food and Rural Affairs and the Environment Agency* by way of written submissions only. We have published a short statement on the website explaining the purpose of our intervention. We plan to publish our full written submissions ahead of the court hearing on 14 and 15 January 2025.

Strategic Objective 3 - Improved compliance with environmental law

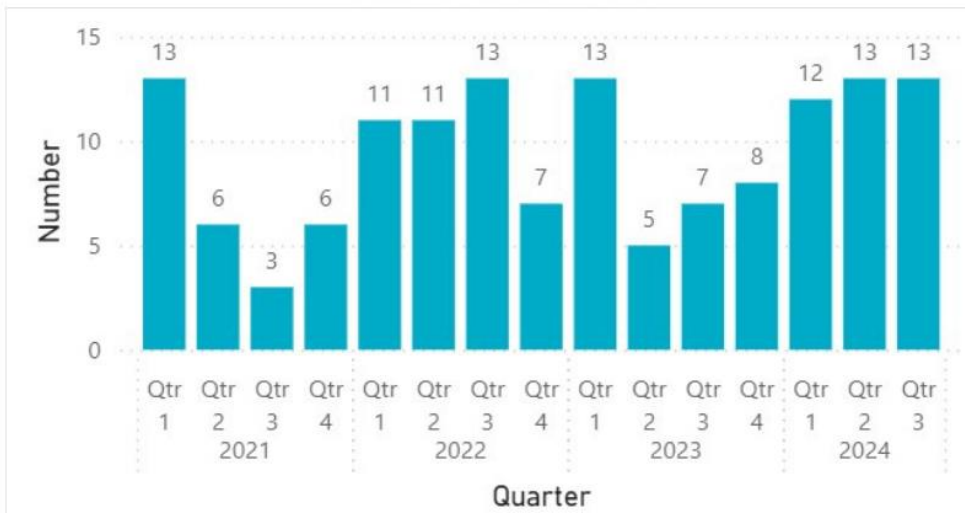
Complaints and enquiries

29. The diagrams below show the trend of enquiries and complaints over time. We have nine open complaints in the assessment phase. A written summary of trends in complaints and enquiries can be found at Annex A and the Q3 internal complaints report can be found here.

Enquiries received per quarter since January 2021



Complaints received per quarter since January 2021



Investigations

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

Other activities

31. 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 4 - Organisational excellence and influence

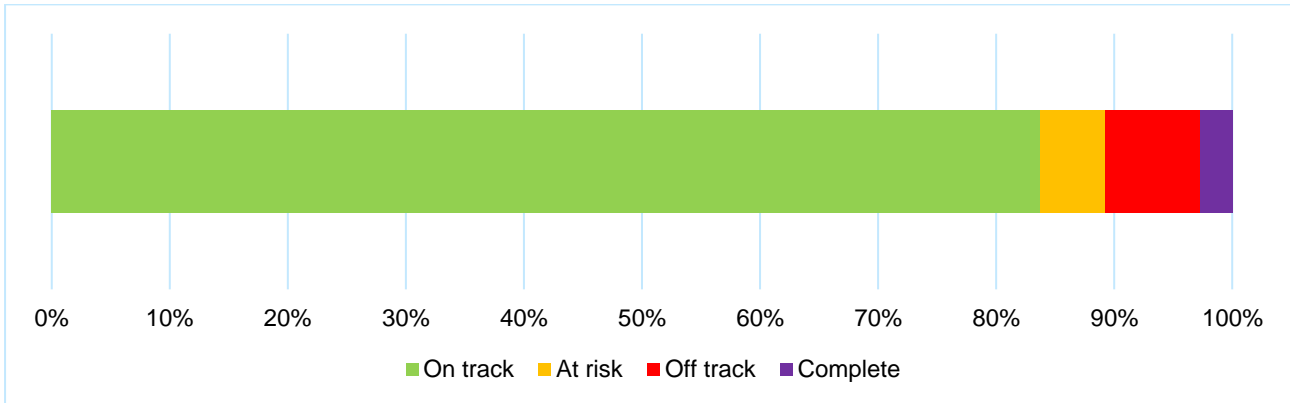
Financial performance

32. The Board will separately receive a report on the financial position at mid-year.

33. The Comptroller and Audit General approved our 2023-24 Annual Report and Accounts with no issues raised. This was laid before Parliament and the Assembly on 29 October 2024.

Delivery of our corporate and business plan

34. Annex B sets out the status of our corporate and business plan at mid-year. We report 3 of our 37 commitments in our corporate plan to be off track, and 2 to be at risk. 32 are on track or complete (87%). We ended last year with 78% of our commitments met, and 15% partially met.



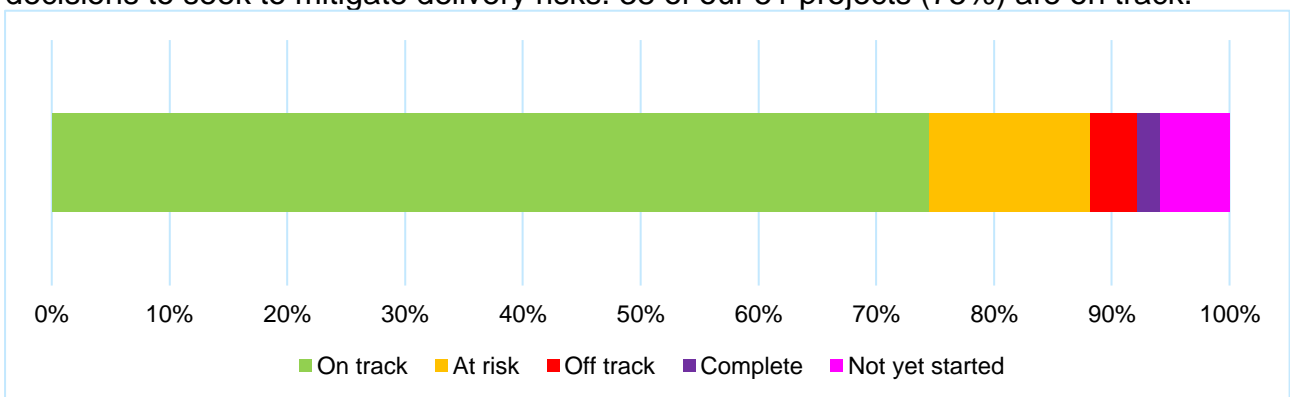
35. Commitment 1.3 and 1.4 – we are not on track to review the nutrients action programme and the coherence of the climate action plan in Northern Ireland as we intended as these have not been prepared and published at the pace we expected.

36.2.5 – we have deferred the publication of our environmental law reports into inspection regimes to May 2025, and therefore next business year. I agreed a revised delivery plan, following the issues experienced with the Environment Agency, earlier in 2024. The extension allows greater scope for engagement and testing of findings.

- a. 4.5 – our work to measure our impact is at risk, following challenges in freeing resource to begin preparations at the time expected. We expect to recover by year end, though work must progress in the next month.

37.4.10 – the agreement to our framework agreement and other aspects of our ways of working with Defra is at risk. The framework agreement remains with Defra to agree.

38. Annex B also shows the status of our most significant projects which support delivery of this plan. Here we report more at risk. We actively consider progress of these monthly, taking decisions to seek to mitigate delivery risks. 38 of our 51 projects (75%) are on track.



39. In September, I agreed to remove four projects which had not yet started from the business plan for this year. These were three placeholders for new projects intended to be initiated in year relating to: our nature programme, a response to any proposed revision to the WFD regulations by the previous government and, a general placeholder project to respond to issues that arose in year. I also agreed to remove a placeholder for a follow-on project to the current projects relating to inspections regimes, potentially for Northern Ireland. None put at risk delivery of a corporate plan commitment.

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40. This step was necessary to ensure staff capacity could be targeted to improve confidence in our existing delivery, which the Board is aware has pushed increasingly into the second half of the year, given the general election and the timing of receipt of our DAERA funding. It also allowed us to ensure resource could be made available to begin work on other projects which had similarly not yet started – that work is underway. The number of projects not yet started has therefore now reduced.
41. Where necessary, non-pay resources allocated to these placeholders have been re-allocated and is reflected in the financial information the Board will separately consider.

Performance metric

42. The Board agreed a revised approach to performance reporting, on which we have now consulted. It asked to receive that report quarterly. The first report is attached at annex C. It is early to draw conclusions from trends in data, which, as the Board discussed at the time, are always likely to have limitations.

Spending review

43. The Chancellor will present the budget before the Board meets, and after writing of this paper. We will provide a verbal update to the Board.
44. We continue to expect the need to participate in Defra's internal business planning for 2025/26 after its overall settlement is known. Officials suggest an aspiration for this to conclude by year end. DAERA's budget allocation timetable and expectations are not yet known. The process and timing for government's multi-year spending review for 2026/27 and 2027/28 also remains unclear.

Review of strategy and enforcement policy

45. The Board will separately consider the outcome of the consultation on our draft strategy and enforcement policy.

Corporate and enabling services

46. We have re-procured our HR system and payroll service and will move to a new supplier, CGI. The new arrangement offers enhanced payroll support and will bring a new HR interface for all staff through the Staffology platform. The new interface is intuitive and easy to use, and the onboarding process will include comprehensive communications and training for staff. We are on schedule to deliver a parallel pay run in November and to move to our new supplier for the December pay run.
47. Procurement has also begun for our End User Computing contract (delivered by boxxe) due to expire in September 2025. The Executive has agreed a proposed service scope based on the continued use of a Microsoft based managed service and agreed a procurement strategy for this our largest single contract. The provider of the public sector framework will run the procurement process at no charge to the OEP, freeing up our internal procurement resources for other activity and enabling us to draw on the provider's specific expertise in IT procurement.

48. As part of our ongoing efficiency improvement programme, we surveyed staff on whether work mobile phones are required. 51 of 67 staff (76%) who responded indicated that their work mobile is necessary for their role. This confirms that our existing arrangement meet staff needs and support organisational resilience and will inform a service review before contract renewal.
49. An update on the progress of our people strategy is appended at annex D. We're on track to deliver our action plans, with slight delays anticipated in the review and audit, now slipping into Q4 due to post-election commitments re-prioritisation.

Engagement and communications

50. The week commencing 21 October was NI Environment Week, with a programme of events in Stormont. I spoke at the event on Wednesday, giving a speech titled 'Protecting Landscapes and Nature for Future Generations', which provided an opportunity to explain key OEP activities and publications in Northern Ireland. This was well received with much positive feedback from attendees on the increasingly active role we have started to play in Northern Ireland.
51. We have agreed to close our Election Planning project, which prepared us for the UK General Election on 4 July 2024 and its likely outcomes, with the aim of maximising the OEP's influence in achieving our mission in that context. It has been successful in delivering most of what it planned. What remains to be delivered (the later and continuing elements of our plans for engaging with the new Government and Parliament, such as with No 10, Special Advisors and Select Committees) is transferred to other programmes and business as usual. We have produced a report on lessons learned, many of which are transferable. This sits in wider context of work to develop a more consistent approach to lessons learned reviews and to applying lessons to future work; and the ARAC's stated interest in reviewing this at an appropriate time and perhaps regularly thereafter.

Cooperation with Defra and DAERA

52. This section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.
53. Our relationship with DAERA continues to function well at multiple levels. Our information requests, and number of report publications in recent months has however placed strain on DAERA resources. In this context, DAERA has begun reviewing their guidelines for working with the OEP first published in November 2023. We are asked for and providing feedback.

Impact Assessments

Risk Assessment

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

Equality Analysis

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

Environmental Analysis

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56. 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 reveal information subject to legal professional privilege (s.42)• publication would harm the OEP's commercial interests (s.43)

ANNEXES LIST

This section has been redacted as it contains information available elsewhere.

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