

Board Paper

Date

8 January 2024

Title

Strategic Review

Report Author

Andy Lester, Head of Business Strategy and Planning

Responsible Executive Director

Richard Greenhous, Chief of Staff

Paper for decision

Open paper

Issue

1. We are reviewing our strategy and aim to publish a revised strategy for consultation in May.
2. This paper sets out how the steers the Board provided in October are being operationalised and seeks input on our draft guiding policy and the product we intend to develop.

Recommendation

3. The Board is recommended to comment on and agree the draft guiding policy at Annex A. In doing so, the Board is invited in particular to consider:
 - a. Whether it is right in each part and in sum
 - b. Which elements are most critical, particularly where they are in tension, and whether any elements are unnecessary
4. The Board is recommended to note the options for how we present the strategy, and endorse the approach set out in paragraph 25.
5. The Board is recommended to note the work-packages mobilised to deliver the strategic review, that these now include a review of our organisational values, with a view to their inclusion within the strategy and the intention each of these work packages will be brought to the Board to consider in February and March.

Background

6. Our formal review of our strategy has begun. We have agreed that we aim to conclude it, post consultation, by September 2024. We therefore aim to have a proposition ready for consultation in May 2024. This will allow any change in our strategic approach to be reflected in our business plans for 2024/25 which we will then have set.
7. We have agreed that we are revising our strategy, and not re-writing nor restating it. So, we expect much of the substance to remain. In October, the Board agreed areas of our strategy development that should be a focus of our thinking now, and which could be deferred, so that we can be focused and purposeful in our review.
8. We follow an approach to strategy development aligned with that set out in Richard Rumelt's book *Good Strategy, Bad Strategy*. This argues that good strategy development starts with a clear diagnosis of the strategic context to explain the nature of the challenges faced. From this, a guiding policy is decided – the overall approach chosen to deal with the challenges identified. Finally, coherent actions are decided to carry out the guiding policy. Together these are argued to be the kernel of good strategy – coherent actions, backed up by an argument, grounded in understanding of the facts.
9. 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.
10. 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. There are choices on the emphasis we place between the two. In 2022, we chose that our strategy should largely explain how we work, and our corporate plan explain what we will deliver. This was in large part to preserve flexibility and discretion in our plans which would otherwise be restricted given the longevity of our strategy, and the need to consult on it.
11. Our strategy is a product of its time. It is detailed, and abstract in places – inevitably as we were yet to exercise our functions. It is longer and more detailed than most similar documents presented by public authorities. We have other choices on the content, level of detail and presentation of our strategic choices – whatever they are.
12. Yet, the level of detail is practical and useful. We use it internally to guide and challenge our approaches, and externally. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.*

Analysis

Guiding policy

13. Annex A sets out a draft revised guiding policy, drawn substantially on that which informed our strategy development in 2021, adjusted to take account of our diagnosis and strategic discussions and choices in the interim.
14. The guiding policy aims to set out the tramlines for our strategic approach, and our actions. They aim to enable us to navigate our choices consistently, and act to correct where we may otherwise. We aim for them to underpin our strategy and have currency internally, throughout the organisation.
15. Statement 1 emphasises the importance of our mission, in how we develop our strategy, and how we work. At times there have been divergent views in Board discussions on how our mission is understood: is our mission to protect and improve the environment as an end, and the means available to us holding government to account; or is our mission to hold government to account as an end, and the consequence environmental improvement. Otherwise put, are we champions of the environment, or of properly functioning environmental governance?
16. This distinction has consequence for how we work: should we argue for greater ambition, so that it is more likely government's ambitions can be achieved, or so that the planet and its biodiversity can be saved, regardless of what government intends? How much is it our role to be an active voice, lobbying for change? Should our voice always remain constrained by our role within the system of governance of which we are part (including therefore to government's ambitions), other than at those times when government is setting or consulting on its ambitions?
17. Statement 1 emphasises the importance of the boundaries of our role to our mission. The Board's views are sought.
18. The Board's views on the wider policy is sought including:
 - a. Statement 2 in its proposed emphasis on our need to 'focus' and our desire to act in the short-term, for the long.
 - b. Statement 5 in emphasising the importance of both coherence and distinctness in our work in England and Northern Ireland.
 - c. Statement 6 which places our commitments to engagement and transparency, within the context of our part in the wider system in which we operate.
 - d. Statement 8 in grounding us firmly in evidence, but also in our judgments based on that evidence
19. Some of the statements will sometimes be in tension: between coherence in our approach, and a distinct approach and programme for England and Northern Ireland; between acting with purpose and urgency and making judgements based on the right evidence. The Board's views are sought on whether all are equally critical, and necessary.

The strategy 'product'

20. We have choices on how our strategy should be presented, when decided. We assume that the purpose of the strategy, and its relationship with the corporate plan, remains unchanged. A significant audience of our strategy is therefore internal: it shapes how we work, the approaches we take and activities we do and must be understood and followed by our people.
21. There are external audiences for our strategy – those we oversee, those who fund us and those who wish to influence our work, and influence others through our work will have interest in our strategic approach. But they will have greater interest in what we plan to do – the outcomes we aim to support, and issues we address. A wide public audience is likely yet more interested in the actions we take, than how we take them. To that end, our strategy is 'niche'.
22. Our 2022 strategy, when presented for consultation, was a statement of intent. It was arguably the first material public statement we made. A primary purpose was to introduce the OEP and explain what stakeholders could expect from us, in a context where there was no precedent on which to draw.
23. Our 2022 strategy is 64 pages of which 40 set out our strategic approach and 24 our enforcement policy. Within our strategic approach, eight pages introduce the OEP and our role, six our strategic objectives and how we work towards them, three our issues-based approach and prioritisation, seven how we will work in each of our functions, six how we will work with others, two our approach to transparency, proportionality, objectivity and impartiality, and one how we measure success. There are opportunities to be more succinct.
24. Most public authorities take a different approach, though not all will have the specificity required by our legislation. For example, on an approximate scale:
 - a. [Environmental Standards Scotland](#) present 59 slides in a structure most similar to our own strategy.
 - b. The [Office for Students](#) present a one page summary, and a 20 page written document. It is structured around 'mission', 'objectives', 'approach', 'areas of focus' and within those areas 'goals'.
 - c. The [NAO](#) present 28 content rich slides structured around 'purpose', 'priorities' and 'measuring success'.
 - d. The [Forestry Commission](#) present 44 picture-rich slides, structured around 'vision', 'goals', 'focus areas' and contextual information.
 - e. The [JNCC](#) present 24 picture-rich slides, structured around 'vision', 'mission', 'values' and 'objectives'.
25. There are clearly choices. We judge there has been benefit in the level of detail in our current approach – notably when our approach has been challenged – and some stakeholders commend us on the transparency and rigour of the approach we have taken. But others have questioned its accessibility to all but the most committed and expert.

26. Our early view is that the right approach is more aligned to that of the Office for Students in this range, with an accessible summary of a sufficiently detailed strategy. The Board's views are sought. For clarity, we assume that our enforcement policy is largely unchanged in its structure and level of detail, given the important and distinct role it has.

The work packages

27. In October, the Board endorsed prioritised topics to be considered in our review, after agreeing our diagnosis. These included, for example, to review our approach to enforcement and engagement, but not to consider our approach to cost-benefit at this stage.
28. We have broken these into work packages, at Annex B. Some focus on our underpinning approach to how we work – such as how we will monitor environmental law, others more general topics – such as how we can measure success. In each case this is mobilised work, with the intention of bringing aspects for the Board to consider in February and March.
29. The Board's attention is drawn to the proposal to review our values. There is high consistency between our values, guiding policy (both in 2021, and that proposed at Annex A) and some of the statutory requirements of our strategy (to set out how we will act objectively and impartially and have regard to the need to act proportionately and transparently).
30. Our values are absent from our current strategy, and could be included – both for their own sake, and as a means to draw coherent threads between how we approach our functions: one way in which we could make our strategy more accessible. If we do so, we ought to reconsider them with a view to the external audience that they would then be exposed to, and with a view to the consultation that must follow. There is a particular case for considering 'trust one another' and how 'transparency, listening and engagement' are each reflected in our values – the former, was always intended to be an internal framing and is important but does not translate externally; the latter seeming a gap between our guiding policy, and values as currently set.

Northern Ireland

31. We propose a specific work-package to consider our strategy in Northern Ireland. Our draft guiding policy proposes that we will be determinedly one coherent organisation yet distinct in each of England and Northern Ireland where we should be to achieve our aims.
32. This is reflected in our intended approach that we retain one strategy, across our jurisdictions – in fact, and in presentation, but that it includes difference, where it should. This mirrors our approach in 2022.
33. In presentation, we propose that we consciously draw out the difference, where we can and should, between our strategy for England and Northern Ireland. We also propose to have products which present our strategy for a Northern Ireland audience. For example, it is our strategy to have local presence, local expertise and experience and a physical footprint in Northern Ireland. These are key ways in which we will be suitably immersed, attuned and accessible so we can play our part in the system we influence, and can listen and build relationships. That likely need not be said in England, but must be in Northern Ireland.

Finance and Resource

34. 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. In addition, there is time allocated in the business plan for some of the constituent activities now being undertaken: the development of our approach to monitoring environmental law, and the development of our approach to the analysis of the trajectories of environmental improvement.
35. The choices on presentation of the strategy will have resource consequences. We currently forecast around £20k external expenditure in production costs for physical or online product.

Impact Assessments

Risk Assessment

36. 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. This starts in the way set out below, ahead of formal consultation period. Nonetheless, it is very likely that we will consult less than we did in 2022 – not least as we have less to consult on, with much of our existing strategy to remain and therefore decided. We will need to manage expectations in this regard.
37. There is a risk that an ‘accessible’ strategy is insufficiently detailed to encompass all that is required of it under the environment act, or that it does not allow us to articulate our approach in sufficient detail to defend our approaches from challenge with the benefit of public consultation. We aim to mitigate through the consultation approach to be developed, and by identifying key areas of risk or benefit where there would be value in active consultation. The recommended approach to present in a way similar to the Office for Students also mitigates, giving room for detail and careful wording when needed.
38. There is a risk that we are not able to deliver the review on time and to scope. We are actively seeking to manage both through active planning and prioritisation. Activities are currently on track, but there is some residual risk that competing organisational priorities reduce capacity to engage meaningfully in the activities set out in this paper and its annexes.

Equality Analysis

39. No material equalities impacts have been identified.

Environmental Analysis

40. 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. It could, for example, allude to the objectives and policy we propose to set under the biodiversity duty which the Board will be asked to consider this week.

41. 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.

Implementation Timescale

42. We intend to deliver the review to this timetable:
- a. Feb/Mar – consider detailed underpinning propositions with ExCo/Board
 - b. April/May – consolidate into strategy for consultation and agree formal consultation approach
 - c. May/June/July – consult
 - d. Aug/Sept – consider and agree final strategy
 - e. Sept/Oct – adopt and publish

Communications

43. We will communicate internally through routine methods in cascade. We propose a specific slot on our strategy review, in the new year.
44. We will develop appropriate external communications strategies at the appropriate time, to align with consultation and publication events

External Stakeholders

45. We have set out the focus of our strategic review to Defra, DAERA, ALBs and NGOs.
46. Specific work-packages are considering their own need to discuss our approach with stakeholder groups. Our aim is to hold detailed discussions with relevant stakeholder groups, on relevant open questions in March, and have invited parties to express their interest in the areas of focus.
47. We will keep stakeholders up to date on progress more generally in April/May, ahead of formal consultation. We will consider and propose our broader approach to consultation, publication and launch in due course.

Paper to be published	YES
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	
--	--

ANNEXES LIST

Annex A – Draft guiding policy

Annex B – Mobilised work packages for the strategic review

Annex A – Draft Guiding Policy

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

Annex B – Mobilised work packages for the strategic review

Work package	Who	To Board
Underpinning principles		
1. Diagnosis and guiding policy	Andy; Craig	October January
14. Mission and objectives	Andy	February
Reviewing our strategic approaches		
2. Issues and outcomes-based working	Andy	February
3. How we prioritise	Andy	TBC
15. Our values and how they inform our approach	Nic	February (29)
4. Our routes to influence – communications and engagement	Mike; Andy	March
5. Our Northern Ireland strategy	Craig	March
Reviewing our approach to our functions		
6. Review of our casework, investigation & enforcement	Joe; Kate	February
7. Developing our monitoring of environmental law	REDACTED Helena	February
8. Analysing the trajectory of environmental progress	Robbie, Cathy	February
Developing the strategy product and consultation		
9. Defining the strategy product	Andy; Nic	
10. Our approach to engagement and consultation	REDACTED; REDACTED	
11. How we will measure success	Andy; Nic	March

12. Writing the strategy document		
13. Writing the consultation document		