



Office for Environmental Protection

Minutes

Meeting of the Board

Wednesday 25 September 2024 11:00am

London

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
REDACTED	Senior Investigations Officer (item 24.86)
Mike Fox	Head of Communications and Strategic Relations
Richard Greenhous	Chief of Staff
REDACTED	Principal Complaints and Investigations Manager (item 24.85)
REDACTED	Principal Lawyer (items 24.86 and 24.87)
Angel Lai	Head of Finance and Corporate Services
Andy Lester	Head of Business Strategy and Planning
Dr Cathy Maguire	Head of Assessments (item 24.88)
REDACTED	Principal Lawyer (item 24.85)
Professor Robbie McDonald	Chief Insights Officer
Craig McGuicken	Northern Ireland Lead (item 24.87)
REDACTED	Principal Communications and Engagement Manager (item 24.87)
Ellie Strike	Head of Regulatory Programmes (item 24.87)
Kate Tandy	Head of Litigation and Casework (items 24.84 to 24.87)
REDACTED	Principal Environmental Analyst (item 24.88)
REDACTED	Principal Lawyer (item 24.84)

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

Malcolm Beatty provided apologies for his absence for items 24.81 to 24.85.

Julie Hill declared an interest in relation to item 24.84, the conflict relates to a recent personal engagement with a local authority regarding planning conditions.

Paul Leinster and Julie Hill were recused from item 24.85 owing to their actual or perceived conflicts of interest in relation to this matter.



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24.82 **Minutes and matters arising**

The Board AGREED the minutes, subject to a correction of the word headcap to headcount in the minutes of 14 August.

The Board noted the matters arising report. Julie Hill and Paul Leinster had been confirmed as critical friends in relation to the EIP progress report in England.

The Board noted progress in publishing outstanding minutes from previous meetings.

24.83 **Report of the Chief Executive**

The Board was updated on a range of strategic matters since its last meeting.

The Board discussed the series of OEP publications planned for Northern Ireland in the autumn. Our report into the implementation of the Water Framework Directive (WFD) Regulations in Northern Ireland had resulted in media and stakeholder interest and seems to have been well received. Progress is being made to publish the report into the drivers and pressures impacting biodiversity in Northern Ireland in October, including in briefing stakeholders in advance. The report is likely to be challenged by some stakeholders, given its conclusions about the environmental impacts of the food industry in particular. Our communications efforts are likely to focus on stakeholders, and less on the media.

The Board discussed the environmental limits of economic growth in this context, and in relation to some other aspects of our work – such as development and planning reform. We may need to develop how we consider this general issue. It noted that the firmness of our views in this coming period will be determinative for how we are viewed in the long-term.

The Board considered the strategy and objectives for the Northern Ireland nutrients programme, and noted that this programme is intended to lead to several outputs rather than a single report. The Board encouraged officers to consider how the work is drawn together as a whole when completing the individual parts and sought assurance that the programme would be conducted in a way which could be responsive to changes in government priorities. The Board noted it would be helpful to see a proposed timeline of outputs and resources alongside the strategy and objectives of the programme. ACTION Head of Business Strategy and Planning.

The Board discussed the tone and substance of Defra's response to our report on implementation of the WFD Regulations in England. It queried how government might be encouraged to provide specific responses to OEP recommendations in future, and sought assurance that non-compliance issues identified (and not considered in Defra's response) will be considered further in a timely way.

The Board sought a more general update on trends in the substance of complaints and enquiries at a future meeting. ACTION Chief Regulatory Officer.

The Board was informed that the strategy consultation is progressing, and that we estimate we will receive around 10 written responses alongside the feedback from stakeholder discussions. Details of the discussions that have taken place will be provided to Board as it makes its decisions.

The Board was informed of a risk of both over and underspend. The Chief Executive drew the Board's attention to the changed expectation of peak headcount that would result in the same average headcount over the year. The Board noted the approach being taken, to mitigate further underspend and delivery risks. In considering recruitment, the Board sought that it be provided with further information in relation to diversity. ACTION Head of Finance and Corporate Services.

The Board AGREED a variation to the contract with Boxxe by up to £20,000.

24.84 Intervention in *Rights Community Action v Secretary of State for Housing, Communities and Local Government*

The Board was informed of the context behind this case. It concerns an appeal of the first court judgment to consider the s.19 Environment Act duty to have due regard to the Environmental Principles Policy Statement (EPPS). That judgment, if it stands, risks undermining the potential of the EPPS to support good environmental governance, as we believe was Parliament's intent. We have a range of evidence and analysis from our work on this issue that may be of assistance to the court.

The Board noted this as an opportunity to encourage the Court of Appeal to hear the appeal, and provide clarity in how the duty should be applied. It is to be hoped that it would thereby ensure that the EPPS can play its full part as intended in environmental governance. The Board was informed that we understand Green Alliance has decided to also apply to intervene in this case.

The Board encouraged officers to consider the view of the Regulatory Policy Committee on the questions raised in the case. ACTION General Counsel.

The Board noted the Intervention Decision document (Annex A to the paper) and the reasons set out for concluding that the case relates to an alleged failure by the Secretary of State for Levelling-up, Housing and Communities (as he then was) to comply with environmental law which would be serious if it has occurred.

The Board AGREED that the OEP should apply to intervene in the judicial review: (i) on the basis of the correct interpretation of section 19 of the Act and the rationale set out at Annex A to the paper; and (ii) on the substantive basis of the submissions set out at Annex B to the paper.

24.85 Investigation into the regulation of Combined Sewer Overflows

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

24.86 Investigation into DAERA's guidance for assessing ammonia emissions

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

24.87 Investigation into the adoption of an EIP in Northern Ireland

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

24.88 England EIP progress assessment update

The Board was updated on progress with the 2023/24 EIP Progress Report for England.

The Board discussed the key messages of the report and queried the clarity of the overall message, and of environmental trends. It emphasised the importance of detailing how our views have changed since our last report.

The Board noted the challenges as to how to interact with Defra regarding this report, and the timing of its publication in view of that of Defra's response to our prior report and its conclusion of a review of the EIP. It encouraged officers to make every effort to manage the challenges, whilst accepting that much depended on the steps of others. It noted that open information exchange between us and Defra should support active management of this challenge.

The Board discussed the review of the EIP, and that stakeholders will expect our considered view on it soon after any revised EIP is published. It encouraged preparations to be made for that, where possible. The Board welcomed the suggested workshop on any revised EIP with the College of Experts.

24.89 Q2 Finance Update

The Board noted the small forecast overspend, along with the projects that have not yet started and other factors which provide opportunity to manage this overspend. It judged the outturn risk to remain significantly more weighted to underspend.

The Board was updated on progress in improving the financial control processes and the transition to systems based management. It noted that internal auditors will consider the changes shortly.

The Board welcomed the improving timeliness and depth of financial reporting. It sought assurance on reporting of stress based absences.

The Board queried our recruitment processes and asked that ARAC consider the efficiency and overall suitability for the OEP.

24.89 Any other business



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