



Agenda

Meeting of the Board

Wednesday 7 September 2022

Worcester Woods Country Park Visitors' Centre, Worcester

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
Simon Brockington	Chief Insights Officer
Alexis Edward	Head of Finance and Corporate Services
REDACTED	Private Secretary
Mike Fox	Head of Communications and Strategic Relations
Andy Gill	Head of Environment & Climate Analysis (items 22.65 and 22.66)
Richard Greenhous	Chief of Staff
REDACTED	Principal Environmental Analyst (items 22.65 and 22.66)
Louise Jakobsson	Head of Strategy EIP Monitoring Report (item 22.63)
Andy Lester	Head of Business Strategy and Planning (secretariat)
REDACTED	Senior Complaints Officer (item 22.68)
Ellie Strike	Head of Complaints and Investigations (items 22.67 and 22.68)
Helen Venn	Chief Regulatory Officer

22.59 **Apologies for absence and declarations of interest**

There were no apologies for absence. Paul Leinster, Julie Hill and Richard Macrory declared their interests in the matters to be discussed concerning the OEP's ongoing investigation, *this section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.*

22.60 **Minutes and Matters Arising**

The Board discussed the emerging fulsome style of board meeting minutes. It judged this to be helpful to public understanding of the Board's business, and that similar depth of minutes should be prepared in future.

The Board reviewed the minutes of 30 June, and requested an amendment to further detail its decision under item 22.54. Subject to this amendment, the Board **AGREED** the minutes of 8 June and 30 June.

The Board expressed concern at the seeming delay in publication of minutes on the OEP website. While appreciating competing work pressures, it urged prompt publication in future.

The Board requested that the OEP's default settings for printing be set for double sided printing. **ACTION** Chief of Staff.

The matters arising were noted.

22.61 **Report of Chief Executive**

The Chief Executive updated on the OEP's work since the Board's last meeting.

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

The Chief Executive reported that forecast resource underspend is influenced by a range of factors including novel challenges with fixed-term recruitment and secondment, the effect of this on the ability to scope and procure external research and evidence at the pace intended, and some difficulties in procurement. The executive had considered alternative approaches to invest to save or accelerate delivery of other projects with the people resources available to the OEP, so that public value can be secured. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs. It urged officers to make every effort to ensure that the OEP maximised its opportunity to have impact this year, through value for money use of the resources provided. It urged for a creative approach to delivery, where that was appropriate and challenged whether the executive could bring more focus to the scoping, and procurement of projects externally. Officers explained that issues in recruitment had limited capacity to scope projects to be resourced externally.

The Chief Executive reported on recruitment progress. For permanent positions, including in Northern Ireland, strong fields are being attracted, but recruitment to

temporary posts is not as successful. The Board reported similar issues in other organisations and sectors and judged therefore that the challenge may endure, emphasising a need for flexible access to expert resources by other means.

This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs. It urged the executive to continue to do all it can (within current constraints) to deliver to capacity this year.

A discussion was held on delivery and procurement models which might allow faster mobilisation, and mitigate issues experienced with short-term recruitment. This included the models of other Defra group ALBs which might be accessible to the OEP. The Board questioned the gaps in expertise being experienced and wished for a clearer understanding of the drivers.

The Board requested an update on delivery, and progress in managing underspend at its next ordinary meeting. **ACTION** Chief Executive.

The Board noted that government's response to the OEP's *Taking Stock* report was less comprehensive than it would expect in an ordinary reporting year. Officers should consider what we would judge an appropriate response in future. **ACTION** Chief Insights Officer. Government's response should be published on our website. **ACTION** Head of Communications and Strategic Relations.

The Board was updated on the engagement by parliamentarians regarding our advice on the UK government's draft environmental principles policy statement.

This section has been redacted as it contains legally privileged advice.

The Board was updated on the responses received within the OEP's investigation, *this section has been redacted as it relates to information recorded for the purposes of OEP's functions relating to investigations and enforcement.* The Chief Regulatory Officer reported confidence in the quality of the work being undertaken by the OEP in this first investigation. The Board asked that it receive an outline of the critical path and timeline of the investigation at a future meeting. **ACTION** Chief Regulatory Officer. In outline, stage 1 aims to understand and establish common understanding of the roles and responsibilities of the parties; stage 2 aims to consider breaches and the adequacy of those roles and responsibilities. The Board noted the conflicts previously recorded in this respect by certain of its members.

The Board recognised Simon Brockington's contribution to the OEP and thanked him for it. It was informed that interviews were to be held that week for interim Chief Insights Officer candidates, but an alternative approach for executive leadership is agreed, if those interviews are unsuccessful. Interest in the permanent position has been strong.

22.62 **Q1 finance report**

The Board noted the content of the finance report, and its preceding discussion on forecast outturn. It was suggested that the role of ARAC in considering finance reporting in advance be reviewed, to ensure most effective use of the Board's time. **ACTION** Head of Business Strategy and Planning.

22.63 **Proposal for an OEP expert advisory committee**

The paper was introduced, including some of the key decisions that need to be made, should the OEP decide to create an expert advisory committee.

The Board welcomed the paper, but expressed reservation about the recommendations proposed. It was judged that the specific role any committee could play was not sufficiently clear, and not sufficiently grounded in analysis of the gaps in expertise experienced by the OEP.

The Board recognised that there may be a valuable role for an expert committee, but queried the priority that should be afforded to establishing it now. It judged that the development of flexible resourcing models for expertise was a greater and more urgent priority, and that any expert committee should be informed by the new Chief Insights Officer when appointed.

The Board noted the close synergy with our stakeholder strategy, as that is implemented, and that advisory groups could be piloted – for example, for specific work programmes – to elicit learning for a more permanent approach.

The Board did not agree the recommendations. The Board asked instead that officers map the expertise (or other needs) required, where there are current gaps, and including links to our stakeholder strategy, and prioritise the development of flexible resourcing models. **ACTION** Head of Strategy, EIP Monitoring Report.

22.64 **OEP approach to transparency**

The paper was introduced, including the principles proposed to guide decisions on our approach to transparency and the annexes setting out information we will and will not routinely publish. It was noted that transparency is a key mechanism for our influence, and important to how we will be judged.

The Board judged that we should publish the transparency policy itself, with any operational guidance separated out as necessary. It discussed progress in improving the OEP website, so that it can be a better tool for communication. It was informed of the steps being taken, and that some issues of performance with the supplier had hampered progress. The Board suggested that a review of the website could be externally commissioned, which officers would consider. **ACTION** Head of Communications and Strategic Relations.

The Board discussed the draft principles. It suggested timeliness should be included, so that the OEP is transparent in a timely manner. A number of suggestions were made for revisions or additions to the annexes of information that would be published, or not published including that OEP performance information should be published. It welcomed the stakeholder engagement proposed to understand what stakeholders wish to see.

Subject to these comments, the Board **AGREED** that the information in Annex A will routinely be published or put into the public domain; and that the information set out in Annex B will not. The Board further **AGREED** the draft principles, subject to the inclusion of timeliness.

22.65 **EIP Monitoring Report – Scope**

The Board was reminded of its previous decision to focus on the core statutory requirements in this first English EIP monitoring report. The paper set out three sections for that, as well as the analytical framework that will be applied. It was noted that there is a hierarchy of importance of the sections with the third to be paused or reduced in scope if the whole cannot be delivered. The Board emphasised how critical it is to deliver on time.

The Board discussed the proposal. It suggested that the report's impact would be greater if its five or six key messages could be developed as the report is being prepared to anchor and focus it. The Board noted, however, that these must also develop iteratively from analysis undertaken.

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

The Board discussed the proposed analytical framework and noted that it applies the principles of the building blocks set out in our 2021/22 report. The Board sought assurance that barriers and blockers would be interpreted to include constraints and limitations, to identify all relevant issues. The Board queried whether our analysis will consider delivery arrangements and resourcing, and pressed that this analysis and any recommendations be considered by the Board early if so. **ACTION** Head of Environment and Climate Analysis.

The Board recommended officers consider including within the report key recommendations, reflecting our recommendations from other work (in an annex if appropriate). The Board judged that we should test our thinking with the EAC select committee if appropriate, to gain broader understanding as to how our recommendations can have impact.

The Board noted the sequencing of the report with the EIP refresh as important. The OEP will need to do a separate critique of the next EIP, and assess whether our recommendations are being adopted. This is in the business plan.

The Board **AGREED** the report sections and analytical framework proposed, including to delay assessment of government's responses to our previous recommendations until the government's full response is available.

22.66 **EIP Monitoring Report – Governance**

The Chief of Staff explained that the governance arrangements proposed intend to reflect the lessons learned in production of the last report and the current context in which the report is being developed. There is a need to both support the team with the guidance it needs, and provide space to deliver.

The Board noted the proposals. It recommended a review of the editorial stage in December and January, including securing the right editorial support.

The Board **AGREED** the proposed governance model for the EIP monitoring report.

22.67 **Ineffective Implementation of Environmental Law: Statutory Deadlines**

The Chief Regulatory Officer gave a presentation on a series of statutory deadlines which the government has missed or seems at risk of missing, and the ineffective implementation of environmental law this implies. This was in the context of preparatory work for acting should the government miss the statutory deadline for establishing environmental targets.

The Board discussed the statutory deadlines it considered most critical, noting that some originate domestically, others from EU law. The Board recognised that, whilst no less legally binding, the political appetite to comply with EU derived deadlines may be less. It also recognised that most deadlines will be designed to deliver environmental outcomes that would garner support.

It also discussed that the wider context leading to delay, and the extent of any delay would be important factors. The Board sought a greater understanding of context and recommended analysis of what proportion of relevant deadlines the sample presented to the Board represents. **ACTION** Chief Regulatory Officer. We are already instructing counsel to prepare a list of statutory deadlines, and are considering how this might be published and maintained.

The Board debated the root cause of delays. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

The Board discussed the intent of any action the OEP might pursue. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* The Board considered the materials presented could more firmly underline our expectation that deadlines will be met. We should understand the link between our specific objective for any action, and the ultimate objective of enhanced environmental protection and improvement.

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The Board queried how the action we take, should the targets deadline be missed, should be framed in our communications. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

The Chief Regulatory Officer noted that no decision was requested from the Board. She would circulate a paper to the Board summarising the next steps in the light of its discussion. The Board requested that this consider the extent to which briefing of devolved administrations would be needed. **ACTION** Chief Regulatory Officer.

22.68 **First Decisions – Complaints and Investigations**

The paper summarised the decisions taken on the complaints received by the OEP or its predecessor organisations since January 2021. The Board queried the description of a non-statutory intervention, preferring informal resolution or similar, while noting the need to remain consistent with the wording of the Environment Act 2021, where relevant.

The Board noted that we are raising issues with public authorities as part of our regular intelligence gathering and engagement, where we judge a complaint not to

be serious. It noted that issues may become serious in due course, for example through cumulative effect.

The Board wished for the ability to collate and record the influence of our work through informal activity, over time.

The Board agreed to receive a similar report on our complaints activities twice a year. **ACTION** Head of Complaints and Investigations.

22.69 **Discussion around political uncertainty**

The Board discussed the recent changes in government personnel, including the Prime Minister and many Secretaries of State. It noted that the campaign of the Prime Minister for the Conservative leadership had focussed on delivery, including a commitment to deliver the Environment Act. This echoes a theme of our work to date, which has included recommendations to focus on delivery and implementation.

The Board discussed the expressed priorities of the new government, including energy security, the cost of living, and the NHS. It debated the priority that would be afforded to environmental policy and delivery in this context. It was noted that public polling suggests environmental issues remain of key concern to the general public.

The Board discussed its members' and the OEP's relationships with the new government, and their key advisors and key stakeholders. It considered those individuals and organisations it may be appropriate to meet. It discussed the opportunity to reinforce with new ministers the OEP's key recommendations, such as on the next environmental improvement plan.