

Board Paper

Date

17 May 2024

Title

Strategy Review

Report Author

Andy Lester, Head of Business Strategy and Planning

Responsible Executive Director

Richard Greenhous, Chief of Staff

Paper for decision

Issue

1. We are reviewing our strategy and enforcement policy and aim to publish a revised strategy for consultation in June.

Recommendation

2. The Board is recommended to consider and comment on the draft strategy and enforcement policy presented.
3. The Board is recommended to agree to publish a draft strategy and enforcement policy for consultation substantially in the form set out at Annexes A and B and delegate approval of the final documents to the Chief Executive in consultation with the Chair.

Background

4. The Environment Act requires the OEP to prepare and consult on a strategy which sets out:
 - a. how we intend to exercise our functions and further our principal objective.
 - b. how we will act objectively and impartially, and have regard to the need to act proportionately and transparently.
 - c. how we intend to avoid any overlap with the Committee on Climate Change and co-operate with devolved environmental governance bodies.

- d. an enforcement policy that sets out how we determine whether a failure to comply with environmental law, and damage to the natural environment, is serious, how we intend to avoid overlap with other statutory regimes and relevant ombudsman services and how we intend to prioritise cases.
5. We are expected (by our draft framework document, and convention) to publish a corporate plan. This is a sister document to our strategy, and together they set out our strategic approach and priorities. We have chosen that our strategy should largely explain how we work, and our corporate plan explain what we will deliver.
6. In October, the Board agreed the scope and timeline for our strategic review. We aimed to have concluded it post consultation in September 2024. It now seems likely that the review will conclude at the Board's meeting in October, with the strategy adopted and laid before Parliament at an appropriate opportunity in the autumn (election and other publication dependent). This will still allow our strategic approach to be reflected in our approach to the next spending review negotiations. A key variable is the length of our consultation, which the Board will separately consider in its agenda.
7. In October, the Board also considered a detailed diagnosis of our context and strategic progress. It agreed that we should revise our strategy, and not re-write it, nor simply restate it. So, we expected much to remain unchanged in substance. The Board agreed areas of our overall approach, and the approach to some of our functions, that should be a focus in this review, and others that could be deferred, so that we could be purposeful.
8. In January 2024, the Board agreed our plan to deliver these areas of review, and considered draft guiding policy to shape and provide coherence to the areas of detailed review undertaken.
9. Since then, the Board has considered our approach to prospective analyses towards environmental goals and targets, priorities for our communications and engagement approaches, how we can measure success, what success looks like, a proposed revised approach to monitoring environmental law, and a review of our complaints, investigations and enforcement approach. It will consider our values, our issue-based approach and consider further our communications and engagement approach and how we measure success in this meeting.
10. In January 2024, the Board also agreed an approach to our strategy document, in line with the approach adopted by the [Office for Students](#). We intend to have a short, visually appealing summary of our strategy, with a longer strategy document providing the substance similar to that in our 2022 strategy and on which we can rely in detail to explain and defend our approach. This was felt to best balance the needs of different audiences. The draft strategy appended to this paper is the second of these two products.
11. The Board encouraged us to be clear in what we have learned, what we are proposing to change and why in any presentation of the strategy.

Analysis

Strategy

12. Annex A is a draft of an updated strategy.

13. In reviewing the strategy text, we found a number of opportunities to simplify and remove duplication from the 2022 document, even where the substance was unchanged. Key changes include:
- a. Tonally, we have sought to be more confident and certain. This reflects that we now describe what we do, rather than will do, as we have some established practice to point to. It has allowed us to significantly reduce the length of some sections.
 - b. Creating greater distinction between sections on our strategic objectives and our functions – to avoid repetition. We have sought that section two is clearly focussed on what we aim to achieve, and how. Whereas section four provides detail on how we exercise the specific functions that contribute.
 - c. We include statements of ‘what success looks like’ within each of our objectives, that the Board discussed in April. These are refined in light of the Board and other feedback.
 - d. We have expanded and made much more prominent our explanation of our issue-based approach, and in particular emphasised the role complaints play to support all our functions. This reflects the Board’s steers in October. We have also described our functions in a more issue-based way, creating a distinction between knowledge and response functions.
 - e. We introduce our values, and use these to explain our general approach including to meet the statutory expectations in respect of transparency, objectivity, impartiality and proportionality. This ties the various parts of our approach overall better together, and helps us communicate more coherently internally.
 - f. We have materially reduced the extent to which we describe how we work with different groups of stakeholders, instead explaining our general approach. We have made similar substantial reductions to explain how we work on transboundary issues.
 - g. We have expanded our explanation of how we measure success as the Board steered in February, and will consider again today.
14. The substance set out in the sections on our approach overall, and each of our functions aim to reflect the Board’s decisions. The changes the Board has agreed, and which we proposed, are largely of emphasis and are subtle. This is consistent with expectations of a refreshed strategy. Whilst our strategy is detailed compared with others, many of the changes we propose to our practice are, or could be, indistinguishable at the level we describe publicly.

Enforcement policy

15. A draft enforcement policy is included at Annex B. It is significantly less changed than the draft strategy. Changes have been made in red line to reflect the steers the Board gave to:
- a. Better explain how a range of evidence can contribute to our enforcement functions, other than the evidence of non-compliance received from complaints
 - b. Emphasise we work to agree resolution, which may be achievable outside of investigations as we engage and seek information from public authorities

16. The text already makes clear the purpose of an investigation to establish whether a public authority has complied with environmental law, and no adjustment seems needed to reflect the Board's steers in this regard. We do, however, seek to make clear the role of an investigation, as a routine one, to establish the facts in both the strategy and enforcement policy.

Messages and communicating change

17. Given the relatively subtle changes to our strategy and enforcement policy, the key messages are broadly ones of continuity. Where we have made changes, these are principally for clarity of understanding. We nonetheless judge the changes to the structure and drafting to be important in describing who we aim to be today, and not who we expected to be in 2022.
18. We are developing summary messages arising from the strategy and enforcement policy review, which are set out at Annex C at the foot of this paper. These are developed with internal and external stakeholders – both informed, and new to us – in mind.
19. It is intended that we develop a short, visually appealing summary of our strategy during the consultation and to support in consultation engagement. We intend to use the diagrams set out in the strategy and the key messages to underpin this.
20. In meeting the Board's steer to explain what we have learned and propose to change, we consider (in light of the nature of change proposed) that this might be best articulated through the consultation document, rather than the strategy. The related consultation document the Board will consider introduces some of the key elements we propose to change.

Northern Ireland

21. The draft strategy and enforcement policy apply equally to our work in England and Northern Ireland. We considered a section to set out how we operate in Northern Ireland, but judged that to suggest the OEP is an English body adapting its approach to Northern Ireland – which is not our intent. Instead, we now propose to explain how we work across our two jurisdictions to be one organisation, with priorities and working practices attuned to the needs of each.
22. In general, we have been able to be more certain and speak with more conviction in describing our approach in Northern Ireland than previously.

Finance and Resource

23. The Chief Executive agreed a project initiation document in September which agreed an allocation of resourcing to the strategy review – equivalent to c0.8 FTE in each of 2023/24 and 2024/25 across the delivery of the review, consultation and the development of the strategy.
24. £10k external expenditure in production costs is included in the budget for 2024/25.

Impact Assessments

Risk Assessment

25. There is a risk that our strategy is not supported by those with whom we interact, and on whom we rely for influence – notably in government, stakeholders and the public. We aim to mitigate through consultation – informal, and formal. We have engaged to date with stakeholders as set out below, and the Board will consider our approach to consultation separately. Nonetheless, it is very likely that we will consult less than we did in 2022 – not least as we have significantly less to consult on, with much of our existing strategy to remain and therefore decided.
26. There is a risk that our strategy does not set out the approach most likely to lead to the greatest impact on environmental protection and improvement. This is mitigated by the detailed analysis which underpinned the diagnosis of areas of focus for our review, and the constituent parts of the review completed. The strategy document is a summary of deeper thinking.
27. There is a risk that we are not able to deliver the review on time and to scope. We have, for example, limited our review of our prioritisation approach given capacity constraint. Our ability to complete the review in time for it to be laid in Parliament the short window available in September is highly stressed, unless our consultation period is particularly short. We expect to seek the Board's agreement to the strategy in October and for it to be published and laid when reasonably practical in light of competing publications and the election.
28. There are risks that arise from any changes to the composition of the Board, and changes to government. The first creates risks of ownership and sponsorship of this approach from the Board in the medium term. The second, creates risks of developing a strategy which is insufficiently flexible to the risks and opportunities of any new political context. We took account of these in developing our timeline, with the intention that our refreshed strategy would be settled in time for any spending review, and well ahead of any potential final year of the current Chair's term.

Equality Analysis

29. No material equalities impacts have been identified.

Environmental Analysis

30. Our strategy could set out, to the appropriate extent, how we have regard to the various duties we have under environmental law, and take these into account in our prioritisation and decision-making. The current draft makes reference to these in the prioritisation criteria.
31. In reviewing our strategy, we must take account of environmental law appropriately in reaching the specific decisions we make which underpin our approach, such as our general approach to monitoring environmental law. Our approach to the biodiversity duty the Board agreed in December also requires us to consider whether our strategic objectives, are the right ones for us to contribute to biodiversity in the way the duty requires and to consider how we take conservation of biodiversity appropriately into account in our strategic approach. The Board took this into account in confirming our objectives in April.

Implementation Timescale

32. We intend to deliver the review to this timetable:
 - a. June (tbc) – consultation launch
 - b. Sept/Oct – consider and agree final strategy
 - c. Sept/Oct – adopt and publish

Communications

33. We will communicate internally through routine methods in cascade. We have undertaken two sessions on cascade to explain our activities, and consider what success looks like. We propose further engagement through cascade on the substance of our strategy review, and the nature of the consultation.
34. We will develop internal communications strategies around the key elements of our strategy where operational, cultural and behavioural change is required. We will develop a programme of activity to implement the strategy.

External Stakeholders

35. We have set out the focus of our strategic review to Defra, DAERA, ALBs and NGOs, and held further discussions on our approach to prospective analyses, our thinking on enforcement and our approach to monitoring environmental law.
36. We will hold further discussions with NGOs on what success looks like before the Board meets, and consult with the Minister in England on 21 May.
37. Individual teams consulted with relevant stakeholders in the development of the propositions that the Board considered and agreed to underpin the approaches this strategy sets out.

ANNEXES LIST

This section has been redacted as it contains information available elsewhere.

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

Annex C – summary messages

Section of the strategy	New or stable message	Message to convey
Foreword	Old	The natural environment has a fundamental role in the health, prosperity and wellbeing of England and NI. It faces critical and pressing threats. We are determined to play our part, as Parliament and the Assembly intended. We have reviewed our strategy, to ensure that we do.
	New	This strategy is an evolution to the approach we adopted on our legal creation. We found much of our approach effective.
About us	Old	We protect and improve the environment by holding government and public authorities to account.
Our objectives	Old	We aim that our work leads to sustained environmental improvement, better environmental law which is better implemented and improved compliance with environmental law. To play our full part, we aim to be excellent and influential in what we do.
	New	Together, our objectives show how we contribute to environmental protection and improvement. Through better environmental law, improved implementation and compliance, and by holding government to account for progress, we contribute to environmental improvement that is sustained.
Issues based approach and prioritisation	Old	We hold government and public authorities to account in different ways. We choose the way which will make the most difference, to the issue at hand.
	New	We gather information from a wide range of sources to inform the prioritisation choices we make. Complaints and other information we receive from the public and stakeholders are critical sources of information to support all our work. We manage and analyse information carefully, so we can identify how we respond most purposefully, and achieve more.

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	Bit of both	Our functions complement each other, so a proportion of our work is in connected, issue-based programmes. These programmes often relate to goals or targets government has decided in its EIP, to play our part in the prospects of those goals and targets being achieved.
Values	New	We hold ourselves accountable for how we work. We aim to be independent, purposeful, evidence-led and trustworthy.
	Bit of both	We protect the independence of our thinking and action. We act impartially, and form our own judgments, based on the evidence. Our principal objective is to contribute to environmental protection and improvement. This is our main concern. We act proportionately, properly valuing the natural environment and human health, and aiming to ensure that the impact of our actions is justified by the anticipated benefits. We are determined, resolute and confident in the pursuit of our mission. We are objective and rely on the right evidence to inform our decisions. We actively listen and learn from others. We act as transparently as we reasonably can. We aim to be reliable, and fair.
How we work across England and NI	Old	We apply all our expertise to our work in Northern Ireland and England. We prioritise the work in England and Northern Ireland which achieves the most in each of Northern Ireland and England. We have local expertise, and a local presence in each and are sensitive to the differences between the two jurisdictions.
How we work with others	Bit of both	We work hard to earn and keep the trust of those we work with. We aim to be independent, impartial and reliable.
	Bit of both	Public authorities have a duty to co-operate with us. We expect that they do. We aim for it to be as straightforward as possible for public authorities to provide the co-operation we need to do our work.
Complaints	Bit of both	We value complaints we receive highly. We respond to all complaints, but do not provide individual redress. We use information we receive to support all our work through all our functions. Where we take enforcement steps, our aim is to determine if a public authority has complied with the law and what it should do to correct it.
Enforcement	Old	We investigate and enforce strategic, serious and systemic issues to give full effect to the law. That is our role.
	Old	When we pursue an issue through our investigations and enforcement, our aim is to resolve it as soon as we can. We aim to resolve matters without taking cases to court, but stand ready to use all our enforcement powers where that is needed.
	Bit of both	We investigate to establish the facts, where we suspect there may be a failure to comply with environmental law. We make our conclusions transparent.
Scrutiny of environmental progress	Old	Our annual report makes progress against government's plans for environmental improvement transparent. We analyse progress in a holistic way, taking account of the full range of drivers and pressures that influence the environment, and government's wider plans, goals and targets for improvement.

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	Bit of both	What can be done is at least as important as what has happened, and so we assess the prospects of meeting future goals and targets. We recommend steps to be taken so that success is more likely. We'll develop the evidence underpinning our assessment of the prospects of meeting future goals and targets, so that we can focus ever sharper on the key risks to success, and the steps that could be taken now to address them.
Scrutiny of environmental law	Old	Our reports to Parliament and the Assembly consider all aspects of implementation of environmental law so that Parliament and the Assembly know how the system works in practice, as well as how it is intended to work.
	Old	Our reports are independent and evidence-led. We invest in, and draw on the expertise and evidence of others, filling gaps where we need to. Our reports can be trusted.
	Bit of both	We choose to advise government and Parliament where important change to the law is proposed, so that informed decisions about environmental protection and improvement are made.
Balance scorecard	Bit of both	The impact of our work matters to us. We invest in understanding it, including the effect of our work on others. We've set out more clearly how we make judgments on where we succeed, and not.