

Date

20 October 2022

Title

Report of the Chief Executive

Report by

Natalie Prosser, Chief Executive

Paper for information

[Open in part](#)

Summary

1. This report comes at a time of ongoing and significant disruption in both the political and policy landscape. When we meet, the Conservative Party leadership contest will not yet be settled. The outcome will likely have a material impact on a number of areas due to be discussed today.
2. In the period since our last meeting, we have reviewed our work plans, to test that we are prioritising effectively. We have made changes in order to ensure we have the capacity to manage recent and emerging challenges. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* We have progressed our enforcement activities related to *this section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement* and government's missed statutory deadlines. We proposed to discuss the revised scope of our work plan, including how it has been prioritised for 2022/23 under the relevant agenda item in this meeting.
3. During September and the first half of October, we have progressed our approach to our next EIP monitoring report and begun drafting. We have made significant progress in the development of our nature and water work programmes.
4. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Recommendations

5. The Board is recommended to:

- a. Note the updates on the three strategic issues highlighted at the last Board meeting
- b. Note the emerging issues related to our Defra relationship
- c. Note progress in delivery of our strategic objectives.

Strategic issues

6. Today the Board will be asked to consider and endorse our approach to the prioritisation of our work programmes and supervision of government's compliance with the statutory targets' deadline. We will also discuss a decision in principle on the possibility of intervention in the case of the Finch v Surrey CC and next steps in the progression of the framework document with Defra.

Political and policy landscape

7. Since the discussion of political volatility at our last meeting we have implemented additional activity to secure ongoing understanding of the rapidly changing political and policy landscape. This is with the objective of enabling the OEP to respond in a timely way to any matters which could impact on environmental protection and improvement. We have provisionally called this our "REUL" programme and it is referred as such in this paper. As we scope our approach in line with our strategy, however, the focus will inevitably be broader than just this particular bill.
8. We maintain a close watching brief on the leadership election and the likely subsequent Cabinet and ministerial reshuffle. We will discuss the latest developments when we meet.
9. We have reviewed our priorities in line with announcements on the Retained EU Law (Revocation and Reform) Bill (REUL), introduced on 22 September, and other policy announcements relevant to the environment. REUL has major implications for environmental law and will interact with other announcements on the introduction of investment zones and a review of the ELMS. In response to this context, we bring a paper on our approach to prioritisation, to ensure we have allocated sufficient resources to these emerging issues. We also bring details of four strategically significant projects linked to delivery of our corporate plan commitments for your consideration.
10. At its 6 October meeting the Board considered briefings on recent UK Government initiatives, including the REUL Bill. The Board queried the implications for devolved administrations of that Bill. Annex 1 contains a follow-up briefing on this point. In summary, devolved administrations have the same powers as the UK Government to retain, amend or revoke REUL where it falls within their competence. As they do so, and as courts reinterpret REUL as the Bill envisages, divergence in environmental law and policy across the UK nations is likely to grow.
11. The Board should note that the powers available to devolved administrations *do not include* the power available to UK ministers to extend the December 2023 sunset date when REUL

would automatically fall away. This could greatly exacerbate the challenges faced by DAERA (and other NI departments) in analysing REUL to decide upon its preservation, revocation or reform by 2023, including at a time when there is no Executive. We will need to explore the implications of this with DAERA as work related to the REUL Bill progresses.

12. The Board will be very aware that the UK political context has been unusually volatile in recent weeks with little sign of things settling into a more conventional pattern. There remains significant uncertainty, with high likelihood of further changes to policy and the news that a new prime minister should be announced by shortly after we meet. Each of these has potential to affect government's delivery, our ability to influence and the audience for and optimal timing of our work. It is more important than ever to ensure that we can work in an agile and responsive way and this has informed our planning in relation to how we work in the current context.
13. In Northern Ireland, the deadline to form an Executive is 28 October. In the absence of an agreement by this date, new elections will be needed. This will extend the uncertainty of recent months, and delay implementation of policy proposals.

Defra engagement, and guidance power

14. Immediately before issuing this paper, *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs*. We will appear before the Lords Environment and Climate Change Committee during this time. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs*.
15. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs*.

Resourcing

16. Since the Board's last discussion, we have continued our keen focus on understanding and managing risks and our ability to spend our budget in full this year, including through focussing on some of the identified causes. We bring an update on our progress in recruitment and procurement.
17. We have communicated our underspend position to Defra. We are yet to receive feedback, *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs*. Most of our reported underspend results from the fact we have identified significantly cheaper alternative premises for the OEP.
18. We continue to increase our commissioning and procurement activity and provide an update on the current work below.

19. As part of the prioritisation exercise, we have deployed our resources, seeking to mitigate any further underspend and ensure delivery of our mission. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
20. We have also taken the decision to pause a number of pieces of work whilst we await new members of staff to support these.
21. We welcome 11 staff in September and October, bringing us to a total headcount of 59 (excluding the chair and Board). We have offered roles to a further 13 new starters, whom we expect to join over the next two to three months.

Enforcement update

22. Building on this prioritisation we have further scoped two areas where we may wish to use our enforcement function to deliver our mission.
23. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and it contains legally privileged advice.*
24. Following an initial discussion of missed statutory deadlines at the September Board meeting we present a proposed approach, ahead of the 31 October targets deadline.

Strategic Objective 1 - Sustained environmental improvement

25YEP work programme

25. We [published](#) our response on the draft Northern Ireland Environment Strategy as the basis for the administration's first EIP on 22 September. Our response is broadly supportive whilst outlining that further development is needed to bring about significant environmental improvement. The timing of the NI EIP's adoption by the NI Executive depends on when an Executive is formed, which seems increasingly likely to be after a further election as the 28 October deadline for forming one now approaches.
26. At the extraordinary Board meeting on 6 October, we provided an initial set of key messages for our next EIP monitoring report due in January 2023. Since the meeting, we have further progressed the underpinning analysis used in developing the key messages. This includes testing with critical friends how we consider delivery arrangements and resourcing within the report. We intend to bring a draft paper and report to Board on 9 November.
27. At the Board's request we have added a link to [Defra's response](#) to our Taking Stock report to [the report landing page](#) on our website.
28. In relation to access to evidence, external expertise and advisory support, we are making increasingly effective use of existing 'Research and Insights' and 'Environmental

Consultancy' government frameworks to commission research. In addition, Insights and Chief of Staff teams are working together to develop a more strategic approach to evidence provision, including consideration of options including developing our own framework (similar to WRAP's), and a strategic relationship with an academic consortium. The gain to the JNCC has confirmed it is not possible for the OEP to join their framework, who have confirmed that this is not possible. We will come to the Board with a more developed proposition. This will be based upon an assessment of the OEP's evidence needs to ensure that the approach is aligned to our business needs.

Soil work programme

29. This programme intends to influence government's Soil Health Action Plan for England. The uncertainties over when the plan will be published for consultation remain high. With higher certainty over the milestones of other work programmes, we have decided to pause this work programme and focus on other programmes. Meanwhile, we are investigating other routes to progress this work – for example, increased supplier input as adopted for the Air Quality work programme. We will keep this under review, as new staff are onboarded into the OEP, increasing our capacity.

Strategic Objective 2 - Better environmental law, better implemented

Environmental Principles

30. We continue to work on environmental principles. Our strategic intent in this area is set out in a project initiation document under a separate paper for discussion. This represents the progression of work already underway on a more formal project footing.
31. We judge that the role of the EPPSs is ever more important, in the context of REUL. As government policy is developed at pace, the need for guiding principles to deliver greater coherence and consideration of the environment across UK and NI departments increases. Further detail of this project is provided in the paper on strategically significant projects.
32. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and it contains legally privileged advice.*

Water work programme

33. We continue to scope activity to monitor and report on the implementation of environmental law that supports freshwater and coastal water quality, including through engagement with Defra and DAERA. Our strategic intent in this area is set out in a project initiation document to be considered by the Board at this meeting under a separate paper.
34. As part of the planned evaluation, we are monitoring finalisation of the River Basin Management Plans (RBMPs) in England and Northern Ireland which were due in December 2021 and have not yet been published. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Upcoming government consultations

35. We wrote to Lord Benyon on 23 September in response to the consultation on Highly Protected Marine Areas (HPMAs). In our response (Annex 4), we stated that we regard HPMAs as an essential cornerstone of responsible ocean stewardship. We also recommended that Government should consider a more ambitious approach, both in terms of the pilot and the implementation of HPMAs after the pilot. Our response was published on our website on 13 October.
36. We continue to screen government consultations in England and Northern Ireland. There are currently no live consultations that we plan to respond to. However, our priority work programmes for this financial year are all being undertaken with a view to influencing government. This may include through expected or possible future consultations.

Air quality work programme

37. Our work on air quality has developed to better scope ambient outdoor air quality issues, to ensure we are ready to respond well to the UK Government's plans for tackling air quality problems. We have commenced our stock take of air quality issues in England and Northern Ireland, using external suppliers to undertake most of the work. The majority of the work will be completed in December. The scope has been tailored to directly support our response to consultation on any upcoming air quality strategies.
38. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Strategic Objective 3 - Improved compliance with environmental law

Complaints and enquiries

39. Since 1 January 2021 we have received a total of 63 complaints – with five in September and zero so far in October. In total, 28 complaints meet all the criteria for complaining to the OEP. We have completed the assessment of 20 of these, one assessment is on hold and seven are ongoing.
40. Seventeen complaints do not meet the criteria and we have let the complainants know and signposted them to the correct public authority, where appropriate. The remaining 18
41. Since 1 January 2021 we have received and responded to a total of 426 enquiries.
42. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.*
43. Further details of activity from 1 July to 30 September can be found in Annex 2.

Operation Century

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

Marine work programme

45. *This section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.* We sent a letter on 8 July to the MMO signalling our concern at two management measures being considered in a recent call for evidence which, in our view, risked the MMO failing to comply with environmental law.
46. The MMO sent a response letter on 5 September, reassuring us of its intention to discharge its duties in a manner which is fully compliant with environmental law. With the MMO aware of our concerns, we will now wait until management measures have been formally proposed (expected 2023) before reassessing the case for further action.
47. I met with the MMO CEO on 28 September. I welcomed closer engagement between our organisations, signalling our intention to offer open and constructive relationships across all our functions. The MMO agreed to initiate some introductions at executive-level. We are also liaising with them separately to arrange an information-sharing workshop to develop relationships at working-level.
48. As noted above under strategic objective 2, we wrote to Lord Benyon in response to the consultation on piloting Highly Protected Marine Areas.

EU infraction cases

49. *This section has been redacted as it contains personal information.*
50. We are expecting to receive more detailed files relating to each case, including any letters of formal notice and reasoned opinions provided by the Commission, which will enable us to assess which matters the OEP may wish to consider further.
51. This is an area of work which we have decided to pause until we have more capacity available.

Statutory Deadlines

52. I look forward to a discussion with the Board or our proposed approach to missed statutory deadlines, outlined in a separate paper. The letter sent to SoS regarding the Environmental Targets' statutory deadline can be found in Annex 4.

Strategic Objective 4- Organisational excellence and influence

53. As we continue building the OEP, the Executive Committee (ExCo) is regularly monitoring and managing performance within our newly created, monthly, Performance, Delivery Review (PDRM) meetings. These include active consideration of our live strategic risk and issues register.

Finance

54. The NAO has now provided the final completion report on the audit of the Annual Report and Accounts (AR&A) and was laid before Parliament and the Assembly during the week commencing 24 October.
55. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and its publication would be prejudicial to relations within the United Kingdom.*

Procurement

56. In the year to date we have procured and issued 83 purchase orders to contract external services and goods (i.e. not including internal government suppliers such as Government Recruitment Service) with a combined value of *this section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and commercial interests.*
57. September to October has been a period of particularly intensive procurement activity for a number of important contracts for external expertise. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and commercial interests.*
58. The successes of this activity are being facilitated by involvement of the procurement team at an early stage in project scoping, and the procurement team being embedded into the project teams for the duration of the procurement activity, so that respective internal expertise is used effectively through integrated joint working.

Delivery

59. ExCo scrutinised our business plan delivery, which reflects our corporate plan commitments. We have collected performance information for quarter 2, reported on it to Defra, and will discuss it further with ExCo as we look to agree performance indicators with Defra.
60. We will hold our Q2 performance review with Defra on 24 October. The full report can be found at Annex 3.

Recruitment and Resourcing

61. Resourcing pressures were most acute in the Insights Directorate. I am pleased to report that our mitigation has begun to address the issue. We appointed an interim Chief Insights Officer, Professor Robbie McDonald, whilst we run a permanent recruitment campaign. We have recruited 7 Insights staff since my last report. Most of these staff will be joining in the next 2-3 months, dependent on their respective notice periods. Insights is prioritising our statutory Environmental Improvement Plan monitoring report for January 20 2023.
62. This financial year, overall, we have successfully recruited 21 staff into permanent roles and 8 into temporary roles. One advertised permanent and 6 temporary roles remain to be filled.
63. We still observe a lack of interest in short term roles advertised within the Civil Service and continue to advertise roles externally. Contingent labour is a last resort.

64. All our temporary recruitment is on contracts which end on or before 31 March 2023, when our 'permitted' headcount reduces from 71 to 61. Given overlapping recruitment of some temporary and permanent posts we may slightly exceed 71 people early in the new year, before reducing to 61 on 1 April. Up to 12 people may leave at this date.
65. A detailed organogram can be found in Annex 4.

Framework document

66. We continue discussions with Defra to finalise the framework document and bring a paper for discussion with the Board.

This section has been redacted as its publication would be prejudicial to commercial interests office space

67. We have agreed Heads of Terms for office space in the *this section has been redacted as its publication would be prejudicial to commercial interests* and lease negotiations are progressing. We have a first draft and there do not appear to be any major contentious points. Lease finalisation may progress relatively quickly. Our working assumption is that negotiations will be concluded by November, at which point we aim to identify a move in date, likely to be in spring 2023.
68. *This section has been redacted as its publication would be prejudicial to commercial interests.*
69. We are continuing to explore options for a touch-down space in Northern Ireland for NI-based staff and visiting Worcester-based staff. Consideration is also being given to a touch-down space for OEP staff travelling to London.

People Strategy

70. ExCo agreed the people strategy goals and the action plan for 2022/23 in September and the strategy has since been drafted. Procurement activity to expedite delivery of strands of the people strategy and contribute to addressing the underspend is underway.

Memorandums of Understanding (MoUs)

71. Following publication of an MoU with the Committee on Climate Change (CCC) we have also signed and published MoUs with the Parliamentary and Health Services Ombudsman (PHSO) the Local Government and Social Care Ombudsman and a tripartite MoU with Environmental Standards Scotland, and the Interim Environmental Protection Assessor for Wales. The latter is [published](#) on the website. This concludes our intended MoU activity.

Strategic Engagement

72. We are implementing our communications strategy and stakeholder engagement plan.
73. Our Chair spoke at the Westminster Energy, Environment & Transport Forum about our strategy and enforcement policy and our Chief Executive addressed the Oxford Joint

Planning Law Conference on their 50th anniversary. Most recently, our chair spoke at the EKUP annual conference (19 October).

74. We held two horizon scanning events in October. One in London on the 20 October and Belfast on the 26 October. Both events gathered representatives from industry, government, academia and third sector from across environmental issues to discuss the opportunities and risks for environmental protection. The Board will consider the outputs on 2 November.
75. Following our letter to him on 23 September (Annex 5), Dame Glenys and I met with David Hill on 5 October. Dame Glenys met with him again on 18 October.
76. Our introductory meeting with the new Secretary of State and Minister Harrison scheduled for 20 October was postponed. We are seeking a meeting at the earliest opportunity, while recognising that ministers may change. Copies of the letters we sent to SoS and Minister are at Annex 5.
77. On 24 October I am due to meet with Edward Barker to complete our third quarterly review. We are well prepared.
78. Dame Glenys is also due to meet with Alan Lovell at the Environment agency and Sir Philip Dunne Chair of the Environmental Audit Committee on 25 October.
79. In November, strategic engagement activity will include speaking at the Fera Symposium on Land and the Environment. We will meet again with Tony Juniper and Marian Spain at Natural England and appear before the Lords Environment and Climate Change Committee. Dame Glenys is also due to meet with the Defra Permanent Secretary, Tamara Finkelstein. Dame Glenys will meet the CCC and ESS.

Impact Assessments

Risk Assessment

80. The full strategic risk register is appended as Annex 6 to this paper. An overview is shown in Figure 1 which we shared with the Audit and Risk Assurance Committee on 27 September 2022 and is under present review with EDs as part of our monthly cycle.
81. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Equality Analysis

82. No material equality implications arise from the issues in this paper. Equality, diversity and inclusion will be a relevant consideration as we develop the People Strategy.

Environmental Analysis

83. 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
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"> • 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 1 – *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and contains legally privileged advice.*

Annex 2 – Complaint Report 1 July- 30 September 2022.

Annex 3- *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Annex 4 - Current Organogram



OEP Organogram -
Roles Only Edition.p

[Version with names removed for external use & publication with minutes]

Annex 5- *This section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement and contains personal data.*

Annex 6- *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*