

Board Paper

Date

22 February 2024

Title

Business plan 2024/25

Report Author

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Paper for discussion

Open in part

Issue

1. Our 2024-25 budget allocation from Defra and DAERA for 2024/25 is not yet confirmed. We aim to agree our corporate and business plan for 2024/25 by the end of March, and set a budget which allows us to deliver it. This paper updates the Board on progress, and seeks the Board's steers on prioritisation choices required.

Recommendation

2. The Board is recommended to consider and comment on the prioritisation choices set out in this paper, and its annexes.
3. The Board is asked, in particular, to consider how we make best use of our resources in Northern Ireland, in light of the proposals made.

Background

4. The Board agreed our assessment of our long-term resourcing need in October. This formed the basis of our bid for resources within the budget allocation arrangements in place with Defra and DAERA. The outcome of that bid is unknown.
5. Recognising the likelihood of success of that bid, the Board agreed that we should plan around two core scenarios pending further clarity: a base case of a 'flat cash' settlement from

Defra – no change in revenue budget (RDEL cash funding, i.e. excluding depreciation) and headcount, and an initial allocation of £1m from DAERA with the expectation of further uplifts in year; and a hopeful case where we would secure 50% of the sums above this base case we judge needed and bid for in 2024/25.

| | Base Case | | | Hopeful Case | | |
|------------------------|-----------|-------|-------------|--------------|-------|--------------|
| | Defra | DAERA | Total | Defra | DAERA | Total |
| FTE | 65 | 10 | 75 | 72 | 13 | 85 |
| RDEL (£m) | 8.23 | 1.25 | 9.48 | 8.98 | 1.85 | 10.82 |
| Depreciation RDEL (£m) | 0.25 | 0.00 | 0.25 | 0.25 | 0.00 | 0.25 |
| CDEL (£m) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| TDEL (£m) | 8.48 | 1.00 | 9.48 | 9.23 | 1.85 | 11.08 |

6. In October, the Board agreed planning principles to support our planning in light of the specific context of 2024/25, and our experience to date. These are that:
- a. We will **ensure we have the capacity to do things well**, so:
 - i. We will do fewer things and do them well.
 - ii. We will not leave the impact of our work to chance, and so plan activities and resources to support us to have the impact we intend including after the point of publication.
 - b. We will **plan for uncertain times**, so:
 - i. In our major programmes we will focus on activities with medium to long-term impact, rather than those most reliant on the short-term political cycle.
 - ii. We will keep more capacity for the unexpected, so will commit to less in advance, in our corporate plan.
 - c. We will work to **bring greater coherence** to our work, so:
 - i. We will be ever more disciplined in working within the thematic priorities we agree.
 - ii. We will build our work programmes around specific outcomes we identify and delivery of the EIPs and targets.
 - d. We will work in a more **issue-based way**, as our strategy intends.
7. The Board also considered thematic areas of focus that would be prioritised for consideration in our plans. Our focus this year has been on improving nature, clean water and effective environmental governance, with work to gather evidence and knowledge of issues relating to soil health, managing waste, and the marine environment. That evidence and knowledge gathering is intended to provide detailed understanding of the specific, purposeful activity we

could undertake through our functions in those areas in future. The Board's steers in October were to evolve these priorities, and specifically:

- a. Develop programmes of work relating to improving nature and managing nutrients in Northern Ireland, which the Board agreed was the right focus of our work in Northern Ireland
 - b. Consider and test the right scale and scope of our activity in clean water and effective environmental governance given our activities to date
 - c. Consider whether and when a programme of work relate to the marine environment should be developed
 - d. Continue to develop knowledge and understanding related to soil health, managing waste and to add the regulation and management of chemicals
8. Detailed business planning has been undertaken by directorates, to understand and challenge base operational costs of our activities. Project and programme planning has also been undertaken across the organisation within the thematic areas the Board prioritised. The Executive has challenged and prioritised within that with a view to establishing an outline programme of work affordable in the base case, and how that would be extended in the hopeful or any other case – with the aim that a plan can be quickly settled when the resources available are known.
9. In prioritising our activities, we must work within three related but distinct constraints:
- a. Can we afford to deliver the work – our overall forecast spend vs budget
 - b. Can we resource it – our overall forecast time vs capacity from our headcount
 - c. Can we afford it in Northern Ireland – our overall forecast NI spend (including on people) vs NI budget
10. We also seek to balance our portfolio between our objectives and how we use our functions, between our priority areas of focus, between how much we work to gain evidence and knowledge, and how we respond in the near term to the issues identified.

Analysis

What is an affordable programme?

11. In the last two years, we have chosen to begin each year with a significantly over-programmed business plan. In 2023/24 this was 29% of our non-pay expenditure, 10% of our total revenue budget or £950k. We actively decided this to mitigate against underspend experienced recognising both the wide range of variables and potential for underspend in pay budgets given the extent of recruitment proposed, and the challenges in accurately forecasting and spending our non-pay budget in the prior year. In outcome, less underspend emerged in year – meaning we actively reduced the scale, slowed down or stopped work in year to ensure a balanced budget.

12. Our capacity to procure, our forecasting and financial management capabilities have grown notably in year, giving significantly greater confidence in our opening forecast expenditure. We expect to recruit less – in our base case with essentially no net growth – providing less uncertainty in our pay forecasting. A greater proportion of our overall expenditure is known, and committed, than previously. We therefore judge it imprudent to develop a plan with this degree of over-programmed activity in-built.
13. We propose, to aim for a plan where:
- Our forecast demand for staff time balances with our expected FTE, as we have in prior years
14. Our forecast non-pay expenditure is over-programmed by around 10%, or around a total of £300k in our base case. This is 3% of our total base case budget, and around 5% of our base case pay budget (where we assume no vacancies).
15. Our forecast expenditure in Northern Ireland is planned to be around £1,300k to £1,350k - recognising the expectation that we will be successful in securing additional funds in year, as we have this year from an initial allocation of £1,000k.

Indicative budget in base case

16. We have assumed a realistic RDEL cash funding of £9,480k (revenue budget excluding Depreciation) which is the same funding as 2023-24 but excluding the one-off cost-of-living top-up funding (£230k). We have also assumed headcount of 73 FTEs (England:65 and NI: 8) plus 4 extra posts agreed with the Board to balance turnover related vacancies throughout the year.
17. As summarised in table below, the latest iteration of the budget proposal comes to a total of £10,380k, made up of £6,330k pay (including apprenticeship levy and staff bonus) and 78.65 FTEs covering 75.09 FTEs in permanent posts and 3.75 FTEs as secondees / temporary posts.
18. This is £900k more than the £9,480k funding we anticipate receiving. It includes £650k currently set aside for activities currently proposed to be deprioritised – those ranked as “4. Should if we can”, “5. Could” and “6. Could if we could” in the annexes.
19. Of the 4 extra FTEs to balance turnover, 3.42FTEs / £287k are yet to be fully committed. Some or all of these could be stopped to reduce the funding gap by up to that amount but would leave us under resourced with staff in some critical areas, such as legal.

| OEP Total funding (£'000) | 2021-22 Actual | 2022-23 Actual | 2023-24 (Q3 f'cst) | 2024-25 draft v2 |
|---------------------------|-------------------|-------------------|-----------------------|---------------------|
| Pay | 1,398 | 4,467 | 5,773 | 6,326 |
| Non-pay | 1,121 | 2,663 | 3,841 | 4,054 |
| Total RDEL cash funding | 2,519 | 7,130 | 9,614 | 10,380 |
| Depreciation | 0 | 9 | 123 | 170 |
| Capital | 0 | 1,072 | 1,231 | 0 |
| Total funding | 2,519 | 8,211 | 10,968 | 10,550 |
| FTE | 50.7 | 55.3 | 69.76 | 78.65 |

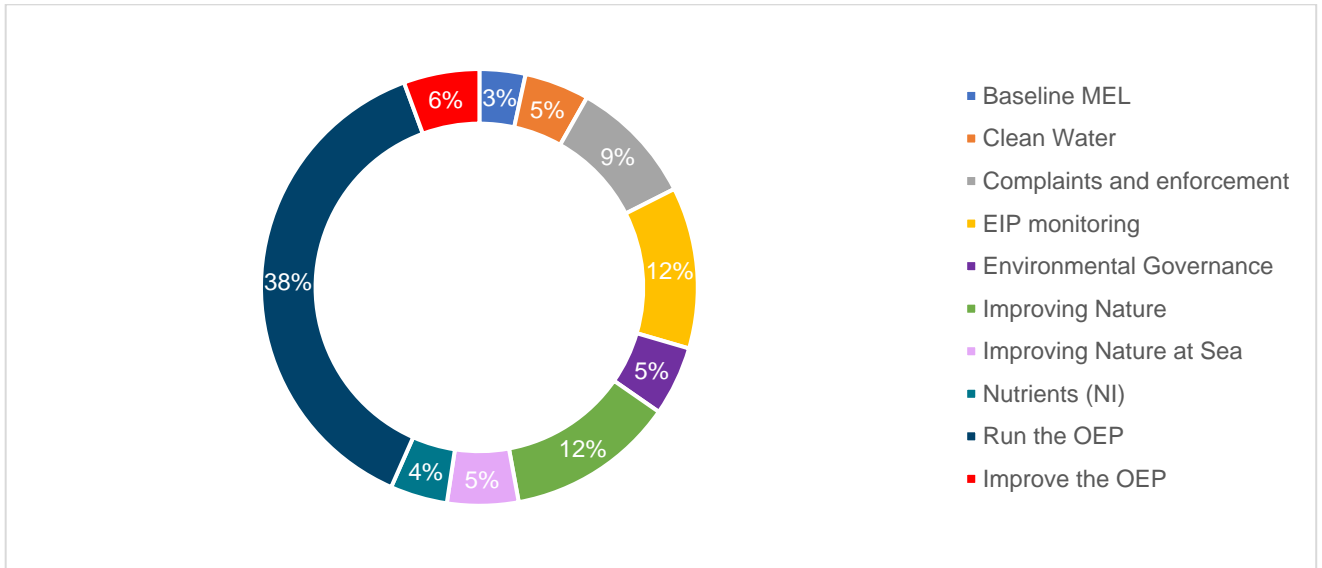
General considerations

20. From this position, the Executive has developed an outline proposal for a base case (flat cash) business plan that ‘broadly’ balances to the target constraints set out in paragraph 13 – in FTE and affordability terms overall, and in England. We have not yet developed a plan affordable in Northern Ireland, see further below. This is an initial view, presented for the Board’s steer. There are elements that remain in discussion. General considerations include:

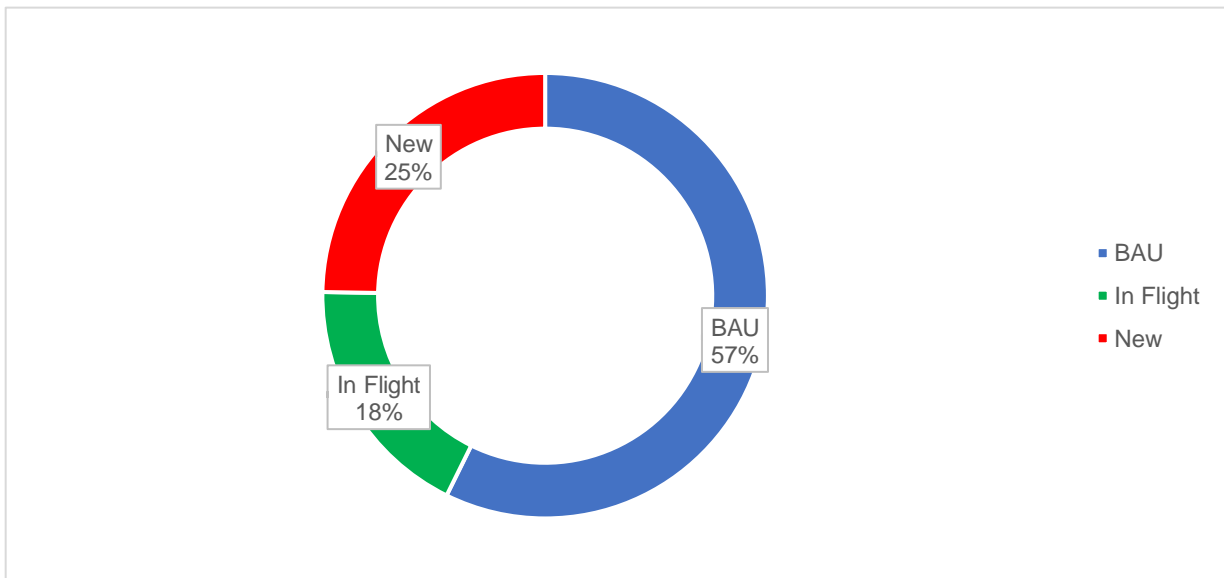
- a. **Resourcing:** We will likely propose to recruit to two or three of the four posts the Board agreed in January. This is to preserve the right balance of our pay and non-pay resources, which are used differently by different functions, and to slightly reduce our fixed commitments into the future.
- b. **Balance between objectives:** In general, this sees 28% of our activity directed towards our objective for ‘sustained environmental improvement’, 16% towards each of better law, better implemented and improved compliance, and 41% towards organisational excellence (in that case 48% of non-pay and 35% of staff time). Our last corporate plan estimated 52% of our non-pay and 35% of staff time to be directed towards organisational excellence. In the chart below, the inner circle is staff time, the middle circle non-pay, and the outer circle our total resources.



21. **Thematic areas:** Across our thematic areas, 44% of our resources are directed towards ‘running’ or ‘improving’ the OEP. The breakdown towards other activities is set out below. Projects can fall within more than one category- Investigation into the regulation of Combined Sewer Overflows



22. **New and continuing work:** Across the plan, 57% of our resources are committed to BAU activity – including complaints handling, public facing services, most of our corporate services, baseline monitoring of environmental law and reporting on environmental progress. 18% of our resources are committed to in-flight activities – for example our reports on protected sites, the drivers and pressures of biodiversity in Northern Ireland, our work on local nature recovery strategies, and our open investigations. 25% of our resources are proposed to be committed to new activities. Our discretionary choices largely fall within this 43% of our resources that is not BAU, and particularly within the 25% allocated to ‘new’ issues.



23. **Resources for compliance:** Our proposed overall resources towards compliance activities are set out in Annex A(i) below – totalling 16.7 FTE (23% of our total headcount capacity) and £174k of non-pay (7%) – essentially mirroring the resources for ‘improved compliance’ shown at b. above. *This section has been redacted as it relates to information recorded for the purposes of OEP’s functions relating to investigations and enforcement.* Sufficient capacity to handle complaints, and pursue casework interventions and pre-investigative activity is also included – notionally around 8-10 of these activities in the year, though the

number will of course vary depending on complaints and issues identified. This FTE compares with around 15.7 initially allocated this year in 2023/24, a small increase.

24. **Resources for evidence:** Our proposed overall ‘evidence’ budget is £1,400k – 41% of our non-pay expenditure – on a range of projects supporting each of our priorities, and our EIP progress reporting. This is scientific, technical and other external evidence that requires external commissioning and procurement, and supporting our College of Experts. A small proportion is already committed, some is close to being ready to go to tender, other activity is to be scoped and procured. This year, we forecast to spend around £1,200k – an increase of 16%. There is also a total £275k – 8% - budget for legal advice, compared with around £210k forecast expenditure this year.
25. **Reserved capacity for targeted and tactical work:** A small range of projects are designed to hold capacity for ‘targeted and tactical’ activity. This is responsive activity which is not yet known and planned for. The Executive decided not to reserve significant capacity to these activities, confident that our control and prioritisation mechanisms allow for in year adjustments to create capacity as needed, as we have demonstrated this year, and wary of underspend and underdelivery risks of preserving more. In total 2 FTE of nominal capacity and £60k of non-pay expenditure is reserved in this way – around 3% and 2% of our total capacity respectively.

Prioritising our work programme

26. Annex A sets out how the Executive currently proposes priorities should be drawn within our thematic areas of focus. Each highlights work that it is proposed will be done (green), work that is not proposed to progress (red) and those matters that have been most in debate between the two (yellow – currently proposed; amber – currently not proposed to be done). The Board is invited to comment. Views on those matters most at risk of deprioritisation and/or those matters that should be given higher priority if further funding were available are particularly welcomed. Those items in amber and red (ranked 4, 5 or 6 in our priority) make up the projects removed to reach a balance of FTE and resources – including the £650k of non-pay highlighted in the budget section above.
27. Overall, the indicative plan for 2024/25 is recognisably an evolution of our current priorities in plans. This is inevitable, reflecting the proportion of our work which is BAU or in-flight, and the degree of scope for the ‘new’. Our overall priority for improving nature continues. There is limited new activity proposed relating to clean water and governance, other than to follow on from our existing work programme. New programmes relating to nutrients in Northern Ireland and marine are proposed, in line with the Board’s steers.
28. Key choices drawn to the Board’s attention in the Annexes are:
- a. As shown in Annex A(ii), to **not** prioritise any further scrutiny activity in relation to clean water, specifically not to undertake scrutiny of environmental law work on agricultural diffuse pollution in the coming year. Capacity is preserved to complete our planned work on bathing waters (at least in England, see below), maximise the reach of our report on the Water Framework Directive regulations and to pursue any follow-up in relation to compliance issues we may wish to. We preserve capacity for some ‘targeted and tactical work’ related to clean water, nominally relating to any proposals to amend the water framework directive regulations.

29. Annex A(iii): to continue a significant programme of work toward Improving Nature. Next year this is planned to include our environmental law report on the designation and management of protected sites, our focus in our EIP report on improving nature including through a particular focus on environmental land management, our work on local nature recovery strategies, and capacity for a follow up project to be scoped in year. We considered, but have not prioritised, a review of pesticide regulation and impacts on species abundance.

- a. Annex A(iv): The extent to which we should prioritise work to support good environmental governance has been one of the more debated areas. We currently propose to continue work in relation to the EPPS, escalating and seeking to resolve issues of cooperation with Defra, and preserving capacity towards an 'activity' to develop and land key messages around how EA2021 can be made to better deliver for environmental targets and progress to any new government or Minister. We also propose to complete our 'compliance assurance' project reviewing inspection regimes.

There has been broader debate as to the extent to which we should undertake further work on the quality of EIP23, and the effective implementation of the Environment Act, potentially through broader engagement activities to secure wide support for our recent conclusions or an environmental law report on the effective implementation of the Act. Neither is currently prioritised. This is limited additional activity in relation to the quality of EIP23 therefore.

- b. Annex A(v): to prioritise development of a programme of work relating to Marine, focussed initially on England (see below). This would build on, and be refined based on, our analysis of the call for evidence which has just closed, but will include considering the evidence to be published in 2024 as to whether government met its 2020 target for good environmental status. This is likely to lead to a public facing product late this year, or next, depending on scope and focus. The Board will consider the scope of this activity in due course.

30. Annex A(vi): a further areas of discussion has been the extent to which we prioritise gathering of evidence, knowledge and insight for medium term benefit – providing the level of analysis that allows us to identify issues and priorities we may wish to address through our functions in the medium term, and therefore act wisely. We have preserved capacity for a small amount of evidence gathering (£100k non-pay and associated resource, towards this end). Further work is needed to identify how this is best focused.

31. Our activity to 'run the OEP' has largely now moved from establishment, to business as usual operations and continuous improvement. Many costs are fixed, with few discretionary choices, other than by adjusting the 'service offer' which supports the wider organisation to focus on delivery. We have been successful in negotiating reductions in some costs such as from our main IT service provider, and Vodafone. Key choices made have included:

- a. To reduce our resource allocated to project management, relying more on good behaviours from non-specialist staff using the toolkits developed by our temporary project specialists with a specialist internal consultancy/support model at times of need.
- b. To retain the newly developed administrative/diary management support for our Executive Directors, as well as the Chief Executive and Chair

- c. To invest in transitioning our financial management to Sage, rather than spreadsheets, retaining continent labour to smooth transition pending recruitment
- d. To retain a level of investment in delivering our people strategy – around 0.8 FTE, which is about the same as was initially allocated in 2023/24
- e. To develop our IT estate modestly, in line with our IT strategy – this year, developing file transfer capability, and completing the mandatory transfer of our complaints and investigations system to a new platform.
- f. To reprocur, or be ready to reprocur, some of our core enabling systems – our payroll service, and end-user computing systems – the latter being a significant project in the subsequent year (2025/26).
- g. We have retained capacity for one significant stakeholder engagement event in each of England and Northern Ireland each year, in support of our work.
- h. Cutting subscriptions, such as to ENDS, for all staff.

Annex A(viii) sets out the highest non-pay and resource consuming components of this activity.

Northern Ireland

- 32. There are particular challenges in balancing our portfolio in Northern Ireland. With an initial assumption of an RDEL allocation of £1m rising to up to £1.3m in year, Northern Ireland provides around 10% to 13% of our total resources. Where costs are common, we allocate 15% of costs to Northern Ireland and 85% to England. Where costs are fixed, proportionately more of our Northern Ireland resources are therefore consumed than in England, limiting our discretion to act.
- 33. Where we plan specific projects to gather evidence and respond to specific environmental challenges in Northern Ireland, we allocate 100% of the costs to Northern Ireland. Where projects – such as Project Belissama - consider issues in both jurisdictions, we allocate 15% of the total cost to Northern Ireland. This has the effect that the more our work is targeted to the specific needs of Northern Ireland, the less we can do.
- 34. The Board decided that the principal focus of our work in Northern Ireland should be the issues connected to management of nutrients. We are developing and have prioritised a programme in this light, which the Board will consider in due course. This is specific work designed for Northern Ireland, supplemented by work in both jurisdictions on issues like our work on environmental land management. The related resources are set out at Annex A(vii)
- 35. We cannot afford to implement this programme, and continue all of our broader based portfolio of in-flight work for the benefit of Northern Ireland – across clean water, nature and governance. The Executive has considered how best to balance the targeting of our work specifically to the priority issue for Northern Ireland, and the broader programme including work that is in flight. Choices proposed include to:
 - a. Direct all our work on marine issues to England, and not Northern Ireland

- b. Not preserve capacity for further investigation and enforcement activity in Northern Ireland – but continue to respond to complaints, and pursue casework and interventions as is necessary
 - c. Not preserve capacity for any intervention in judicial review
 - d. Restrict our follow up activity in relation to Operation Bramble
 - e. Not undertake any activity similar to our compliance assurance activity in Northern Ireland.
 - f. To seek additional resources whenever DAERA seek our specific advice
36. These items are highlighted in pink in Annex B. If removed, the total cost of our Northern Ireland work is £1,470k against an aim of c£1,300k to £1,350k – 9-13% too high. More prioritisation is required. The Board’s views are sought.
37. This indicative Northern Ireland programme remains broad, including:
- a. Reports on:
 - i. the Drivers and Pressures of Biodiversity in Northern Ireland
 - ii. the implementation of the water framework regulations
 - iii. bathing waters
 - iv. the designation and management of protected sites
38. Complaints and casework, and concluding our work in relation to *This section has been redacted as it relates to information recorded for the purposes of OEP’s functions relating to investigations and enforcement.*
- a. Evidence gathering on environmental land management, coherence with CAP and a range of issues connected to our nutrients work
 - b. Outputs in relation to our nutrients programme – likely to be advisory, and ultimately a report as the Board will consider in due course
 - c. Continued engagement with stakeholders, and in particular with NI Ministers and officials in relation to the EIP

Plan on a page, public facing activity

39. Annex C sets out for context the initial view of how this plan would translate into public facing activity. More work is needed, given the notable overlap of activity at key periods, and to map out the potential timeline of our compliance activities.
40. It sees us produce reports monitoring environmental improvement in England and Northern Ireland (the latter relating to the drivers and pressures of biodiversity), four environmental law reports in England, and three in Northern Ireland, a range of evidence reports, and, likely

reach key decision points in respect of two investigations, and begin others as well as a range of targeted and tactical 'advice' related to other issues.

41. We are particularly reviewing this, with a view of the impact of an autumn election on our plans. It is likely there will be an exceptionally small window to lay any report in Parliament before conference season, and any pre-election period. In any event, our ability to have influence through a publication at that time, and the ability of any government to respond within 3 months given the election and any transition, will be constrained. We will now make detailed consideration of the impact, and how to balance the efficiency of 'finishing' work promptly and not allow drift – and optimising the time to make public any findings

Finance and Resource

42. The outline budget implications are set out above. The purpose of this work is to make best use of our resources, so that we achieve the most we can.
43. We allocate 0.7FTE – across the organisation – to develop, prioritise and mobilise the business plan, including scoping and developing proposals. We judge we are well within this allocation. We hold £4k towards publication costs.

Impact Assessments

Risk Assessment

44. There is a risk that the assumptions that underpin our plan are materially wrong. Outside of the total sum of funds received, the most significant of which may be those relating to pay and other inflation.
45. There is a risk that we receive less funding than we have assumed. In those circumstances, further prioritisation will be required, which can be progressed based on the Board's overall steers now. With our Northern Ireland portfolio, decisions may be required to stop work in flight if funding is not received as assumed in year.
46. There is a risk that our funding from DAERA is received at a time, which limits our ability to effectively undertake our work.
47. There is a risk that we fail to identify the ways in which we can exert most influence, either through a lack of evidence or information, or through flawed judgement. In developing these proposals we have sought to prioritise in line with our prioritisation criteria, using the best available evidence at the time.
48. There is a risk that those issues we prioritise may be challenged, or unpopular with stakeholders, government or the public owing to their inclusion or omission. There is a similar risk for our staff. We will aim to mitigate through the presentation of our plan externally, and through leadership and communications with our teams, and through the engagement we have conducted to date.

Equality Analysis

49. We will undertake an equalities impact assessment (appropriate for each of England and Northern Ireland) before presentation to the Board of the business and corporate plan. At this stage, no material equalities impacts are brought to the Board's attention. The equalities impact assessment completed in relation to our 2023/24 corporate plan identified no material issues of concern.

Environmental Analysis

50. Our strategic intent is that the business and corporate plan maximise the impact we have against our principal objective in the next 3-5 years. We aim to prioritise those projects where we can make the most difference.
51. The OEP has a range of duties in environmental law. These duties have and will be considered in developing the approach, scope and content of specific projects where relevant.

Implementation Timescale

52. We expect confirmation of our budget from Defra and DAERA in the month of March. We expect resources from DAERA to be initially constrained. The timing of any bid for additional resources from DAERA, and its outcome, is uncertain.
53. We aim for the Board to consider a final proposed business plan, corporate plan and budget at its meeting on 28 March or 16 April, or as soon as practically possible after this date. The greater the divergence from our planning assumption, the more likely that major revision to the plan will be required, which may cause delay.

Communications

54. This paper does not seek agreement to the business and corporate plan. A communications plan will be developed for consideration by the Board when it is proposed for approval

External Stakeholders

55. We have engaged with external stakeholders in a range of ways in developing the proposals in our business plan, and the thematic priorities proposed.
- a. In development of our 2022/23 corporate plan in Spring 2022, we held a series of stakeholder workshops with distinct stakeholder groups to hear their priorities for the OEP in our first year. We also undertook public research, to garner views from the public on their priorities for environmental protection, and the Board considered research Defra had commissioned of public priorities for the environment.
 - b. In autumn 2022, we held 2 well attended workshops – in London and Belfast – considering opportunities for environmental protection, and the particular role the OEP could play. The Board considered the output of this at its strategy day.

- c. In considering thematic programmes we could prioritise on 2023/24 we took account of each of these, alongside the intelligence we have from our complaints, stakeholder engagement, monitoring of forthcoming government policy initiatives, and Parliamentary interest.
- d. In January we met with a range of stakeholders, to explain our emerging thinking on priorities. This included NGOs, public authorities, Defra and DAERA. We committed to hold further meetings on our thinking in March as our plans evolved.
- e. We must provide a copy of our draft corporate plan to Defra and DAERA to consider, before it is published. We should take account of any comments, but need not modify our plan on their account unless they suggest a conflict with our statutory role, or proper use of public funds.

| | |
|---|---|
| Paper to be published | YES |
| Publication date (if relevant) | With meeting minutes, no earlier than publication of our Corporate Plan |
| 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 | Elements of this information may be redacted as 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 (s.36) |

ANNEXES LIST

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

