

Date

27 June 2022

Title

Report of the CEO

Report by

Natalie Prosser, CEO

Paper for information

Open in part

Summary

1. I am pleased to submit my first report to the Board as permanent CEO at our inaugural Board meeting in Northern Ireland. May and June see a series of further first milestones for the OEP we continue to make good progress. Since I last reported to you at the end of April, we have published our strategy, enforcement policy, corporate plan and consultation analysis report, agreed our first business plan, responded to government's consultation on the targets to be set under the Environment Act and initiated our first investigation.
2. Our 25-year environment report (25YEP) and responses to three consultations are now in the public domain. It remains early days but we are beginning to see glimpses of the influence we have been able to assert. For example, Dr Richard Benwell, chief executive of Wildlife and Countryside Link, said that the report was an "encouraging sign of the sharp analysis we can expect from the OEP in its role as guardian of government commitments for nature". Minister Pow, said: "We welcome this report, which acknowledges that our Environment Act gives us new tools to make a real difference to our environment, putting it at the heart of government and transitioning us to a sustainable future with nature on the road to recovery during this decade."
3. We have delivered a significant volume of work over the last few months. As we approach the end of this intense period of delivery we have invested in a series of lessons learnt to understand what has worked well and what we could improve, which is already providing valuable insight. As well as it being important to actively and deliberately learn from experience, it is particularly necessary that we identify where we could improve both efficiency and effectiveness. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

4. Looking ahead we will today discuss our approach to our Northern Ireland Environment Strategy advice and consider our proposal for our future Environmental Improvement Plan monitoring reports. We propose a further, focused piece of work building on our analysis of biodiversity net gain, with a discussion on its application in the marine environment. We also have proposals on finalising our framework agreement and have an update on the next steps in procuring our permanent office.

Recommendations

5. The Board is recommended to note the updates outlined in this paper.
6. The Board is asked to note the Head of Terms for *this section has been redacted as its publication would be prejudicial to commercial interests* office premises at Annex C and that once negotiations have been concluded, these will be brought back for approval at a future Board meeting.

Strategic Objective 1 - Sustained environmental improvement

7. We published our first monitoring report on the government's 25 Year Environment Plan on 12 May 2022. It was well received, notably by Defra who welcomed the use of the s.29 power, which provides them with 3 months to respond, in line with EIP refresh timelines. We continue engagement with Defra and are preparing our approach to responding to the government's next report, and the Board will consider our proposals in more detail under the relevant agenda item. We expect the Government's next annual progress report to be published in July 2022
8. We have updated our approach to assessing the NI Environment Strategy as NI's first EIP. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
9. The analysis underpinning our advice on the proposed environmental targets was presented at the extra-ordinary board meeting on 8 June. The Board largely agreed with the analysis and the recommendations to add, amend or commend the targets. In light of the Board's steers and your recommendations on how it could be strengthened, we have drafted a cover letter around the four key messages we agreed, focussing on the process used for developing the targets and in particular the relationship to the Environmental Improvement Plan and the Significant Improvement Test. The analysis and the advice letter have been finalised through electronic business and are being submitted to the Secretary of State on 27 June.

Strategic Objective 2 - Better environmental law, better implemented

10. Defra published a draft Environmental Principles Policy Statement (EPPS) for consultation in March 2021. At Minister Pow's request, the interim OEP provided advice on the draft EPPS in July 2021. The revised draft EPPS is now before Parliament for scrutiny, formally until 27 June, although we understand it will be debated in the House of Lords on 30 June.
11. Government appears to have followed our advice on the EPPS in whole or in part in five out of the seven main areas where we commented. The two remaining main areas (where Government made relatively little change) are concerned with the wording on proportionality and the precautionary principle.

12. On 19 May, our Chair discussed the draft EPPS with Baroness Parminter, Chair of the House of Lords' Environment and Climate Change Committee. Following correspondence with the committee clerk, our Chair wrote to Baroness Parminter on 8 June ahead of the Baroness's meeting with Minister Pow on 9 June. The letter (Annex A) summarises where Government has taken account of our advice submitted in July 2021, where it has not, and the likely consequences. The letter will be published on our website to coincide with the debate on EPPS on 30 June.
13. We remain concerned about the implementation and monitoring of the EPPS, and on the delay in the commencement of the duty on ministers to have due regard to the EPPS in making policy. Our current understanding is that, assuming the final EPPS is laid before Parliament this autumn, the duty will not commence until summer 2023. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
14. The OEP has no hard-edged tools to hand, to further influence the timeframe for implementation or the monitoring arrangements, but we propose to influence where we can. In our Corporate Plan we have signalled our intention to report on implementation of the EPPS in a future year. We will continue to press Defra on the important role that the EPPS needs to play in embedding a coherent approach to considering environmental protection when making relevant policy across government.
15. We submitted our advice on the Nature Recovery Green Paper to the Secretary of State and Minister Pow on 11 May. We are grateful for the input of the Board on this work. We developed this advice with the understanding that Defra was planning a draft Nature Recovery Bill for the autumn. However, the Queen's speech on 10 May did not include this draft Bill. It did, however, announce Government's Levelling-Up and Regeneration Bill (LURB), which was tabled in Parliament on 11 May.
16. If enacted the Bill would allow Government to adjust the current Habitats Regulations Assessment, Environmental Impact Assessment and Strategic Environmental Assessment processes via secondary legislation. We have prioritised work in these areas under our corporate plan, with a view to influencing this secondary legislation. Other important topics in the Nature Recovery Green Paper, such as the approach to protected site designation, are not covered in the LURB so it is likely that any reforms will be developed over a longer timescale.
17. We published our Nature Recovery Green Paper advice on 18 May, along with our advice on Biodiversity Net Gain (BNG), and our response to the Joint Fisheries Statement (JFS) consultation. As these are important pieces of early work we promoted them on social media and through a press release, which resulted in a number of articles in ENDS Report and a discussion during its weekly podcast. Ruth Chambers of Greener UK re-tweeted our advice verbatim. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* We will be following up on our Nature Recovery Green Paper advice with Defra to understand their plans for legislative reform and will discuss these pieces of advice with Secretary of State in our Ministerial review meeting on 5 July.
18. Defra is now consulting on the principles of Marine Net Gain (MNG). The consultation is open until 30 August. In principle we think that the OEP may wish to submit a strategic response. We note that the context for MNG is materially different than for BNG given the very different context of developments at sea and on land and the different relationship to the planning system. We aim to bring an update to the Board on this work in July.

19. More generally, at its meeting on 2 February 2022, the Board requested a periodic review of upcoming consultations. We are developing wider management information to support this reporting, which will include a summary of the consultations that we are and are not responding to. We plan to include information on submitted advice and consultation responses, those in progress and our appraisal of upcoming opportunities as part of a wider, quarterly pack of management information the Board will first receive in July.

Strategic Objective 3 - Improved compliance with environmental law

20. Since 1 January 2021 we have received a total of 46 complaints (Annex B). We received three new complaints in May 2022. We have not yet received any complaints in June. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

21. We will communicate the outcome of the complaint assessments that are currently being undertaken now that our enforcement policy is published. This will include communication of the assessment outcomes for any valid complaints received by the IEGS and Interim OEP, which we have adopted. We intend to close and provide signposting on four complaints on the basis that there was limited evidence to substantiate a failure to comply with environmental law by the public authorities named and or the scale, duration and impact of the alleged failure would not meet the OEP criteria for prioritisation or seriousness.

22. We have sought additional contextual advice from DAERA on four complaints *this section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.* Having received this advice, the C&I team are currently in the process of formulating final recommendations as to how to proceed with these complaints.

23. Following board approval on 08 June, we have developed a comprehensive investigation plan. As is common practice with sensitive investigations, we have named this work: *this section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement* focus on OFWAT, DEFRA SoS and the Environment Agency with the objective of determining whether any have failed to comply with their respective legal duties in relation to monitoring and enforcement of water companies' duties to manage sewage. The communications strategy is now live. All of the interested parties are aware that they are under investigation. We have informed a related complainant, Salmon and Trout Conservation UK, about the investigation and will publish a statement on our website (June 28).

24. *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

25. Since the last meeting of the Board we have published our strategy, enforcement policy, consultation report and corporate plan. We ran a soft launch with external stakeholders on 23 June. We continue internal engagement on these strategic documents to align our strategic direction, priorities and personal performance objectives with organisational objectives and priorities. We plan to hold a workshop explaining our strategy and plan to those who participated in our consultation, in July.

26. As the Board was informed, we provided a copy of our corporate plan for comment to Defra and DAERA, in line with the draft framework agreement. A small number of non-material drafting changes were proposed, and agreed under the Board's delegation.
27. Following approval of the Business Plan, we have developed a simplified plan on a page (Annex D) setting out the key deliverables, the relevant strategic goal for each and an indicative timeframe. This is designed to help our teams understand the plan and is included at Annex E for information. We expect to develop our full operational process for performance, prioritisation and re-allocation of resources, including reference to the Board as necessary, from July. This will underpin a first quarterly management information pack for the Board.
28. We have started work on our people strategy, with four overarching goals to be refined in consultation with staff. We will update the Board on progress on the People Strategy as it progresses.
29. We have undertaken a series of lessons learnt workshops covering six pieces of work delivered from January to June 2022, which will inform priorities for the people strategy and improve our approach to future work. Where these lessons are relevant to the Board we will raise them in the context of the annual Board effectiveness review we aim to undertake in the coming months.
30. Work scoping potential use of experts by the OEP continues. The CCC and NIC have provided example models we will compare and assess alongside other models used by Defra, NE and Ofqual. An assessment to set out options for delivering our requirements is the next step to inform more detailed discussions and decisions on developing an experts framework. This work has not progressed as quickly as hoped, given competing priorities. We recognise it as a key enabler to our efficiency and the pace with which we can allocate resources and will ensure it has the priority it needs in the coming weeks.
31. *This section has been redacted as its publication would be prejudicial to commercial interests.*
32. This is in line with the wider OEP 2022/23 budget, agreed by the Board on 8th June 2022.
33. DAERA wrote on 9 June confirming their contribution to the OEP budget for financial year 2022/23 will be £631,000. *This section has been redacted as its publication would be prejudicial to relations within the United Kingdom.* This was reflected in the agreed Budget. The OEP's resource position will be kept under review and DAERA will consider in-year bids for additional grant-in-aid or project-specific grants, as appropriate.
34. Negotiations with Defra and DAERA on the framework document have advanced significantly and are the subject of a specific agenda item at this meeting.
35. The draft Annual Report and Accounts were tabled to the Audit and Risk Assurance Committee on 21 June 2022, in advance of the external audit by the National Audit Office commencing on 4 July 2022. We have received an outline legal opinion from Counsel on the approach to be taken to the statement of funding sufficiency we are obliged to make. The Board will be asked to agree the statement in September. Counsel advises that the OEP has wide discretion in its approach to this assessment. For example, it can choose to assess against our total resources, or the resources that Defra and DAERA each provide. Similarly, *this section has been redacted as it contains legally privileged advice.*
36. We continue to finalise our wave 3, Northern Ireland and 2022-23 temporary resource recruitment, with several live adverts. We have had very limited external interest our

recruitment of a temporary G7 role in our Insights team and we are considering how to expand the reach of our temporary roles more widely. Since the last report the following staff have joined or moved roles following the outcome of competitive recruitment:

OEP Role	Staff Member	Start Date
G7 Principal Finance Officer	REDACTED	17 th May 2022
Senior Environmental Specialist	REDACTED	6 th June 2022
G7 Principal Environmental Lawyer	REDACTED	13 th June 2022 (Temporary internal assignment until 31/3/23)
SEO Recruitment Lead (6 month Secondment)	REDACTED	13 th June 2022
SEO Senior Monitoring Environmental Law Officer	REDACTED	1 st July 2022 (Temporary internal assignment until 31/3/23)

37. Progress continues on the implementation of the communications strategy and stakeholder engagement plan although this has been subject to some delays given the recent volume of publications placing demands on the communications team. The communications team has carried out a review of all previous mapping exercises and stakeholder events in order to collate the information into a central database to support future activity. Attendees of regular meetings between the OEP and ALBs and devolved nation regulators have been contacted for views on the format and content of future meetings and the Complaints and Investigations team are trialling a proposed approach to plan and record operational level engagement activities ahead of a wider roll-out.

38. Since the last meeting of the Board, senior OEP representatives have continued stakeholder engagement. This has included an introduction meeting with Water UK and visit / teach-in session at Wessex Water, an introduction meeting with the Agri-Supply Alliance, sessions with Defra officials on ALB reform and the 25 YEP monitoring report, a meeting with Minister Pow and discussions with the devolved nation’s regulators Environmental Standards Scotland (ESS) and the Welsh Assessor. Our Chair and General Counsel met with Baroness Parminter to discuss the EPPS. The CRO and I met with Aaron Bell MP to discuss the OEP’s position on Walley’s Quarry, which is in his constituency, and our Chair met with representatives from the Department for Transport to discuss its developing approach to minimising environmental impacts.

39. In July, engagement activity will include our Chair speaking at the Environment All Party Parliamentary Group about our priorities for the next year and at the Natural Environment Summit Wiltshire at the invitation of Wiltshire Council. We are planning further engagement around the 25YEP monitoring report, which will be presented to the cross-government 25YEP board.

- 40. We have now agreed and signed an MoU with the Climate Change Committee and await the Committee's CEO signature before publishing.
- 41. We have finalised the text of the Memorandum of Understanding (MoU) between the OEP and the Parliamentary and Health Service Ombudsman (PHSO). I will sign this for the OEP at a meeting with the PHSO Chief Executive to be arranged imminently.
- 42. The tripartite MoU with Environmental Standards Scotland and the Interim Environmental Protection Assessor for Wales is nearly finalised and awaiting final feedback from Wales and Scotland.
- 43. A copy of the CCC MoU is attached at Annex F. We will notify the Board when the other MoUs have been signed. We will also publish the MoUs on our website.

Impact Assessments

Risk Assessment

- 44. The Strategic Risk Register continues to be reviewed by the leadership team each month. It will next be presented to ARAC in September, providing an overview for detailed scrutiny.
- 45. The current Strategic Risk Register is appended as Annex D. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
- 46. The strategic risk register operates dynamically with the operational risk registers which we hold for each of the directorates and with a dedicated Northern Ireland register. This allows risk to be captured, reviewed and managed at an appropriate level with appropriate routes of escalation and de-escalation.
- 47. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
- 48. A redacted version of the Strategic Risk Register will be provided as part of the Ministerial review report. A Summary of the strategic risks is shown in Figure 1.

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

Equality Analysis

- 49. None arising from the issues in this paper. Equality, diversity and inclusion will be a relevant consideration as we develop the People Strategy.

Environmental Analysis

- 50. This report gives an overview to the Board of the strategic organisational developments across the whole of the OEP which supports the mission and principal objective to protect and improve the environment. Each of the Directorate aligns activities to the four strategic objectives to ensure our work is focused, prioritised and makes valuable contribution.

Paper to be published	In part
Publication date (if relevant)	With meeting minutes

<p>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>	<p>FOIA/EIR exemptions for which we propose not to publish this paper in full are:</p> <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- Letter from Dame Glenys to Baroness Parminter

Annex B – Complaints & enquiries dashboard March 2022

Annex C – *This section has been redacted as its publication would be prejudicial to commercial interests.*

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

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

Annex F- *This section has been redacted as it contains information for future publication.*