

SCOTTISH ENVIRONMENT PROTECTION AGENCY

STRATEGY MEETING

The forty-first Board Strategy meeting took place at 1.00pm on
Tuesday 27 October 2020 via Microsoft Teams

Present:

Terry A'Hearn	Craig Hume
Bob Downes (Chair)	Julie Hutchison
Fran van Dijk	Harpreet Kohli
Michelle Francis	Nick Martin
Nicola Gordon	Philip Matthews
Martin Hill	

In Attendance:

Ian Brocklebank	Specialist 1 (item 13)
Ian Buchanan	Chief Officer Compliance and Beyond
Sophie Cheney	Graduate Trainee
Olivia Cunningham	Principal Policy Officer (items 9 &10)
Chris Dailly	Head of Function (Environmental Performance) (item 13)
Jo Green	Chief Officer, Performance and Innovation
Martin Grey	Head of Communications & Marketing (items 1-11)
John Kenny	Chief Officer, Circular Economy
Bridget Marshall	Regulatory Strategy and Government Relations Manager (items 9 & 10)
Fiona Martin	Chief Officer People & Property
Stuart McGregor	Chief Officer, Finance
Jennifer McWhirter	Clerk to the Board
David Pirie	Executive Director Evidence and Flooding
Kari Speirs	Corporate Officer
Wendy Thornton	unit Manager, Regulatory Reform

1. Board Discussion - Mossmorran

The Board thanked Nicola Gordon for leading the discussion.

2. Chair's Opening Remarks

The Chair welcomed everyone to the meeting.

He advised that the Clerk to the Board will circulate the Scottish Government Consultation on the Model Code of Conduct for members of devolved public bodies tomorrow, 28 October 2020, and that there will be discussion at the December 2020 Strategy Board meeting before we respond. He highlighted that Martin Hill has been involved in the revised Model Code of Conduct as a Board representative for SEPA.

The Chair highlighted that Charles Stewart Roper would be joining for the discussion at item 10 and advised that he had drafted the Continuity Bill.

He concluded by recommending two programmes he had recently viewed: David Attenborough - Our Planet and Prince William – A Planet for Us All. Alternative versions of the David Attenborough - Our Planet Programme have been added to the Resource Centre on Diligent Boards.

3. Apologies for absence

No apologies were noted.

4. Order of Business

The order of business was as outlined on the agenda.

Two items of AOB were raised - the monthly Finance update paper from the COVID 19 Impact – Responses and Recovery seminar session needs to be discussed and an update is to be given to the Board on two recently received Collective Grievances.

5. Declarations of Interests

No declaration of interests were made.

6. Approval of the minutes of meeting held on 30 June 2020

The minutes of the meeting held on 30 June 2020 were **approved** as an accurate record of the meeting.

7. Matters Arising

The Clerk to the Board provided an update. She advised:

Action 120 – a Book was created on Diligent Boards for this meeting and the Draft minute for 30 June 2020 placed in it on 29 July 2020. Proposed closed.

Action 121 - The net zero work has been re-allocated at AMT and project lead level. A Working Group is developing proposals for the November 2020 Agency Board meeting. Ongoing.

Action 122 - Terms of Reference for all projects are now on Diligent Boards, in the Resources Centre section. Proposed closed.

Action 123 - Agenda items were/have been planned for the September and November 2020 Agency Board meetings and the October and December 2020 Strategy Board meetings. Proposed closed.

8. Board Engagement Activity

The Clerk to the Board confirmed that the Board Engagement Calendar for November/December 2020 would be circulated later this week. It only includes relevant free events we are aware of as the board conference /training budget as had to be cut for the second half of the year in line with other budget cuts.

8.1 Report on Board seminar on 27 October 2020

The Clerk to the Board advised that there had been two sessions, the first on the COVID 19 Impact – Responses and Recovery where Fiona Wyllie provided detail as to the work that has been done around three main headings and described the approach being taken going forward. The Board agreed that a further session should be planned, looking at SEPA in the future in a more digitally orientated world, based on what we have learnt and around technology.

Action: Fiona Wyllie/Clerk to the Board

She advised that the second session was on River Basin Management Planning, presented around four key themes. The Board suggested further thought should be given as to how to use the current situation to reach a broader audience including internationally, remotely and around show casing positive examples. The Board asked that these examples be included in the CEO report going

forward.

The Board thanked everyone involved in the morning's sessions.

8.2 Board Buddy Register

The Clerk to the Board advised that there were a few changes to make around involvement in projects which would be incorporated into the version going to the November 2020 Agency Board meeting.

The Board noted the update.

9. Update on Brexit Developments - STRAT 09/20

Jo Green introduced the item with Bridget Marshall and Olivia Cunningham in attendance.

Bridget Marshall advised that the recent Board Buddy session had been helpful, highlighting that an amendment had been suggested to the paper to make it clearer that we are referring to Scotland not Westminster. She advised that the Resilience side is starting to ramp up and drew attention to the huge effort required over multiple areas - in the context of COVID-19, while COP26 preparations are ramping up, when flooding is likely and regulatory matters are ongoing. She drew attention to the uncertainty around three policy areas as highlighted in the paper – UK Emissions Trading Scheme, Chemical UK REACH and Trans-frontier Shipment of Waste.

In response to a question about whether the review of the draft Communications plan was likely to be an issue in terms of resource and whether there was scope given the budget situation to support the Communications team, Bridget Marshall advised that a lot of the comms is done by Scottish Government and other public bodies, there are various pinch points of which comms is one. Martin Grey confirmed that there had been dedicated resource previously but that a lot of work had already been undertaken for example the website has already been built, therefore he is not concerned about communications resource.

In response to a question around whether we have received the reasonable worst case from Scottish Government, Bridget Marshall advised that it was expected in September but had arrived yesterday. She highlighted that due to its protected status only Robbie Macdonald, Resilience Manager, can view it. Work is starting internally around it tomorrow and an update will be provided at the next Board Buddy meeting.

In response to a question about the work linking in with the key contacts in the Annual Operating Plan (AOP), Bridget Marshall advised that there is a network of intelligence being used. In response to a question about the main areas of divergence with a slightly more optimistic deal, Bridget Marshall confirmed that it is now about acceleration.

Bridget Marshall advised that she will continue to keep the Board updated.

The Board noted the update.

10. Continuity Bill, Principles and Environment Standards Scotland – Verbal

Bridget Marshall and Olivia Cunningham were in attendance for this item along with Charles Stewart Roper from Scottish Government.

Charles Stewart Roper explained the background to parts 1 and 2 of the Continuity Bill and highlighted that the primary interest was in part 2, drawing attention to the establishment of Environment Standards Scotland (ESS). He highlighted that ESS is a non-ministerial office, independent from ministers, although appointments are recommended by ministers. ESS has two functions: to ensure ministers and other public bodies comply with environmental law, and to promote the effectiveness of law. Roles previously held by EU institutions. He highlighted the enforcement powers of ESS including issuing compliance notices and improvement reports and provided further detail. He also

advised that the strategy will be the key document for the public and public bodies as it will set out how ESS will operate and discharge its functions.

Charles Stewart Roper confirmed that there will be a shadow body in place until the Bill can be enforced, which is expected in Summer 2021. He explained the various stages of the Bill and the next steps including the recommendations being made to ministers on areas to revisit. Bridget Marshall confirmed that the Chief Executive had given evidence for SEPA at stage 1 of the bill, focusing on the relationship between SEPA and ESS and our aims under One Planet Prosperity. She highlighted the evidence given around environmental principles and the differences in approach between what is envisaged for ESS and what the Commission currently does. She also advised that the appeal route is currently to the Sheriff Court but that given the complexity of these cases and the fact they are akin to judicial review that our preference would be the Court of Session or the Scottish Land Court (where appeals on Enforcement notices etc currently go).

In response to a question about who a compliance notice could be served on, Charles Stewart Roper, confirmed that it would be served on the public authority in respect of its regulatory functions. He also confirmed in response to a question on Strategic Environmental Assessments (SEA) that the process around these is not being amended and that a SEA will be done on the Government's own environmental strategy.

In response to a question about whether the public may conflate health issues with environmental issues, Charles Stewart Roper, advised that there is a broad definition of environmental harm in the Bill but a narrow definition of environmental law.

Charles Stewart Roper highlighted that it will be important to build relationships early with ESS so that One Planet Prosperity and its context are fully understood. He also confirmed in response to a question that the scope of ESS is all environmental law so is wider than EU law. However, ESS can only take action around domestic law. It could write an improvement report around international law but not directly in respect of public bodies.

The Board noted that an early meeting should be sought once the ESS Chair was appointed.

The Board thanked Charles Stewart Roper for his attendance.

The Board noted the update

The Board had a ten-minute break

11. Economic & Social Outlook –major economic and social trends, both locally and globally for 2022-27 - STRAT 07/20

Jo Green introduced the item and advised that next year the Corporate Plan for 2022-27 will be developed with the Board, this paper provides some examples and background and is the second of the four planning sessions scheduled.

The Board discussed the pace of change over the period of the last plan, Circular Economy, net zero and climate emergency were not previously commonly used terms, and the ambition therefore needed when looking at the next seven years. The Board also discussed the impact COVID-19 has had on the younger generation in respect of education and the lasting effect this will have, acknowledging that there will be pandemics in the future that will impact on how we live.

The Board commented that it was a useful paper and highlighted that the JUST transition approach used in the place-based agenda needs to be used elsewhere.

The Board discussed the interest in forecasting rather than looking at historical data when thinking about being adopted elsewhere including by the Task Force on Climate-related Financial Disclosures, created by the Financial Stability Board (of which Bank of England was an active member) task force and suggested we think about this for the next Corporate Plan.

In response to a question about whether beyond compliance is enough in respect of the 75% reduction in carbon by 2030 target, Jo Green advised that it is a stretching target. She highlighted that ESS have an opportunity to give advice to Government on what they think is needed to improve standards in Scotland. The Chief Executive advised that if we cannot get there voluntarily, Parliament will need to legislate. The Board suggested mapping the thirty-three sectors we regulate against the key sources of carbon in Scotland to see if there are any gaps and whether our powers allow us to do what we need to do. In response to a question about whether when our existing sector plans go beyond compliance we need a sector plan for the sectors we do not regulate, the Chief Executive confirmed that the focus of such a plan would be on achieving Government targets.

In response to a question about how SEPA can help facilitate the voice of the younger generation to influence the agenda with reference to the 2050 group, the Chief Executive confirmed that we support and help to give them a voice and a forum for example by including them in the earth overshoot day work. He highlighted that there are other young people we should be interacting with.

The Board noted the report

12. Aquaculture Applications - STRAT 08/20

Nick Martin introduced the item reminding the Board of the background to the reporting. He highlighted the Audit Committee recommendation that there is no longer a need for specific monitoring of aquaculture applications by the Audit Committee and that in future monitoring be undertaken within normal management reporting. The Audit Committee further recommended that going forward brief updates be provided in the Chief Executive's report.

The Board thanked the Audit Committee.

The Board agreed the recommendations within the paper.

13. Mossmorran – Update – STRAT 10/20

Ian Buchanan introduced the report with Chris Dailly, Ian Brocklebank and Wendy Thornton in attendance. He highlighted that the regulatory activity involves staff across the organisation and that as well as work on the technical, regulatory and legal challenges there has been a strong focus on proactive stakeholder engagement. He provided detail on the technical solutions and the planning, timescales and next steps around this.

In response to a question about the role of other partners and the greater influence they could have, particularly around the public health aspects, Ian Buchanan advised that it has taken a lot of hard work over a long period to get the traction and input we now have, working together. He advised that we are thinking about what can help us in terms of timelines for the next steps and solutions including around what could give more leverage.

In response to a question about whether targets will be met, Ian Buchanan advised that we are doing all we can to ensure that things are ahead of schedule if possible, including engaging an independent consultant to give us further insight. He highlighted that there have been changes to personnel and there will be follow up engagement.

In response to a question, Ian Buchanan advised that the report from the Irish Environment Protection Agency is near completion.

In response to a question about changing the story from a Communications perspective, Martin Grey advised that we have learnt from other work including the St. Ambrose High School review and that we have done a lot of work around stakeholders to move the debate, but that there is more to do.

The Chief Executive highlighted to the members of staff involved in the call that they have the respect and support of the Board in relation to the work they are doing.

The Board noted the update.

14. Agency Board Change Committee update (Verbal)

Michelle Francis, as Chair of the Change Committee, advised that the Committee had met on 1 October 2020 and received an update on the management development programme. She highlighted that a Staff Ideas Group (SIG) had been set up with the aim of helping to define what qualities a 'brilliant Phase 2 manager' should have and that the Procurement exercise that had been split into two elements – the development and delivery of the 360 exercise and consultancy support around turning the 360 exercise into a development programme - was closing at the end of the week. The 360 exercise is planned for November 2020 with feedback scheduled for January 2021. The management development programme, Programme Board set up sessions for managers which included a TED talk. These sessions have been successful, and the model has grown organically without too much structure required. She concluded by confirming that the next meeting is on 4 November 2020, focusing on reviewing the progress of the Change Plan and two aspects of the Staff Survey – culture and performance management.

The Board noted the update.

15. Action Note

The Clerk to the Board provided an update on the Action Note and advised:

Action 96 – the full update is within the action note. Ongoing.

Action 98 – the MSP session has been postponed until later in the year. Ongoing.

Action 99 - This was on the agenda for the Agency Board on 29 September 2020 with a further update due to come to the Strategy Board on 15 December 2020. Ongoing.

Action 104 - This has been added to the Board planner, for spring 2021 and will be reviewed when appropriate nearer the time. Ongoing.

Action 105 – no further updates. Ongoing.

Action 109 - Emergency Management arrangements were stood down after the first phase. There is a Board seminar session on 27 October 2020 on COVID response. A written report will follow in November 2020 around key decisions and where we are up to. Ongoing.

Action 110 - The Chief Executive directed the Head of Governance and the Head of Finance to conduct a full review of all expenditure in August/September 2020. Decisions will be made following this on what to de-prioritise and a report will come to the November 2020 Agency Board meeting. Ongoing.

Action 117- Full update in within the action note. Due to the increased level of reporting to Board it is proposed that this action be closed.

Action 118 - As part of understanding the implementation of the 20/21 AOP, a Board update on net zero will be scheduled for the November 2020 Board meeting. Proposed closed.

Action 119 - Update on the agenda for Strategy Board on 27 October 2020, item 13. Proposed closed.

Actions 117, 118, 119, 120, 122 and 123 are now closed.

Actions 96, 98, 99, 104, 105, 109, 110 and 121 are ongoing.

16. Any Other Business

Monthly Finance Update

Stuart McGregor highlighted: that the quarterly report has been revised, thanking Board Buddies, and will be presented at the November 2020 Agency Board meeting; the risk based work Kieron Gallagher has done which has really improved the situation for the next half of the year, confirming that portfolios can accommodate the savings. He advised that Scottish Government have advised that they will pick up the accrual in respect of annual leave and highlighted the principle of only filling business essential vacancies, internally if possible. He confirmed that we are planning to use the full complement of capital available as the home working equipment can be charges under capital. He concluded by advising that the invoice payments are coming through quicker than expected.

The Board complimented Stuart McGregor and the Finance team.

In response to a question around the savings from transport costs, Stuart McGregor advised that there have been saving on mileage but that other costs have continued including around pool cars, MOTs and tax in respect of upkeep of the fleet.

The Board agreed that reporting can go back to quarterly from monthly.

Collective Grievances

Fiona Martin advised that two collective grievances had been received from the Trade Union, with employees seeking anonymity. One is in relation to the Graduate Recruitment Scheme and the other equity of employment, seeking revisals to the performance and development review system.

The Board asked to be kept apprised.

The Board noted the updates

17. Date and time of next meeting

The Board **noted** that the next meeting would take place on 15 December 2020 at 1.00pm.

Board members only private session

The Chief Executive highlighted the work Kieron Gallagher has done, leading from a business planning perspective, around finances. It has been effective not only in generating savings but also in relation to next year's budget and planning.

The Board asked that feedback be provided to Ian Buchanan and others involved in the Mossmorran update item highlighting the support they have from the Board.

The Board discussed the collective grievances in more detail.

The Board complimented the Chair on the day's meeting.