

Board Paper

Date

27 March 2024

Title

What success looks like

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Paper for discussion

Closed/open paper

Issue

1. At its February meeting, the Board asked to discuss in more detail what success looks like for the OEP in the period of our next strategy.

Recommendation

2. The Board is recommended to:
 - a. Agree that our mission and objectives should endure, as was expected when they were decided.
 - b. Consider and comment on the outcomes proposed to further illustrate how we aim to achieve our objectives – specifically, whether they are right, and which are most important.
 - c. Note how this is different to, but will inform our approach to measuring our performance and success, in due course.

Background

How we currently describe success

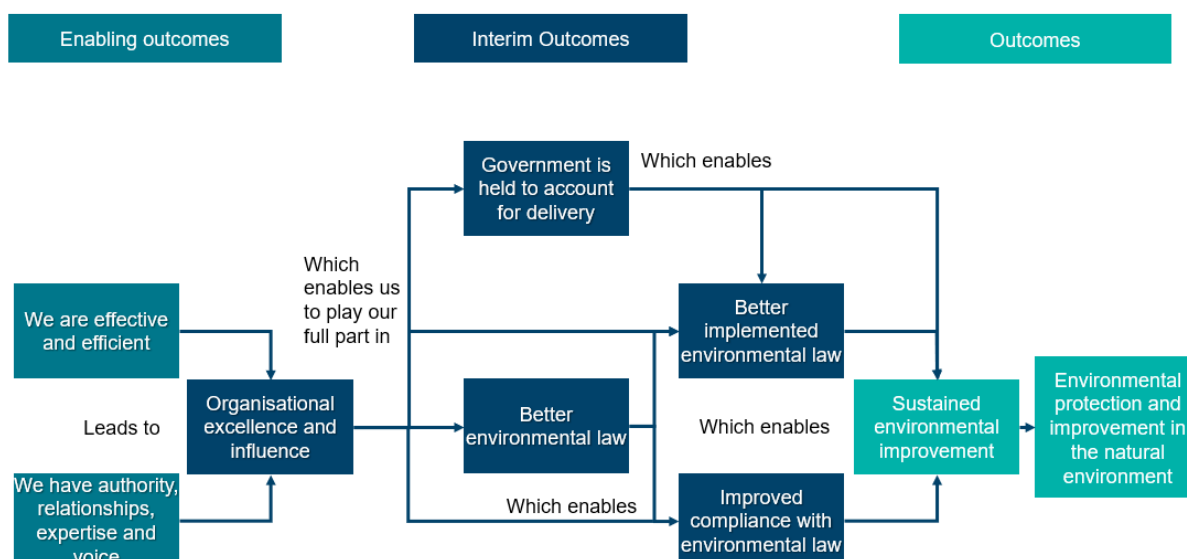
3. The Environment Act gives us the principal objective to contribute to environmental protection and the improvement of the natural environment. We defined our mission in our

2022 strategy: we protect and improve the environment by holding Government and other public authorities to account.

4. We set four strategic objectives, after consultation, which show what we aim to achieve to deliver our mission. We express each objective through a short statement, and a longer description which sets out more fully what we aim to achieve. We strive for:
 - a. Sustained environmental improvement: Government is held to account for delivery of environmental goals and targets, and its plans for environmental improvement.
 - b. Better environmental law, better implemented: The environment is protected and improved, and people are protected from the effects of human activity on the natural environment, through better design and implementation of environmental laws.
 - c. Improved compliance with environmental law: Government and other public authorities abide by environmental law, so it can protect people and protect and improve the environment as intended.
 - d. Organisational excellence and influence: We are effective and efficient, with the authority, relationships, expertise and voice to play our full part in national environmental governance.

5. Together, our strategic objectives build a bridge between what we do (our functions, powers and duties), and our mission. They are the logic model of how we make a difference:

The environment is sustainably improving	
<i>Including because</i>	environmental law is better designed environmental law is better implemented environmental law is better complied with government is delivering the environmental improvement it plans to
<i>Including because</i>	government and public authorities are being held to account to do so
<i>Including because</i>	we are an excellent and influential organisation playing a full part in national environmental governance
<i>Including because</i>	we have authority we have the right relationships we have the right expertise we have sufficient voice



6. The Board consciously decided to define our objectives in this way: as objectives of outcome, not activity; as the intermediate outcomes from our actions that lead to our principal objective so as to describe the contribution we make to environmental protection and improvement; as a statement of intent beyond our mission and principal objective; and, with the intent that they endure in the medium term. In doing so, it considered a range of alternative approaches, including those taken by other public authorities such as those below.
7. In setting our objectives in this way, the Board consciously recognised that these objectives are not all in our control, and are to different degrees influenced by our activity. It chose not to define our objectives in a way where the causal impact of our work on the outcome would be certain or explicitly measurable, and instead to describe the general outcomes to which our work leads and which we would see if successful.
8. In February, the Board considered how we should further develop our performance framework. This was intended to inform how we develop and set out in our strategy our approach to measuring our success. The Board concluded that further discussion on what success looks like was necessary, including to help us to be clearer on how it may be measured.

How others define their success

9. Public bodies frame success in a range of different ways and there is no consistency across government or within departments.
10. Some more comparable organisations do not define success and instead rely on a purpose statement to convey their ambition. For example:
 - a. the Office for Budget Responsibility's objectives are to i. fulfil its duties under its enabling legislation, and ii. ensure its governance and operations are fit for purpose and enable it to operate as a responsible, effective and transparent ALB. Its purpose is its closest expression of success: To provide independent and authoritative analysis of the UK's public finances.

- b. the Committee for Climate Change describes its strategic priorities only through activity – for example to provide impartial advice on setting and meeting carbon budgets. Outcomes and success are only implied.
11. Most organisations, for example the National Audit Office, Health & Safety Executive, Environment Agency, Office for Students, Equalities and Human Rights Commission frame their ambition around outcomes, sometimes specifying secondary outcomes, or goals that support these.
- a. The NAO's priorities are described relative to an implied baseline: to i. improve support for effective accountability and scrutiny, ii. provide more accessible independent insight, and iii. increase impact on outcomes and value for money.
 - b. The Environment Agency has three objectives, such as 'a nation resilient to climate change' and nine related 'five year aims' such as to i. create more climate resilient places and infrastructure, ii. be a strong leader on climate adaptation and resilience, iii. be ready for bigger, more frequent incidents

Measuring success

12. This paper does not consider in detail how success is to be measured. The Board agreed in February to develop an approach to measure our performance through a balanced scorecard and quantitative and qualitative indicators of our delivery, influence, management of resources, organisational growth and how others judge us.
13. There are clearly strong links between how we conceive and describe success, and how we then measure our performance and success. But 'what success looks like' is a distinct question to 'how success is measured'.

Analysis

14. Whilst there are different ways of describing success for the OEP, the Board intended that our objectives should endure. Our approach is to revise rather than rewrite our strategy as a whole. The logic which led us to make the choices we did then, and on which we consulted, persist, and, fundamentally, our objectives describe how we have impact towards our statutory principal objective.
15. We therefore focus here on how we could describe in greater detail what success might look like within the framework of our existing objectives, by specifying potential outcomes or goals we could aspire to within each, in a way comparable to other public authorities. In doing so, we assume that we would include these outcomes within our revised strategy, and they will therefore have a public audience.
16. Taken as a whole, and like our objectives, these outcomes include a range of aspects of success. The proposed outcomes include:
- a. real world outcomes, to which we aim that our work contributes, but where there are wide and significant external influences and our contribution is likely marginal – this is most obviously true under 'Sustained Environmental Improvement'.

- b. the effect of our work in changing the behaviour of others, where the link between that changed behaviour and environmental improvement may not be known or proven, and where there may be a range of causal influences on the behaviour change other than our action.
 - c. evidence of informed decision-making by Parliament and the Courts where we choose to provide evidence or advice, whether or not our advice is acted on – this emphasises the constitutional boundaries of our role, rather than the environmental outcome.
 - d. outcomes of how we are perceived and valued by others.
 - e. enabling outcomes which create the conditions for us to succeed.
17. The factors a, b and c above, return to the discussion the Board had in January in respect of our draft guiding policy – are we champions of the environment, or of properly functioning and effective environmental governance?
18. Consistent with the Board’s steer then, outcomes which reflect both sides of this debate are proposed. It seems impossible to define better ‘what success looks like’, without considering this question again. It seems possible, however, at this more granular level, to express outcomes which reflect both sides of this debate, without them being in conflict.
19. There are almost certainly too many outcomes proposed. A range is presented, to enable the Board to debate and steer – specifically, whether they are right, and which are most important.

Sustained environmental improvement: Government is held to account for delivery of environmental goals and targets, and its plans for environmental improvement.

20. Possible outcomes suggested for this objective are that:
- a. environmental trends towards EIP goals and targets are improving.
 - b. the prospects of England and Northern Ireland meeting EIP goals and targets are improving.
 - c. our annual assessment is recognised as the definitive assessment of environmental progress by Parliament, the Assembly and informed commentators.
 - d. we are recognised in the future as having said now what needed to be said now.
21. These outcomes go directly to the question at paragraph 17 above. We suggest that success for the OEP requires that the environment is actually improving, and improving sustainably (20a and 20b). It is not sufficient for us to fulfil our role well, and for the environment not to improve – not least as the Environment Act requires government to aspire to significant improvement, and have a plan to achieve it. But our impact on the trend of the environment and trajectory of improvement is modest, and unprovable and unmeasurable. Some may judge it uncomfortable to set out a desired outcome little influenced by our action.

22. We also suggest it is not sufficient for the environment to improve, and for us to play no part, for us to judge ourselves successful. The remaining outcomes (c and d) aim to capture the part we play.

Better environmental law, better implemented: The environment is protected and improved, and people are protected from the effects of human activity on the natural environment, through better design and implementation of environmental laws.

23. Possible outcomes suggested for this objective are that:

- a. there are identifiable improvements to the design of environmental law as a result of our scrutiny or advice.
- b. public authorities take steps to improve the implementation of environmental law, where we identify weaknesses or other opportunities to do so.
- c. we are recognised in the future as having said now what needed to be said now.
- d. significant risks to environmental protection and improvement we identify from proposed changes to environmental law are recognised by Parliament and the Assembly in making the law.
- e. where we make it available, the Courts make use of our evidence in deciding how environmental law is to be interpreted.

24. Here, the proposed outcomes a and b describe success as the effect of our work in changing the behaviour of others. Whereas, c, d and e describe success as enabling good decision-making by those with the constitutional role to take relevant decisions – whatever the decisions taken. These latter emphasise our ‘governance’ role, the former ‘actual improvement’.

25. We considered alternatives. At a and b, it does not seem that success should require all our recommendations, advice and reports to be followed, but does require that some are. We cannot judge ourselves successful if we never play any part in influencing change.

26. But, the power to effect change rests with others; our role is at least in part to enable transparent, accountable decisions which take account of the impact on environmental protection and improvement. For example, it seems wrong for us to define success (at d above) as that there is never any regression in environmental protections. This would be potentially expressly against the will of Parliament, if it were to judge that regression in protections is desirable in a specific case. Rather, we suggest the outcome is that Parliament decides to weaken environmental protections knowingly.

27. Similarly, we propose an outcome at c, and similarly above, that we are judged by history as having spoken truth now, even if we know that is unlikely to effect change in the short-term – if the context is such that its ‘time must come’.

28. We suggest that success might lie in the combination of: some change for the better as a result of our work; decisions to weaken environmental protections made knowingly; and that we make the right conclusions and recommendations, regardless of prospects for implementation – in short, a combination of ‘governance’ and ‘improvement’.

Improved compliance with environmental law: Government and other public authorities abide by environmental law, so it can protect people and protect and improve the environment as intended.

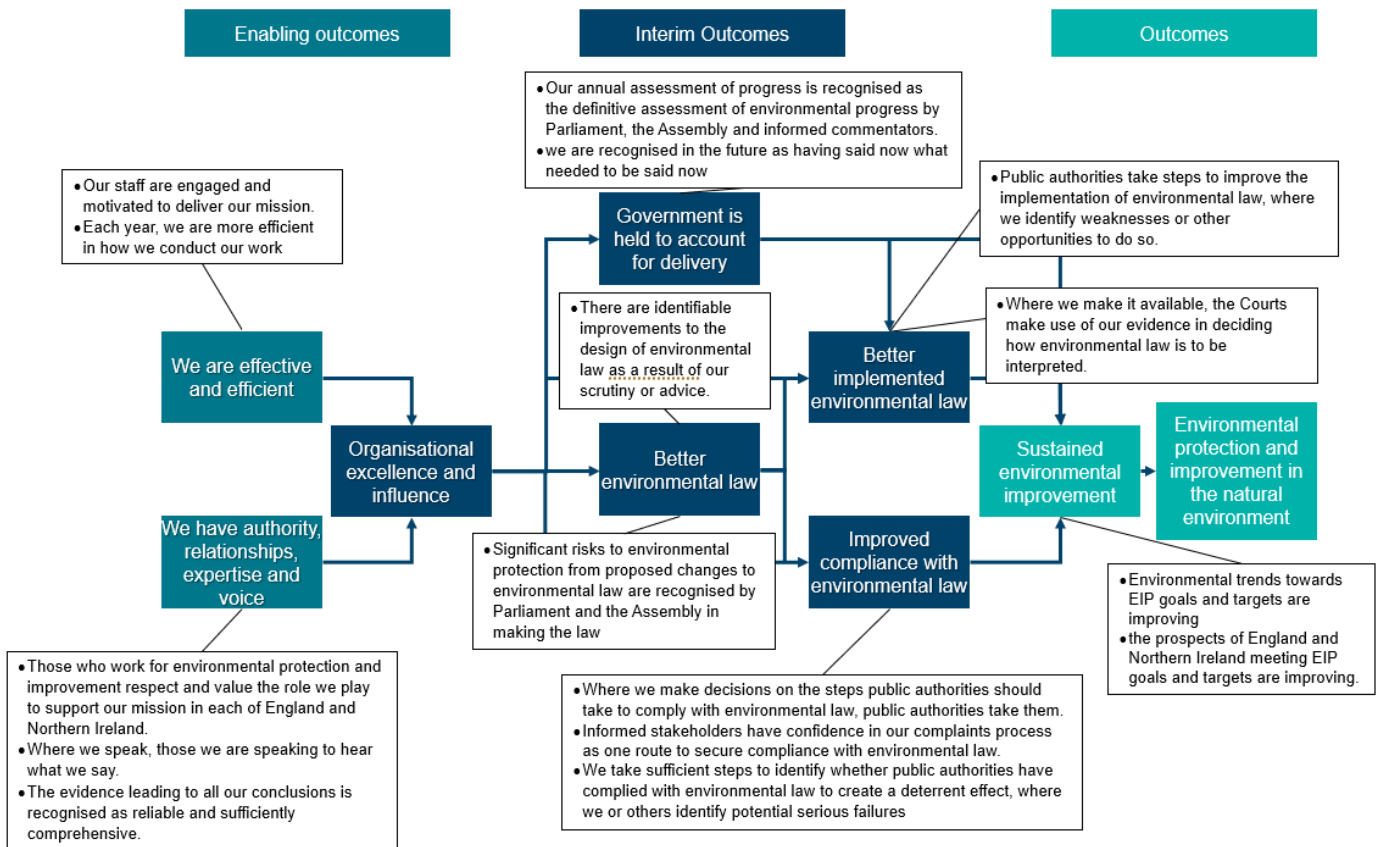
29. Possible outcomes suggested for this objective are that:
- a. Where we make decisions on the steps public authorities should take to comply with environmental law, public authorities take them.
 - b. Informed stakeholders have confidence in our complaints process as one route to secure compliance with environmental law.
 - c. We take sufficient steps to identify whether public authorities have complied with environmental law to create a deterrent effect, where we or others identify potential serious failures.
30. We suggest here that success might be described through the effect of our decisions in changing public authorities' behaviour – whether this is by agreement (early, or after investigation or decision), or by Court process. Our recommendations are less discretionary for public authorities than in our scrutiny and advice, and we therefore propose that it is more than just 'some' recommendations that are followed.
31. At b, we do not judge that success requires others to complain to the OEP in preference to other routes available to secure compliance, such as through judicial review. Rather that we are judged as a credible route to secure compliance. A different view could be taken. It was, for example, an argument in the benefits case for the OEP's creation in England that resolution of compliance issues through our functions would lead to a reduction in the number of judicial reviews the government experienced, with an unquantified net reduction in public expenditure. We do not agree.
32. We also suggest that success requires us to have a deterrence effect – so as to improve the overall extent and culture of compliance overall. However, we propose the outcome we express might be related to the volume of our outputs – so that we undertake sufficient activity through our compliance functions to create a deterrent effect. This is suggested recognising that stakeholders have told us that enforcement activity is a key way in which they will judge us. Here, perhaps uniquely, volume matters.

Organisational excellence and influence: We are effective and efficient, with the authority, relationships, expertise and voice to play our full part in national environmental governance.

33. Here the challenge is likely to prioritise the outcomes most consequential for our success. We propose these might be that we are valued, heard and supported by engaged staff. Other choices could be made (including those in brackets below). The outcomes proposed are:
- a. Those who work for environmental protection and improvement respect and value the role we play to support our mission in each of England and Northern Ireland.
 - b. Our staff are engaged and motivated to deliver our mission.
 - c. Where we speak, those we are speaking to hear what we say.

- d. (Each year, we are more efficient in how we conduct our work)
- e. (The evidence leading to all our conclusions is recognised as reliable and sufficiently comprehensive.)

34. Some of these are not outcomes we would aspire to in isolation. For example, we wish to be heard, so that we are listened to and effect some change. Those wider system outcomes which result from our influence are captured elsewhere – the additional outcome related to our excellence and influence, might be that we are heard.
35. These outcomes (set out in full at Annex A) map to our logic model as follows, and apply across its range.



Measuring success

36. The purpose of this paper is to enable a discussion of what success looks like. In its discussions on success to date, the Board has not wished to curtail its view of objectives, outcomes and success only by what can be measured. Yet it is self-evident that how we define success should inform and lead how we measure our performance and judge our success.
37. As the paper the Board considered in February sets out, it is reductive to distil our particular influence on a complex political system, and nuanced and mediated influence on environmental systems, to simple measures. In creating any framework to measure performance, the context in which measures will be used and reported matters.

38. We have not set out to define objectives and outcomes which are measurable. That said, we think it likely to be possible to develop measures which are indicative of these suggested outcomes, and therefore indicate the extent to which we are achieving our objectives. We have, for example, mapped the performance framework the Board considered in February (with some minor adjustments) to the proposed outcomes. We judge the measures could be developed to sufficiently indicate the draft outcomes – albeit imperfectly, and with a lot of ‘noise’.

Northern Ireland

39. These outcomes are intended to apply equally to Northern Ireland and England. It may be appropriate to measure some of the indicators separately in England and Northern Ireland, to properly represent our success. This will be considered further in the next stage of development.

Finance and Resource

40. There is limited resource impact of this proposal. The resource implications of the preparation, use and reporting of any performance framework were considered by the Board in February.

Impact Assessments

Risk Assessment

41. There is a risk that more precise definition of what success looks like oversimplifies the impact we can achieve, by focussing on distinct parts. This is mitigated in the breadth of the proposed outcomes, and the balance across the logic model implied by our objectives.
42. There is a contrary risk that the number of outcomes is too large to create clarity, and the message they aim to convey is lost in the noise. The Board is asked to indicate which are most important.
43. There is a risk that defining outcomes distorts organisational effort and priorities by diverting effort and resources to achieve an outcome, which is a simplified expression of what we intend. This is potentially amplified through measurement of success. The Board considered these risks in February. Mitigation is through the strength of our leadership, organisational culture and governance. Mitigation is also through how the outcomes might be presented.

Equality Analysis

44. No material equalities impacts have been identified.

Environmental analysis

45. The OEP’s duties under environmental law could be relevant to considering how we conceive of our objectives, and how we define success. For example, the revised biodiversity duty might encourage us to specify outcomes related to the action we can properly take to further the conservation and enhancement of biodiversity.

46. The Board considered related issues in deciding our strategic objectives. Specifically, it judged then that defining our objectives as specific environmental outcomes was likely to distort our prioritisation, and be confusing for those who seek to understand our specific role. There are public authorities whose primary responsibilities are to deliver environmental protection and improvement in specific domains of the environment. Our objectives intend to describe the particular role we play, by exercising our functions, to support environmental protection and contribute to improvement in the natural environment.
47. It is our general approach to comply with all environmental law, and to take it appropriately into account in reaching our decisions. The Board decided to adopt a specific objective to ensure that biodiversity conservation and enhancement are effectively taken into account in our strategic and operational decision-making, as well as all other relevant duties under environmental law. We do not judge that a more specific outcome for success in this regard is warranted within this framework.

Implementation Timescale

48. The outcome of the Board's discussion will support the development of the revised strategy for consultation which will be considered by the Board at the end of May, and then be consulted on.
49. We aim the Board adopts the strategy in the autumn.

Communications

50. External communications will be developed in the context of our wider communications approach for our strategic review, including its consultation.
51. This paper has been discussed by the working group for the strategic review, and a meeting to which all Heads of Function were invited.

External Stakeholders

52. We consulted on our strategic objectives in 2022, and must consult on our revised strategy this year. Our approach to consultation is not yet developed, but may include an open consultation, and targeted engagement with groups of stakeholders including NGOs, Defra, DAERA and those we oversee.
53. We have already indicated to external stakeholders the areas of focus for our strategic review, which have included how we measure success. We are minded that these outcomes and measurement of them, could form part of our consultation in due course.

ANNEXES LIST

Annex A – What does success look like – outcomes to strive for by 2027

Annex A - What does success look like

Sustained environmental improvement: Government is held to account for delivery of environmental goals and targets, and its plans for environmental improvement.

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