

## Board Paper

**Date:** 2 September 2024

**Title:** OEP advice in connection with Defra's EIP rapid review

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**Responsible Executive Director:** Peter Ashford

**Paper for decision**

**Open paper**

### Issue

1. The Secretary of State has requested the OEP's advice in connection with Defra's 'rapid review' of the English EIP. This is an opportunity to help shape a revised EIP and focus Defra's priorities for delivery.

### Recommendation

2. We recommend the Board:
  - (a) notes the matter on which the Secretary of State has sought advice (**para 5** below and **Annex A**)
  - (b) considers and comments on the draft advice enclosed at **Annex B** (noting the specific queries at **paras 13, 16** and **18** below)
  - (c) notes the proposal that the Board approves final written advice by electronic business, and that this occurs over 10-11 September with a view to submitting the advice to Defra by 12 September, and
  - (d) considers and comments on the proposed communications and engagement approach (**paras 28** and **29** below).

### Background

3. On 30 July Defra launched a 'rapid review' of EIP23. At its 6 August meeting the Board approved the strategy and objectives of a project to engage with Defra in relation to this review, that:
  - (a) *the review process does not distract from, or delay live or planned steps to achieve significant environmental improvement*

- (b) *the review enables government to get on track to deliver the targets and commitments at the speed and scale needed*
  - (c) *a revised EIP and Annual Progress Reports transparently set out how government intends to make this progress and report on it, so that we, Parliament and others can play our full part in delivery and in holding government to account for progress made, and*
  - (d) *in appropriately supporting the rescoping and re-prioritisation of the EIP with a greater focus on delivery we demonstrate our ability to be uniquely helpful to government.*
4. The Secretary of State formally requested OEP advice in connection with the review on 22 August (**Annex A**). He requests that we advise by 12 September; a deadline we aim to meet.
5. The Secretary of State has raised two topics, which constitute ‘the matter’ we must advise on for the purposes of s.30 Environment Act 2021:
- (a) prioritising actions that have the biggest impact on significantly improving the natural environment and delivering Environment Act targets within a refreshed EIP and re-prioritising actions with less significant impact, and
  - (b) highlighting risks and inter-dependencies within the EIP, particularly regarding the interdependency between statutory targets and the domestic implementation of other commitments, such as 30x30.
6. The Secretary of State also states:

*I would welcome your views on how to streamline the content of the EIP to focus on delivering the Environment Act targets and what can be done to implement commitments effectively to improve our natural environment.*

## Analysis

7. **We invite the Board to consider and comment on the draft advice at Annex B. In doing so, we draw the Board’s attention to three points below.**

### ‘Banked’ recommendations and framing our advice

8. Defra has not sought our advice on what we have emphasised matters most – ensuring an EIP that transparently *explains how* government intends to deliver its Environment Act targets and other commitments (see also our strategic intent - **para 3** above). On 6 August, the Board commented that we should not take for granted that Defra has ‘banked’ our previous recommendations on this and other points, so should reiterate them.
9. We recommend doing this in a light-touch way to avoid detracting from the tone and impact we seek. Hence, we propose only briefly mentioning previous recommendations, linking them to the fundamental importance of transparent delivery planning. We then seek to frame our advice in that context.

### Being bold and specific

10. The EIP review may be a moment for the OEP to be bold and specific. We propose going beyond generalities to also make specific proposals for the environmental improvement steps Defra should prioritise and (comparatively speaking) deprioritise.

11. We propose that Defra prioritises seven things:
  - (a) getting nature friendly farming right
  - (b) strengthening protection for nature
  - (c) speeding up action on the marine environment
  - (d) managing competing demands on land and sea
  - (e) accelerating the delivery of a UK policy and regulatory framework for chemicals
  - (f) mobilising investment at the needed scale, and
  - (g) harnessing the support needed to achieve ambitions.
12. We intend that doing this demonstrates our unique ability to provide strategic insight and value to government, Parliament and others (see strategic intent, limb (d)). It should also aim to galvanise Defra in making rapid progress towards Environment Act targets and a significant environmental improvement (limbs (b) and (c)).
13. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*
14. There are risks with being specific in our advice. Inevitably, Defra and others could disagree with the prioritisation choices we suggest. Defra may use our advice as support for some reduction in ambition or resiling from previously announced steps and/or goal areas.
15. There is also a risk in that we can only propose specific steps to prioritise based on professional judgment and limited publicly available information. This is an unsatisfactory substitute for Defra quantifying its intended steps or otherwise transparently explaining how they are intended to contribute towards meeting targets and other commitments. These actions, which we have repeatedly called for, are a missing pre-condition for any effective prioritisation. We make this point in our letter, to some extent mitigating this risk.
16. **Does the Board think we have struck the right balance, given such risks? Does it have any general comments on the proposition that our advice is a moment for boldness and, if it is, whether the draft advice is bold enough?**

#### Going beyond the requested advice

17. The Board should note where the draft letter at Annex B goes beyond advising on the matters Defra has posed – which are narrow in scope. We respond to the Secretary of State’s invitation to comment on streamlining the EIP and implementing commitments effectively. We also point out the need to have due regard to the EPPS, and to address the risk that this EIP review now mis-aligns 5-yearly EIP and targets reviews. We also point out the desirability that Defra reconsiders the species abundance target given the problematic way achievement of that target is to be assessed.
18. **We consider there are low legal and reputational risks with making a limited number of points beyond where Defra has requested advice. However, we invite the Board to consider the balance being struck here, and whether to include different points instead or as well.**
19. We also invite the Board to note that any advice we might give, even if it includes topics of our choosing, cannot alone achieve our strategic intent. We therefore aim to build on our

advice, and seek opportunities for wider, purposeful engagement with Defra to land other messages relevant to that intent.

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

## Northern Ireland

21. Our advice concerns England and reserved matters only. The Board will be aware of separate work to hold DAERA to account for delays in adopting its EIP, and to ensure that implementing that EIP (when adopted) delivers a significant environmental improvement.

## Finance and Resource

22. We do not anticipate incurring external costs and have not provided for any in the 2024/25 Business Plan. That plan provides for internal resource for this work equivalent to 80 person-days. We expect to remain well within that resourcing provision.
23. That said, producing advice to the tight turnaround required by Defra has been challenging, particularly alongside also progressing our 23/24 English EIP progress report. Concurrent resourcing of these activities remains a key risk, requiring active management as we finalise advice and seek to further engage with Defra over the EIP review.

## Impact Assessments

### Risk Assessment

24. We have considered risks where relevant in the sections above.

### Equality Analysis

25. We have considered equalities impacts and have not identified any that may be material.

### Environmental Analysis

26. We have considered the OEP's obligations in environmental law and believe that the recommendations in this paper pose low risks of not complying with any of those obligations. The recommended course is intended to contribute towards environmental protection and improvement in line with the strategic intent at **para 3**.

## Implementation Timescale

27. Our proposed timescale is:

4 September	Board meeting to consider draft advice
5-9 September	Revision of advice to incorporate Board feedback, overseen by the Chair
10 September	Final advice sent to Board members for approval by electronic business
11 September	Board approval to have been obtained

- 12 September Provision of advice to Defra, publication of advice and implementation of comms plan
- 13 September onwards Further engagement with Defra to follow-up advice and otherwise input into the EIP review in pursuit of our strategic intent

## Communications and External Stakeholders

28. We must publish our advice and a statement of the matter upon which the Secretary of State sought that advice. Subject to discussion with Defra, we may also wish to publish the Secretary of State's letter. Publishing the required statement will be our opportunity to bring out key messages from the advice such as the centrality of transparent delivery planning and our seven priority steps to deliver.
29. We propose low-key proactive communications activity around the publication of our advice - sharing via social media and some targeted emails. We will look to talk about our advice within other engagement activities and will prepare materials for staff to have relevant information to hand when speaking to stakeholders.

Paper to be published	Yes, in part
Publication date (if relevant)	With meeting minutes
If it is proposed not to publish the paper or to not publish in full please outline the reasons why with reference to the exemptions available under the Freedom of Information Act (FOIA) or Environmental Information Regulations (EIR). Please include references to specific paragraphs in your paper	<p>Redactions should be made for material covered by the following FOIA/EIR exemptions:</p> <ul style="list-style-type: none"> <li>• information is intended for future publication [Annexes A and B]</li> <li>• publication would harm the effective conduct of public affairs, including the Board's ability to receive candid advice and engage in free and frank discussion [Analysis section]</li> <li>• publication would undermine legal privilege and the balance of public interest favours withholding disclosure [paras 18, 25 and 26]</li> </ul>

## ANNEXES

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