



# Office for Environmental Protection

## Extraordinary Meeting of the Board

Wednesday 20<sup>th</sup> December 2023 1.00pm

MS Teams

### Members

Malcolm Beatty OBE	Board Member
Julie Hill MBE	Board Member
Professor Dan Laffoley	Board Member
Dr Paul Leinster CBE	Board Member
Professor Richard Macrory CBE	Board Member
Natalie Prosser	Chief Executive
Dame Glenys Stacey	Chair
Helen Venn	Chief Regulatory Officer

### OEP Attendees

Peter Ashford	General Counsel
REDACTED	Paralegal (Secretariat)
REDACTED	Principal Lawyer (item 23.106)
Mike Fox	Head of Communications and Strategic Relations
REDACTED	Principal Lawyer (item 23.105)
REDACTED	Principal Lawyer (item 23.104)
Angel Lai	Head of Finance and Corporate Services
Andy Lester	Head of Business Strategy and Planning
Professor Robbie McDonald	Chief Insights Officer
Craig McGuicken	Northern Ireland Lead
Kate Tandy	Head of Litigation and Casework (item 23.104 and 23.106)

#### **23.103 Apologies for absence and declarations of interest**

Apologies were received from Malcolm Beatty. There were no declarations of interest.

#### **23.104 Operational Protocol Judicial Review**

The Board was updated on developments following service on DAERA and NIEA of our pre-action protocol letter in respect of the decision, of 29 September, to reinstate the Operational Protocol.

DAERA has now revoked that decision and confirmed in writing that the Operational Protocol will no longer be used. Relevant planning decisions must now be taken on a case by case, and site-specific basis.

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

The Board therefore AGREED not to issue judicial review proceedings in relation to DAERA's 29 September decision to reinstate use of the Operational Protocol.

### **23.105 Sustainability Policy and Biodiversity Duty**

The Board considered the draft Sustainability Policy. It endorsed the policy as proportionate and appropriate for an organisation of the OEP's size. It encouraged a continued focus on best practice, so the OEP can be an example to others where we are able.

The Board AGREED the Sustainability Policy and Action Plan and the Board's commitment to sustainability set out within it.

The Board noted the revised biodiversity duty arising following amendment to the Natural Environment and Rural Communities Act 2006. It considered what actions the OEP can properly take through our functions to further the conservation and enhancement of biodiversity in England. The Board AGREED that there is action the OEP can properly take. The Board considered the policy and specific objectives proposed as a result.

The Board noted that the revised biodiversity duty only applies to the OEP's functions in relation to England, but that a similar duty arises in relation to Northern Ireland under the Wildlife and Natural Environment Act (NI) 2011. The Board noted that the proposed policy and specific objectives would apply to both jurisdictions, so assist in meeting the OEP's obligations under both the 2006 and 2011 Acts.

It AGREED to adopt the policy to take biodiversity conservation and enhancement into account as part of all relevant strategic and operational decision-making, and the specific objectives set out in the paper. The Board discussed the associated actions that will be undertaken.

The Board further AGREED that the Biodiversity Statement should be published.

### **23.106 England's Environmental Improvement Plan**

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

### **23.107 Any other business**

The Board discussed a press release that had been issued by the World Wildlife Fund and ClientEarth setting out some concerns about how the OEP has dealt with a complaint.

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