

AGENCY BOARD MEETING

The one hundred and sixty-fifth meeting of the Agency Board took place at 1.00pm on Tuesday 18 February 2020 in the Board Room, Angus Smith Building, Eurocentral, Lanarkshire ML1 4WQ

Present:

Terry A'Hearn	Craig Hume
Bob Downes (Chair)	Julie Hutchison
Fran van Dijk	Harpreet Kohli
Michelle Francis	Nick Martin
Nicola Gordon (excluding item 17)	Philip Matthews
Martin Hill	

In Attendance:

Ian Buchanan	Chief Officer Compliance and Beyond
Rosaleen Burke	Deputy Head of Finance (Item 18)
Helena Couperwhite	Corporate Officer
Ruth Ellis	Manager, Hydrology (Item 11)
Kieron Gallagher	Head of Governance
Jo Green	Chief Officer, Performance and Innovation
John Kenny	Chief Officer, Circular Economy
Stuart McGregor	Chief Officer, Finance
Mark McLaughlin	Principal Hydrologist (Item 11)
Jennifer McWhirter	Clerk to the Board
David Pirie	Executive Director Evidence and Flooding
Anne Turner	Business Strategy Unit Manager
Dave Watson	System Analyst (Item 17)
Jo Zwitserlood	Head of Function (Materials) (Item 17)

Prior to commencement of the meeting SEPA Board members undertook a walk through of the fire evacuation procedure in ASB.

Safe SEPA@Board

Kieron Gallagher thanked the Board for undertaking the walk through of the fire evacuation procedure. He then gave an update to the Board. He confirmed that (1) Certificates of Destruction had been received from the majority of those members who had left the Board at the end of December 2019; (2) one-one sessions were being arranged for new members with Diligent Board and (3) once all members have access to the system, they should arrange to dispose of any hard copy materials. It was noted that Board agendas and minutes for 2019/20 would be loaded on Diligent Board, along with any papers requested by members; and where members have a need to retain hard copy documents, these should be retained safely and securely and a destruction certificate will require to be completed at the appropriate time ,no later than the end of the member's tenure.

He highlighted that the aim is for this item to be a two way discussion, that we are keen to be making continuous improvements and that any feedback would be welcomed.

The Board noted the update.

1 Chair's opening remarks

The Chair welcomed everyone to the meeting, including the newly appointed Board members and the newly appointed Corporate Officer. He welcomed Kieron Gallagher and Anne Turner to the meeting.

The Chair confirmed that no fire drills were planned.

He confirmed that no members of the public were in attendance.

2 Apologies for absence

Apologies were noted for Fiona Martin, Chief Officer, People & Property.

3 Order of Business

The order of business was confirmed as advertised on the agenda.

4 Declarations of Interest

No declarations of interest were made.

5 Approval of minutes of meeting of 26 November 2019

Subject to minor amendment (item 12.1 Report on Board Seminar 18 February 2020 – Fran van Dijk is also a Board Buddy), the minutes of the meeting held on 26 November 2019 were **approved** as an accurate record of that meeting.

6 Matters arising

The Clerk to the Board introduced the item and advised that:

Action 618 – An update was included in the Safe SEPA@ Board item provided at the start of the meeting. This action is now closed.

Action 619 – This is on the agenda for the March Board Strategy meeting. Subject to approval being given by the Board in March 2020 it is proposed that this action is closed.

Action 620 – This will be considered as one of the high priority learnings under “back to basics” within “Our Staff” in the Annual Operating Plan. David Pirie confirmed that the actions previously assigned to Pete Birrell would now sit with the Head of IS which is current vacant. The actions are being updated in the interim. This action is now closed.

Action 621 – An update was provided to Board members via email on 30 January 2020. The action is now closed.

Action 622 –The increase was due to the increase in the number of Fixed Monetary Penalty appeals. When put in the context of all permissions it is a low number. This action is closed.

Action 623 – An update on the lessons learnt from Toddbrook Reservoir was provided to Board members via email on 24 January 2020. The action is now closed.

Action 624 - At the November Board clarification was sought on an apparent discrepancy between a reported reduction in emissions from rail travel in the Q2 performance report and a projected overspend in rail travel in the separate finance report. The reason for this is that the finance report was based on a forecast with invoicing being paid monthly in arrears; this

results in a time lag of relevant information being recorded. Actual spend on rail travel for the period was down 13%. This action is now closed.

Action 625 – An update on the Annual Operating Plan (AOP) will be provided at today's meeting, item 19. This action is now closed.

Action 626 - A briefing relating to Life Smart Waste was circulated to Board members via email on 11 February 2020. This action is now closed.

Action 627 – The Equality Impact Assessment for the Procurement Operating Plan was uploaded to the Diligent Board Resource Centre on 4 December 2019. This action is now closed.

Action 628 – The Chief Executive has had initial discussions with Emma Waddell and some 2050 Climate Group trustees. A further discussion has been scheduled for late March 2020 and a report will be provided at the April 2020 Board meeting. This action is ongoing.

Action 629 – The WEF team will provide the Board with an update on governance arrangements at the May 2020 Board meeting. This action is ongoing.

The Board noted the updates.

7 Chair's Report – verbal update

The Chair provided a verbal update.

He highlighted that he had attended the Initial Board Induction events for new Board members, along with the Chief Executive and Clerk to the Board on 13 December 2019 and 15 January 2020.

The Chair advised that he had met with SEPA EU staff in Stirling on 27 January 2020 to discuss Settled Status and offer support. He confirmed that some members of staff have not applied for Settled Status and that there are some worries about going overseas for work. Overall the staff are pleased with what SEPA and Scottish Government are doing. The Chair highlighted a concern raised to him by a member of staff relating to the lack of diversity among the SEPA workforce. Although not a Board action he asked that this be picked up by the Board Succession Group and requested that it be explored further by the Agency Management Team (AMT).

Action: Clerk to the Board/Chief Executive

He confirmed that on 28 January 2020 he had attended the VIBES Reception, which was a success. The Cabinet Secretary and the majority of the companies involved were there. He highlighted that he had visited two of the VIBES winners: ACS Clothing Ltd, a kilt hire company who use an innovative ozone facility, at Eurocentral on 13 February 2020; and Intelligence Growth Solutions (IGS) an LED lighting manufacturer, based in Invergowrie, on 4 February 2020. He highlighted that they had their idea from another VIBES award winner and suggested that we use the exhibition space as a networking opportunity in the future.

The Chair advised that he had met with Atholl Duncan, Chair of the Scottish Salmon Producers Organisation on 4 December 2019 in Edinburgh. There are still challenges but a desire to make the relationship work. There will be regular meetings that he and the Chief Executive will attend with Atholl Duncan.

He highlighted that following his meeting with both David Johnstone, Chair of Scottish Land and Estates and Chair Designate Mark Tennant in Edinburgh on 7 January 2020 there were opportunities for collaboration with others in respect of River Basin Management Planning and Leven where SEPA is not the lead.

The Chair confirmed that he had attended the National Farmers Union of Scotland (NFUS) annual dinner in Glasgow on 6 February 2020. They were complimentary about the sector approach and spoke about Circular Economy and evolving Flood Management, which is very good.

He concluded by drawing the Boards attention to his meeting on 10 February 2020 with Professor Russell Griggs, South of Scotland Chair Designate. They are keen to involve SEPA and this is being followed up by Jo Green.

The Board noted the update.

8 Management Reports

8.1 Chief Executive's Report (SEPA 02/20)

The Chief Executive introduced his report and focused on the items within the introduction.

In response to number of questions relating to the Mossmorran flaring (section 1.1.1) and SEPA's findings and communication strategy, particularly our approach to the public, the Chief Executive outlined SEPA's current strategy and the approach taken around communications. He confirmed that we will reflect on the language used and take stock. In respect of findings, Ian Buchanan highlighted that there is an ongoing criminal investigation from April 2019 and that the Health and Safety Executive is prominent in the work from August 2019.

In response to a question about who decides what level of disruption is acceptable, Ian Buchanan confirmed that ultimately this is the court based on evidence.

In response to a question relating to an update on Clinical Waste (section 1.2) and how SEPA was addressing allegations, Ian Buchanan outlined the approach currently being taken and highlighted the considerations that have been taken into account as well as the work being undertaken in relation to the contingency sites.

In response to a question in respect of the Finfish aquaculture advisory panel (section 1.1.7), the Chief Executive confirmed that two meetings had been held to date. They had been very constructive and agreement had been reached on some matters following generic discussions.

In response to a question on Job Evaluation (section 3.1), it was noted that to date approximately 60 staff have asked for their posts to be evaluated. The Chief Executive confirmed that the Job Evaluation Manager had recently taken up appointment and was focussing on developing and implementing a new JE scheme but that in the interim the current scheme would continue for the re-evaluations.

In response to a question about SEPA's role in the Tomorrow's Capitalism Inquiry (section 3.3.2), the Chief Executive advised that he had previously worked with the Chair of the Volans, John Elkington. He advised they had invited SEPA as the only government agency to join the Inquiry, which would give credibility and a broader range of thinking around the work undertaken by SEPA, its partners and staff and would provide a forum to access feedback from world leaders.

The Chair commended the SEPA staff involved in developing the Living with Flooding, action plan (section 2.5).

The Board noted the report

8.2 Quarter 3 Financial Monitoring Report (SEPA 04/20)

Stuart McGregor introduced the report and confirmed that the budget outcome was still as expected and previously reported. He confirmed that Management Accountants were working with Portfolio heads to reduce gaps in expenditure and to operate within agreed capital and revenue resources. Stuart McGregor provided an update on the reasons for the shortfall in income, including around the surrendering of licences and highlighted that work is being done to improve income forecasting.

He highlighted turnover (section 3.5), the trading account (section 4.1) and the changes to capital in quarter three, advised that the reporting of International Services would be revised to ensure clearer reporting of this area and confirmed that there was no contingency around risks but that there was nothing material on the horizon over the next few months.

In response to a question about the discipline around the accumulation of low level spending across supplies and services Stuart McGregor advised that the Procurement team were developing a proactive approach to address these issues including a checklist for approval.

In response to a question relating to the Water Environment Fund (section 2.8) around the budget showing a decrease when Scottish Government were keen to increase in this area, John Kenny advised that there is a commitment that needs to be balanced with expectations and that due to the number of projects next year what is available will not be spent.

The Board **noted** that this area needed more visibility at Board level (link to Action 629)

The Board noted the report

8.3 Quarter 3 Performance Report (SEPA 03/20)

Jo Green introduced the report and highlighted that the recommendations were for Board not AMT. She advised that we have high confidence we will achieve 12 of the remaining measures and low confidence we will achieve one of them – permits. Permits is an area of scrutiny at AMT. She confirmed that transport emissions had fallen by 19.5% compared levels for the same quarter last year.

In response to a question on the measure for clearer permits not being achieved this year, Ian Buchanan advised that the approach to simplifying permitting had changed and that improving templates and having a holistic approach was needed to ensure success. Fresh leadership means a fundamental look can be taken to ensure staff are confident to do the work they need to do.

The Board asked that a timeline on the processes for the implementation be provided, noting that if there are issues the Board can help take a view.

Action: Ian Buchanan

In response to a question about using outcomes as measures rather than outputs with emphasis on environmental impacts, the Chief Executive confirmed that our net zero work would be discussed in detail at future meetings and that we are trying to include more outcome measures in the Annual Operating Plan (item 19).

The Board noted the report.

8.4 Safe SEPA Digest (01/20)

Jo Green introduced the report and advised that it had been submitted to the Audit Committee in December 2019. She highlighted that the update on the Health & Safety training review,

which had a 100% return rate from managers, had been circulated to the Board and put on Diligent Boards, Resource Centre. She confirmed that the AMT would be attending the annual resilience exercise on 20 February 2020, the focus being Pandemic Flu.

In response to a question on what if any steps are in place to protect the personal safety, security and stress of staff, especially in front line roles, particularly due to the topic of the morning seminar session, Ian Buchanan advised that the recruitment process is focused around ensuring the best expertise for certain roles and that a significant resource is employed in developing and supporting employees. Nobody does anything without a prior risk assessment.

Jo Green advised that the presentation of Health and Safety training within the digest is being reviewed.

In response to a question about the scale of the impact of security breaches, Kieron Gallagher confirmed that all breaches are investigated, recognising that some are more serious than others. We have not reported anything to the Information Commissioners Office (ICO) post GDPR but have a process in place and where appropriate would report.

In response to a question about the protest activity, it was confirmed that this was unsubstantiated and did not materialise.

The Board asked that the table at section 2.4 of the report be considered in respect of differing timescales and reformatted and that sickness absence statistics be provided in future reports. It was noted that trends and changes would be good indicators.

Action: Jo Green

The Board noted the report.

9 Annual Review of Official Documents and Procedures approved by the Board (SEPA 05/20)

The Clerk to the Board introduced the report, highlighting the updates around Code of Conduct, the Terms of Reference for the Audit Committee, (on the agenda at item 10) and the Board members role and procedure in concerns raised by whistleblowers, (on the agenda at item 20).

In response to a question on the Framework Document, the Clerk to the Board confirmed that it was acknowledged that a review of this Framework was overdue and that this has been raised with the Scottish Government, Sponsor team. The Board highlighted their discomfort and requested that this be progressed as a matter of urgency (link to Action 571).

Action: Clerk to the Board

The Board noted the report.

10 Audit Committee Membership (SEPA 07/20)

Nick Martin introduced the report as Chair of Audit Committee.

He drew the Boards attention to the change in membership of the Committee and the background around this, highlighting that going forward he wants the focus to be on process. The Terms of Reference will be looked at on a wider basis by the Audit Committee and come back to the Board later in the year.

Nick Martin advised that the new members are proposed as being Michelle Francis and Harpreet Kohli and confirmed that there will be an opportunity for others to be involved in a few years.

The Board approved the Membership of the Audit Committee and the Terms of Reference.

11 Flooding Strategy (SEPA 06/20)

David Pirie introduced the report and welcomed Mark McLaughlin and Ruth Ellis to the meeting. He highlighted that the Flooding Strategy had been to the Board previously and has since been consulted on widely including with Scottish Water, Scottish Natural Heritage, Scottish Canals and Insurance bodies.

The Chair asked that David Pirie pass on the Board's thanks to his Hydrology team for their professionalism and dedication in dealing with hydrology and flooding work during the severe weather that Scotland has been experiencing.

The Board provided feedback on the Flooding Strategy and suggested that (1) clarity be provided around the connection with stakeholder groups, their role and the aim of SEPA's relationships with them, perhaps using diagrams; (2) where possible refer to outcomes and include the resources requirements; (3) the formatting be revisited, particularly around the coloured boxes; (4) measures be included, where appropriate, particularly around outputs rather than activities that can be measured numerically; (5) where appropriate, the language within the Flooding Strategy, be refined; and (6) that we highlight where we have the ability to influence and are clear where responsibilities for actions fits between us and partner agencies.

In response to a question about SEPA's input into new developments it was noted that we can ensure evidence is provided but cannot ensure that the evidence is used in decisions. We can through partnership working try and ensure that climate change is considered in policy and plans.

In response to a question about the audience of the Flooding Strategy, Ruth Ellis advised that it is primarily for staff internally, to refocus.

David Pirie advised that the Scottish Government are comfortable with the progress made by SEPA to date.

The Board noted that this was a good piece of work and suggested the international comparisons be drawn in.

The Board approved the paper.

12 Board Work Programme

12.1 Report on Board Seminar 18 February 2020

The Clerk to the Board reported that the seminar session in the morning had consisted of a Laboratory Tour focusing on Tackling Waste Crime which had included sessions on: an introduction to Waste Crime, remote sensing and collecting evidence, the formal sample process, ecological indicators, new horizons, reporting evidence and closing a case.

The Board asked that an update on the Sentencing Guidelines presented to the Board a few years ago come back to the Board.

Action: Ian Buchanan

The Chair extended the Board's thanks to everyone involved.

12.2 Board Member Engagement Activity

The Chair suggested that Board members co-ordinate with Martin Grey, Head of Communications around guidance on social media. Harpreet Kohli advised that he had arranged to meet with public health colleagues to discuss Sustainability.

12.3 Board Buddy Register

The Clerk to the Board gave an update on the Board Buddy Register.

The Clerk to the Board outlined the role of a Board Buddy. She confirmed that interest had been received from Julie Hutchison in advance of the meeting in respect of International Services, Flood Risk Management, Packaging Manufacturing, Reuse and Reprocessing and the Procurement Strategy. She highlighted the areas where Board Buddies are required and asked for interest to be sent to her.

The Board agreed that AMT need to decide if Board Buddies are required for the next set of sector plans, including where and what involvement is needed.

Action: Agency Management Team

The Board noted the update

13 Board Committee Reports

13.1 Audit Committee – draft minute of meeting held on 10 December 2019

Nick Martin introduced the item and advise that four internal audit reports had been presented: travel hierarchy, where the need to maximise the use of videoconferencing equipment was highlighted; purchase to pay, as mentioned at item 8.2 there was a concern around the disaggregation of larger spend to avoid approval thresholds.; emergency management, where the process is effective and; Health and Safety the suggested improvements around training were discussed at item 8.4. The Health and Safety update received is more a holding document, the Audit Committee are due to receive a revised implementation plan in March 2020.

He drew the Boards attention to Aquaculture applications reporting, explained the background including the reporting to Scottish Government in response to the letter from the Cabinet Secretary and highlighted that he is discussing the improvements to the reporting with Peter Pollard.

The Board noted the update

14 Action Note

The Clerk to the Board provided an update on the action note and advised that:-

Action 504: A written report will be provided to the Board in April 2020. This action is ongoing.

Action 571: She will continue to liaise with the Scottish Government on the pressing need for the review of the Framework document and provide an update at the next meeting. This action is ongoing.

Action 572: A wider review of governance documents is still underway. This action is ongoing.

Action 584: A briefing on progress will be provided to the Board in June 2020.

Action 587: The output of the joint workshop went to the Agency Management Team on 3 December 2019 and will come back to the Board this year, 2020. This action is ongoing.

Action 599: An update was provided at the Strategy Board meeting on 10 December 2019. This action is now closed.

Action 602: A review will be undertaken once the information in respect of the most recent

recruitment is received from Scottish Government. This action is ongoing.

Action 611: The title of the paper/report the action relates to has been added to the action note to make it easier to track actions. This action is closed.

Action 612: Subject to approval of the budget paper at the March 2020 Strategy Board meeting it is proposed that this action is closed.

The Board noted the updates

15 Any Other Business

The Board noted that only one paper on the agenda appeared to address equalities. Having equalities on the covering paper is an opportunity to think about equalities up front which may also link into the partnership model. The Board asked that there needs to be more reflection when papers are being drafted.

16 Date and time of next meeting

The next meeting will be held on 28 April 2020 at 1.00pm in Angus Smith Building, Eurocentral.

The following items were considered by the Board members and officers in private session

Nicola Gordon left the meeting at this item of business.

17 Deposit Return Scheme (SEPA 41/19)

The Board approved the report.

18 Draft Annual Budget 2020/21 (SEPA 09/20)

Nicola Gordon re-joined the meeting during this item of business.

The Board approved the report.

19 Draft Annual Operating Plan 2020-2021 (SEPA 10/20)

The Board noted the report.

20 Whistleblowing Procedure (SEPA 11/20)

The Board approved appendix 1 – internal whistleblowing policy, agreed one of the two additional Board members required to act as nominated whistleblowing contact and noted appendix 2 and 3 and the appointment of the external provider.