



Minutes

Meeting of the Board
Thursday 27 October 2022
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

Attendees

Peter Ashford	General Counsel
Alexis Edward	Head of Finance and Corporate Services
Neil Emmott	Head of Monitoring Environmental Law (item 22.82)
REDACTED	Principal Business Officer (item 22.80)
Mike Fox	Head of Communications and Strategic Relations
Richard Greenhous	Chief of Staff
REDACTED	Principal Investigations Manager (item 22.85)
Andy Lester	Head of Business Strategy and Planning
Professor Robbie McDonald	Chief Insights Officer
Ellie Strike	Head of Complaints and Investigations (item 22.82)
Kate Tandy	Head of Litigation and Casework (item 22.83)
REDACTED	Principal Lawyer (acting as Board Secretariat)

22.76 Apologies for absence and declarations of interest

There were no apologies for absence. There were no new declarations of interest.

22.77 Minutes and Matters Arising

The Board **AGREED** the minutes of 7 September 2022 and noted the matters arising. Board members are to provide suggestions of conferences the OEP should attend to the Head of Communications and Strategic Engagement, in closure of the related matter arising.

22.78 Report from the Chair of the Audit and Risk Assurance Committee

Paul Leinster updated the Board on the work of the Audit and Risk Assurance Committee, including its recent scrutiny of the annual report and accounts and ongoing scrutiny of the risk framework and strategic risk register. A better alignment of the meetings of the Committee and the Board is being sought in future. The Committee was thanked for its work.

22.79 Report of Chief Executive

The OEP's work over the last four or five weeks had been influenced by the uncertain political context. The Chief Executive welcomed the new Prime Minister's recent statements on the environment.

The Chief Executive updated the Board on the Retained EU Law (Revocation and Reform) Bill (REUL). It has now had its second reading and the House of Commons Public Bill Committee has called for evidence. Our approach to REUL was further discussed under the following two agenda items.

This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs. The Board discussed the need for the OEP's independence to be protected.

The Board was updated on our in year underspend forecast, and the sums returned to Defra at the end of Q2. The underspend had been handled in a responsible way, with Defra commending our fiscal responsibility in ensuring returned funds could be used within the Defra group. All our funding is received from Defra, with a cross charge between Defra and DAERA for our NI functions. Accordingly, the underspend is returned to Defra. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and relations in the United Kingdom.*

The Chief Executive reported on successful recruitment of 11 new staff including our first staff based in NI.

There was discussion of the level of enquiries being dealt with by the complaints and investigations team. The number far exceeds the level of complaints received. The board considered how the OEP can best meet the needs of those submitting enquiries. Richard Macrory is to meet with the team as a critical friend to the complaints handling and enquiries procedures. **ACTION** Chief Regulatory Officer.

The Board noted that some information requested from Defra is yet to be provided, specifically information on outstanding EU infraction cases. *This section has been redacted as it contains legally privileged advice.*

The Board noted the progress made in the delivery of our strategic objectives. It noted positive feedback from stakeholders and officials on our responses to the NI Environment Strategy and the Highly Protected Marine Areas consultation.

The Board queried the format of the table at Fig 1 summarising the strategic risks for September-October 2022. **ACTION** Head of Business Strategy and Planning to meet with Richard Macrory to discuss.

22.80 Project prioritisation

22.81 Strategically Significant Projects

The two papers were presented and discussed jointly. The Board had previously been informed that some re-prioritisation was necessary to enable work on REUL and other significant government proposals that could affect environmental laws and protections.

The Board queried the impact on other work. It was concerned that opportunities for influence may be missed. It was explained that some work was delayed because of external dependencies (e.g. publication of final River Basin Management Plans). Other work is slowed, but careful consideration had been given to overall scheduling, and the opportunity for impact - not least in relation to environmental laws which may be reviewed under REUL.

The Board recognised the scale of the changes proposed by the UK Government is not fully clear. It endorsed the need for an adaptive strategy as REUL, the Levelling-up and Regeneration Bill (LURB) and other policy proposals develop. It urged officers to ensure prioritisation is similarly adaptive, and that the Board has regular opportunity for review.

The Board discussed OEP activity in relation to REUL. It wished for the OEP to play a determined part, in a commanding way. It noted the particular challenge to Defra and DAERA to review all in scope environmental law within the proposed window. Risks arise from the timetable, including the potential to distract from other programmes of environmental improvement, and the implementation of the Environment Act. There are risks given the content of the preamble to EU directives is not replicated in domestic law. REUL also creates opportunity for policy divergence between the four nations. The

environmental law in scope is material. The Board noted that there are opportunities for improvements to environmental law and protection, if a well-considered review is undertaken. Not all EU environment law is good law.

The Board discussed the benefit of the OEP having its own list of environmental law to which REUL applied. It was also suggested we might develop key indicators to apply to the legislation in review. A letter to Defra and other ministers raising our concerns about REUL could be sent. This should welcome government's commitment to environmental protection in the Bill's second reading. **ACTION** Chief Regulatory Officer.

The Board nominated the Chair and Richard Macrory to be critical friends in relation to our emerging work on REUL.

The Board commended and endorsed the prioritisation proposals made in the paper, while also highlighting an omission (the work related to the English and NI Environmental Principles Policy Statements). It also urged for appropriate priority to be afforded to improvement work on the OEP website.

The Board endorsed the prioritisation proposals outlined in item 22.80, subject to its comments. It considered the strategy and objectives for activity related to REUL and each of the four projects presented in item 22.81 and **AGREED** the proposal for Board oversight and assurance as we continue delivering these. It further **AGREED** that a Board member should act as a critical friend to each: Dan Laffoley for the Environmental Assessments and Protected Sites projects, Julie Hill for the Environmental Principles project, Paul Leinster for the Water Quality project.

22.82 **Approach to targets deadline**

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

22.83 ***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 legally privileged advice.***

22.84 **Framework document**

This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs and it contains legally privileged advice.

The Board noted the Chief Executive's proposal to adopt a 2022/23 pay award for staff up to Grade 6 consistent with the 2022/23 Civil Service Pay Remit. The OEP will consult the minister on that proposal, but not seek ministerial approval for it. The Board **AGREED** in principle that the OEP should seek to maintain alignment between future

pay awards and annual civil service pay remits (save for any requirements for ministerial approval).

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

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

Paul Leinster, Julie Hill and Richard Macrory declared their interest as former members of the board of the Environment Agency, in relation to the update.

The paper was presented. Officials clarified that the investigation only relates to network CSOs and not storm overflows at sewage treatment works. The Board queried the proposed length of the investigation and expressed the hope that it would be completed within a year from commencement.

The Board noted the planned approach for the next phase of the investigation.

22.86 **Board meeting dates 2023-2024**

The Board discussed the paper, and **AGREED** the proposed dates set out, subject to any dates where Board members are not available notified to the Head of Business Planning and Strategy.

The Board further **AGREED** to alternate between in person and remote meetings, and to meet in Belfast in 2023. An up to date schedule of dates should be made available in SharePoint. **ACTION** Business and Governance Officer.

Any other business

There was no other business.