



Minutes

Meeting of the Board

Wednesday 14th August 2024 10am

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

OEP Attendees

Peter Ashford	General Counsel
Mike Fox	Head of Communications and Strategic Relations
Helena Gauterin	Head of Environmental Law (item 24.72)
Richard Greenhous	Chief of Staff
REDACTED	Principal Analyst (item 24.71)
Angel Lai	Head of Finance and Corporate Services
Andy Lester	Head of Business Strategy and Planning
Dr Cathy Maguire	Head of Assessments (item 24.71)
Professor Robbie McDonald	Chief Insights Officer
REDACTED	Principal Lawyer (item 24.72)
REDACTED	Board Secretary and Private Office Manager
Kate Tandy	Head of Litigation and Casework (item 24.72)

24.67 Apologies for absence and declarations of interest

There were no apologies for absence.

There were no new declarations of interest.

24.68 Minutes and Matters Arising

The Board AGREED the minutes of the 3 July Board meeting. The Board noted a delay in publishing previous Board minutes and pressed for swifter publication in future. It noted the vacancies in Board secretariat staffing in year, and was updated on progress being made to catch up **ACTION** Board Secretary and Private Office Manager to report to future Board meetings on progress.

The Board noted the matters arising report.

24.69 Update from the Chair of the Audit and Risk Assurance Committee

The Chair of the Committee provide an update on the Committee's 6 August meeting during which it had considered the financial performance of the OEP, the draft annual report and accounts, risk and internal audit. The Chair assured the Board that the Committee was working effectively in relation to its function.

It was highlighted to the Board that the Committee is still waiting for confirmation from the NAO with regards to the final audit timetable. The Committee is monitoring this.

24.70 Report of the Chief Executive

The Board was updated on the initial engagement with the new government. The Board was informed that we have made requests to engage with ministers in other government departments. Positive engagement with DAERA continues.

The Board was informed that we expect a request for advice from the Secretary of State regarding the rapid review of the EIP. We did not yet know in detail what that request would contain, but following the Board's meeting on 6 August were already preparing for engagement with Defra over the EIP review. The Board highlighted the need to ensure that the OEP maintains its independence and impartiality whilst providing this advice but welcomed the opportunity provided as we seek to influence a revised EIP and develop a relationship with the new government.

Without discussing substance, the Board was updated in summary terms on the progress of each 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.*

The Board noted the number of complaints and enquiries we have received and highlighted the upward trend of both. It discussed the implications should this upwards trend continue as we further mature and become more visible.

The Board queried when the Executive should undertake a lessons learned activity in relation to the investigation and enforcement activity. This is likely to be later, when the investigations are further progressed.

The Board was informed that our draft updated strategy is out for consultation. Members of the Board were thanked for agreeing to take part in strategy consultation workshops taking place in September.

The Board discussed the financial report, and noted that the General Election had increased our underspend risk given a delay to the mobilisation of some work during this time. This risk is real, but mitigations have been put in place. The September financial report and forecast will be an important point to check on progress.

The Board was reminded that our pilot is still running for the potential use of Microsoft's Copilot. This is to understand if the artificial intelligence tool can offer the organisation any efficiency gains and to identify any risks from its use that need to be managed. The website upgrades that were due to take place have also now been implemented.

The Board discussed the People Strategy Action Plan and enquired as to the feedback from staff with regards to the action plan. This had not been significant. The Board

encouraged the Executive to focus on full and proper implementation of the actions set out in the plan to build confidence in its delivery.

24.71 England EIP progress assessment update

The Board was reminded of its prior discussions regarding the scope and proposals for the 2023-24 EIP progress report.

The Board discussed engagement with stakeholders and whether this engagement has changed with a new government. There is a structured process for stakeholder engagement which is expanded this year, and is designed to engage whilst protecting the integrity of the analysis and evidence underpinning the report.

The Board requested the consideration for the use of diagrams within the report to assist with the accessibility of information and to highlight messages of the progress being made.

The Board queried the economic analysis that will feature in the report. The ability to show analysis may allow the report's recommendations to be more broadly accepted.

The Board noted that the report this year will look back to a reporting period under the previous government, and look forward to prospects under a new government. Careful positioning and explanation in this context will be particularly important.

The Board considered how the OEP may report on environmental progress in Northern Ireland in future. It noted the difficulty in being consistent across both jurisdictions given the different resources available to government in each, and to the OEP. The Board considered how the OEP may respond to the publication of a Northern Ireland EIP, and the preparation that can be made now based on the latest available draft.

It is imperative that the approach ensures government is held accountable for the progress being made.

The Board asked if it could be considered that members attend the discussions being had with the college of experts so that they are aware of the conversations surrounding the report. **ACTION** Chief Insights Officer

The Chair will discuss with the Chief Executive and decide who from the Board should support the report as critical friend. **ACTION** Chair and Chief Executive

24.72 *Pickering Fishery Association v Defra / Costa Beck* intervention

The Board discussed a proposal to apply to intervene in this case. The case raises several of the same issues as our report into the implementation of the Water Framework Directive Regulations, and there are opportunities for the OEP to follow up from that report through an intervention in this case.

The intervention is not intended to take a side between the parties but to encourage the Court to take the opportunity to clarify the law more generally.

The Board discussed the principal risks of the intervention, including those of reputational and relationship damage. It was assured of the planned engagement with Defra and the Environment Agency.

The Board discussed the wider policy context. Planning for the next round of River Basin Management Plans must be occurring now or soon, if they are to be delivered on time. This Judgment will have bearing on how those reviews are conducted.

The Board recognised the importance of the intervention and supported the proposals set out.

The Board

- a. noted the Intervention Decision document and the reasons it sets out for concluding that the judicial review *Pickering Fishery Association v Secretary of State for Environment, Food and Rural Affairs* relates to an alleged failure by Defra and the Environment Agency to comply with environmental law which would be serious if it has occurred,
- b. AGREED that the OEP should apply to intervene in that judicial review: (i) on the basis of the issue at the heart of all the grounds and the rationale set out and (ii) on the substantive basis of the submissions set out, while noting that these are in draft and will be finalised and circulated for information via electronic business prior to any application to intervene, and
- c. commented on the proposed handling of an intervention.

24.73 General Election (verbal update)

The Board was provided with a verbal update on our continuing engagement with the new government.

The Board highlighted the general impact any spending review will have on public finances and the implications this may have on the work the OEP is carrying out.

The Board noted progress in the ongoing recruitment process for new Board members.

24.74 Annual report and accounts

The Board considered the paper and the report from the Audit and Risk Assurance Committee. It was noted that the draft Annual Report and Accounts had been reviewed by the Committee which provided minor comments to the report. The Board welcomed the report and thanked the Committee for its work over the year.

The Board considered the draft Sufficiency Statement. It noted that we state that Defra and DAERA had provided funding in the financial year sufficient to carry out our functions, but that the headcap constraint imposed alongside that funding continues to be a factor limiting that sufficiency. This will be discussed further and highlighted to Defra as part of our spending review submission.

The Board queried the sustainability report and when better comparisons will be available year on year. It was assured that this will become more transparent over time as we gather more stable data, and implement our sustainability strategy.

The Board agreed that the draft Annual Report and Accounts provides a fair, balanced and accurate description of the OEP's performance. The Board therefore AGREED that the draft should be provided to the NAO.

24.75 Any other business

The Board was informed that Professor Robbie McDonald is to join the OEP as a full time permanent member of staff.