

**AGENCY BOARD MEETING**

The one hundred and sixty-sixth meeting of the Agency Board took place at 1.00pm on Tuesday 28 April 2020 via Facetime.

**Present:**

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

**In Attendance:**

Ian Buchanan	Chief Officer Compliance and Beyond
Helena Couperwhite	Corporate Officer
Kieron Gallagher	Head of Governance
Jo Green	Chief Officer, Performance and Innovation
Martin Grey	Head of Communications & Marketing
John Kenny	Chief Officer, Circular Economy
Fiona Martin	Chief Officer, People & Property
Stuart McGregor	Chief Officer, Finance
Jennifer McWhirter	Clerk to the Board
David Pirie	Executive Director Evidence and Flooding
Anne Turner	Business Strategy Unit Manager

**Safe SEPA@Board**

The Clerk to the Board gave an update, highlighting that there had been an increase in cyber-attacks and phishing emails since COVID-19 and asked Board members to be vigilant.

**The Board noted the update**

**1 Chair's opening remarks**

The Chair welcomed everyone to the meeting and welcomed Michelle Francis to her first meeting in her new role as Deputy Chair.

The Chair advised that he would welcome members' views on adjustments to and the conduct of Board meetings in the virtual world.

He asked that more time for discussion be allocated to the Chief Executive's report as it is the Board's insight to what the whole organisation is doing. The Chief Executive's report should be re-shaped to allow members of the Agency Management Team (AMT) to provide updates and talk about what they are doing. The Chair highlighted that the morning's seminar session has been a longer example of this, a deep dive. He also advised that following feedback from Board member's, all future Board meetings would include a 15-minute session at the beginning of the meeting to accommodate informal discussion by members with focus on a particular topic. This will start in May 2020.

The Chair gave an update in respect of action 630, advising that Fran van Dijk and Fiona Martin should be involved in an active small group next year, in advance of the next round of graduate recruitment. Fran van Dijk confirmed that there was useful learning that could be taken from the On Board event SEPA did with Changing the Chemistry in June 2019.

He confirmed that no members of the public were in attendance. The Chair advised that attendance during this period would be discussed in more detail later in the agenda.

## 2 Apologies for absence

No apologies for absence were received.

## 3 Order of Business

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

### **Homologation:**

The Board homologated (1) approval of the position statements from the Special Board meeting on 1 April 2020 and (2) approval in principle of the Annual Budget paper from the Strategy Board meeting on 24 March 2020.

### **Members of the public:**

The Clerk to the Board advised that due to the real and substantial risk to public health due to infection or contamination with coronavirus and the guidance from Scottish Government around office closures, all SEPA Board and Committee meetings be held virtually for the foreseeable future.

She outlined that Paragraph 84 of the Standing Orders permits suspension of Standing Orders at a meeting. It requires a proposer and seconder and a vote of at least 7 members of the Agency Board in favour of suspension. The Chief Executive may neither propose nor second such a motion but may vote.

She proposed that paragraph's 8, 31 and 32 of the Standing Orders be suspended until meetings are held in SEPA offices again and that if approved, a message will be placed on the Board section of the SEPA website. She further advised that Agency and Strategy Board agenda's and approved Minutes will continue to be published as will public papers and that she would make her details available, should any member of the public wish to contact her.

In response to a question seeking clarification on why this was being proposed, the Clerk to the Board advised that there were a range of issues and concerns that had been considered and highlighted that requests would be determined on a case by case basis. Alternative arrangements and options would be considered as necessary.

The suspension was proposed by the Chair, seconded by the Deputy Chair and **approved** by the Board. The Board **agreed** that the decision would be subject to review at every other Board meeting, so at least every two months.

**Action: Clerk to the Board**

## 4 Declarations of Interest

No declarations of interest were made.

## 5 Approval of minutes of meeting of 18 February 2020 and special meeting on 1 April 2020

The minutes of the meeting held on 18 February 2020 and the special meeting on 1 April 2020 were **approved** as accurate records of those meetings.

## 6 Matters arising

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

Action 630: It was **agreed** that a group comprising of Fiona Martin and Fran van Dijk would meet to explore ways of achieving greater diversity in advance of the next graduate recruitment. This action is ongoing.

Action 631: The focus on establishing a home-based permitting function has delayed the development of a timeline and plan. This will now be ready for July 2020. This action is ongoing.

Action 632: The table at section 2.4 has been reformatted in the latest report. Board feedback on the changes are welcome. A full review of the content and format of the digest will take place once normal working resumes. This will include considering how to build in sickness absence data and better trend information. This action is ongoing.

Action 633: The proposal to incorporate Action 571 into this new action was **noted** and the Clerk to the Board advised that she had raised this issue again with Scottish Government colleagues. This action is ongoing.

Action 634: It was noted that an update had been circulated to board members by email on 24 April 2020. This action is now closed.

Action 635: An update will be discussed at today's meeting, item 11.3. This action is ongoing.

**The Board noted the updates.**

## 7 Chair's Report – verbal update

The Chair provided a verbal update.

He advised the Board that on 17 March 2020, he had participated in a Brexit Board Buddy conference call. Brexit arrangements are planned to progress in terms of agreed timescales and will be reviewed as they evolve. He confirmed that he had also had a Scottish Government EU Exit teleconference on 19 March 2020 with Bridget Campbell, and Charles Stewart Roper, Scottish Government and Bridget Marshall.

He highlighted that he had participated in a number of external telephone meetings over the period and invited Board members to join him to talk to customers and client groups on a regular basis. This allows day to day discussions and helps us get a feel for any environmental issues to ensure that we understand the context in which we regulate.

The Chair advised that that he had, along with the Chief Executive, attended a teleconference with Dame Susan Rice and Douglas Millican of Scottish Water on 17 April 2020. They are concerned about impacts.

He had a telephone conference later that day with Morag Garden and Graham Hutcheon, Scotch Whisky Association, where they discussed a range of issues including the challenges associated with the move towards a change of production - making hand sanitisers and the permitting arrangements around this. They have pressures around how to import to other countries, where there has been a bounce back in luxury goods including whisky following the lifting of lockdown arrangements.

He advised that he had joined a teleconference with Atholl Duncan and Julie Hesketh-Laird, Scottish Salmon Producers Organisation (SSPO) Chair and CEO on 15 April 2020. The area of food production is under a lot of pressure. He highlighted that it is good to maintain relationships on a regular basis.

The Chair confirmed that on 8 April 2020, he had a teleconference with President Andrew

Walker (Chair) and Scott Walker (CEO) of the National Farmers Union of Scotland (NFUS). Both highlighted concerns in relation to the impact of COVID-19 on their whole supply chain, including value added products such as ice-cream. There are also issues around the picking of soft fruit.

The Chief Executive confirmed that engagement at an operational level is going well and that there are no surprises arising from meetings. The Chair advised that everyone has been complimentary about the speed, flexibility and understanding of SEPA staff.

In response to a question about whether we are looking at opportunities beyond the here and now, the Chief Executive confirmed that we are in discussion with farmers about different approaches to inspections and are having discussions with sectors to see if they can re-start plants with lower environmental impacts.

**The Board noted the update.**

## **8 Management Reports**

### **8.1 Chief Executive's Report (SEPA 13/20)**

The Chief Executive introduced his report. He provided an overview of how SEPA is dealing with the public health emergency, which is the sole focus of the report, and how this links into the next item on the agenda relating to the revised Annual Operating Plan (AOP). He highlighted the focus on helping SEPA get through the crisis but also in leading change across the organisation.

In response to a question about the scope for re-opening SEPA offices, the Chief Executive advised that AMT would have some flexibility in its approach but would work closely within Scottish Government guidelines. He confirmed that the project already planned around looking at the SEPA estate had been enhanced.

In response to a question about the emotional support in place for employees, the Chief Executive confirmed that mechanisms were in place to support employees and that it was recognised that personal circumstances will continue to impact individuals even after lockdown. He also highlighted the leadership development programme planned for this year and its importance for managers who need to be agile. He welcomed any support that could be provided from Board members. It was **noted** that there may be learning from the Health and Social care sector.

The Board discussed language and the difference between recovery and renewal, the latter being more optimistic. The Chief Executive advised that the spirit of what we are doing will play to renewal.

Following a question about the engagement levels of staff, the Chief Executive advised that during the initial three-week period, where staff were setting themselves up at home, those normally working in Labs for example had found ways to be productive including doing training and reviewing procedures etc. He confirmed that the revised AOP would ensure that all employees are involved in a full work programme. Fiona Martin advised that just under a hundred people cannot currently work from home. This is due to a range of reasons including lack of access to systems and caring responsibilities. There are also other staff who cannot work their full hours as are sharing childcare responsibilities with partners etc.

In response to a question about whether any Lab work can be done, the Chief Executive confirmed that the Labs are closed. David Pirie advised that there are two small groups of staff ensuring that essential maintenance continues in respect of high value kit and equipment in the Labs for example changing gas cylinders. This is done at set times, safely. He highlighted that scientists are still busy doing desktop work, contributing to reports and digitalising climate change records for example. One hundred and fifty laptops were purchased to satisfy the demand from staff who could not work from home due to lack of equipment.

In response to a question about whether there had been any indication of non-payment in respect of charging income, Stuart McGregor advised that he was meeting Scottish Government colleagues on Thursday with Jo Green to discuss a range of things including charging. He highlighted that AMT had considered three options: full invoicing; invoicing certain industries; and focusing on more resilient mainly public bodies then using a staged process. All options would include a strong message, highlighting that we will listen and consider payment plans and adjust our approach to debt recovery. Stuart McGregor advised that cash flow and the front loading of Grant in Aid would also be discussed with Scottish Government on Thursday.

Following a question on the work of the cells, the Chief Executive advised that this work will continue for the next few weeks. There is still some pressure on certain cells but not at the same level as there was, it is more evenly spread. Jo Green advised that things have calmed down since March 2020 but that small corporate functions such as Governance, Health & Safety, Facilities & Estates for example are still impacted due to the support they continue to provide while not having full availability within their own teams.

The Chair highlighted that other organisations have been complimentary about SEPA. The Scottish Government has been positive in the way it speaks about SEPA including that fact we had an Emergency Plan in place and the confidence we have in what we are doing and in what we have done around preparation, planning and procedures. Jo Green confirmed that being a category 1 responder, with Safe SEPA already set up meant we had more capability than others to respond.

#### **The Board noted the report**

### **9 Revised AOP (SEPA 14/20)**

The Chief Executive introduced the report and advised that due to the COVID-19 emergency; there had been a need to redesign the organisational priorities through a revised AOP. It has retained some of the work, deferred some to next year and added new work. He highlighted the most significant change as being splitting the year into two halves: the emergency period and the recovery period. Time will be taken in May/June 2020 to work out the plans for the rest of the year.

The Chief Executive highlighted that the Board had commented previously about the length of the AOP, which he had explained was because it was intended to be the one place for staff to get full information but that the revised AOP was a lot shorter and sharper.

The Chair thanked the Chief Executive for the revised AOP, highlighting that it is not only different to previous SEPA AOP's but a different operating model from all other Environment Protection Agencies.

The Board discussed that the revised AOP would benefit in the longer term with the development of measures and commented that describing outcomes might be suitable measures. The Chief Executive advised that measures had been retained where possible for example in respect of relationship management and that defined measures would come back to the Board in July 2020.

Following a question in respect of the carbon impact of home working, the Chief Executive confirmed that the Advisory Group on Economic Recovery is due to report its initial proposals to the Scottish Government by the end of June 2020.

In response to a question about the impact of COVID-19 on place based partnerships, and whether there were any early indicators of delays, the Chief Executive advised that it is too early to tell but that Scottish Government continue to focus on places as part of the recovery and renewal stage. Jo Green confirmed that she had spoken to the external parties to check their positions and highlighted the link into the Advisory Group on Economic Recovery. Everyone is keen to progress but there are constraints and challenges due to the current

situation.

Following a question on progress with the Job Evaluation scheme, the Chief Executive advised that work was progressing with the new Job Evaluation manager and that discussions were ongoing with Union colleagues.

The Board commented on the great examples used and discussed the structure of and language used in certain sections of the AOP.

In response to a question about whether we are learning from other Environment Protection Agencies in countries that are coming out of lockdown, the Chief Executive advised that the bi-annual meeting had been due to take place in Berlin last week but that he was connected with colleagues and also with the Volans Tomorrows Capitalism enquiry. There are future trends and discussions coming out of specific sectors.

Fran van Dijk drew the Board's attention to the Nick Robins report - Earth day 50 Sustainable Finance: the road ahead and the Andy Haldane article from the Financial Times - Reweaving the social fabric after the crisis.

The Board **agreed** that the roadmap in respect of net zero should come to the Board before a date is set (page 8) and discussed the importance of protecting the position of the environment through our role in the economic recovery.

The Chief Executive confirmed that the Board's comments in respect of the introduction and ordering of certain sections would be looked at but noted the comments about not changing the context when re-considering the flow.

The Board discussed the wider context in which the AOP sits, including the fact that the Corporate Plan has two years remaining and suggested that the reports we publish on our website be considered in terms of what we can produce over the next few months. Look at whether a connection can be made about whether the environment is better or worse on what we have delivered.

The Chief Executive highlighted the proposal to establish a formal Board Change Committee (section 4.1, page 3). The membership would be the current Transformational Change Board Buddies plus an additional Board member. The Board **agreed** that a Terms of Reference would be required.

**The Board commended the revised document and the short timescales for its production. The Board approved the revised 2020-21 AOP and its publication on the website. The Board approved the establishment of the Board Change Committee for 2020-21.**

## **10 Future Issues (Verbal)**

The Chief Executive introduced the report and thanked Kieron Gallagher and Anne Turner for their hard work. He asked for feedback on whether there are any gaps in terms of risk and opportunities.

The Board asked that time be set aside to discuss the bigger strategic question and forward view. The Chair requested that this take place at the next Board meeting or seminar session.

**Action: Chief Executive/Clerk to the Board**

The Board commented that the Just transition work was relevant to question 4, and in relation to question 7 and discussed whether there will be new regulatory obligations that need to be considered in respect of 3D printing, for example as homeworking becomes the norm. It was noted that the discussion to take place at the Audit Workshop on 7 May 2020 may feed into the future discussion.

**The Board noted the report.**

## 11 Board Work Programme

### 11.1 Report on Board Seminar 28 April 2020

The Clerk to the Board gave a verbal update on the seminar session in the morning which had consisted of a presentation on Regulating in a COVID-19 situation. She confirmed that it had highlighted the nine packages of work underway to meet the regulatory resilience outcomes, with detail provided in respect of each area of work. She advised that the intelligence briefing had included COVID-19 issues with specific examples of what is being done around disruption, deterrence and reassurance as well as discussion on the next steps.

The Board were asked to report anything in their local areas to [intelligence@sepa.org.uk](mailto:intelligence@sepa.org.uk) and suggested that the team look at next door digest.

The Board thanked Ian Buchanan, Jen Shearer and colleagues for the good work that has been done and the decisive action that has been taken quickly. The thanks will be cascaded to those involved.

### 11.2 Board Member Engagement Activity

Craig Hume advised that he had been on a telephone call where Mark Newlands of Scottish Enterprise was present and spoke very positively about the work being done with SEPA.

Michelle Francis and Julie Hutchison attended a Scotland Policy Conferences Keynote Seminar: Climate change policy in Scotland: implementing the Climate Change Act and assessing the route to 'net zero' online conference on 23 April 2020.

### 11.3 Board Buddy Register

The Chair advised that AMT would be asked at the next meeting how the Board Buddy process should operate in the future, fitting into the current virtual approach. A number of the projects do not have updates. What is still important, what do AMT want Board Buddies for and how do they plan to use the? It was **agreed** that time would be allocated for discussion at the May Agency Board meeting.

**Action: Clerk to the Board**

**The Board noted the updates**

## 12 Board Committee Reports

### 12.1 Audit Committee – draft minute of meeting held on 24 March 2020

The Chair of the Audit Committee provided an update, highlighting three areas: item 8, Annual Internal Audit Plan 2020/21 where he advised that the two Quarter 1 audits had been understandably postponed and that the revised programme for the rest of the year would come to the Audit Committee in June 2020 so that we are back to a plan for the final three quarters of the year. Item 10 Risk Management Annual Review 2019, highlighting that the Audit Committee had approved its submission to the Board however it was being re-evaluated in light of COVID-19. A revised register would be brought to the Board as soon as possible. Item 13, Safe SEPA Digest, advising that the Audit Committee were dissatisfied in respect of Health and Safety training and the lack of clarity about what is mandatory. It is not clear from the data whether people are at risk.

**The Board noted the update**

## 13 Action Note

The Clerk to the Board provided an update on the action note and drew attention to:

Action 504: The written report has been delayed due to the COVID 19 response and a report

will be provided in June 2020. This action is ongoing.

Action 571: The proposal to incorporate this action into action 633 was **agreed**.

Action 572: It was noted that the review is still underway. This action is ongoing.

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

Action 587: This action is ongoing.

Action 602: Information on the recent Board recruitment was received from Scottish Government Public Appointments Unit yesterday, but does not include the breakdown detail. This has been requested. A full review will then be undertaken. This action is ongoing.

She apologised that the updates on actions 612 and 619 were the wrong way round in the action note circulated to the Board in advance of the meeting.

Action 612: A balanced draft budget was approved in principal at the March 2020 Strategy Board meeting. This action is now closed.

Action 619: The budget including RPI charging increases was approved in principle at the March 2020 Strategy Board meeting. This action is now closed.

Action 628: This has been postponed until 29 September 2020. This action is ongoing.

Action 629: The Board were due to receive an update on WEF governance arrangements at the May 2020 Agency Board meeting – this has been postponed until later in the year. This action is ongoing.

#### **The Board noted the updates**

#### **14 Any Other Business**

No other business was raised.

#### **15 Date and time of next meeting**

The next meeting will be held on 26 May 2020 at 1.00pm virtually.

#### **The following item was considered by the Board members and officers in private session**

#### **16 Safe SEPA Digest (SEPA 12/20)**

The Board noted the report.

#### **The following item was considered by the Board members only**

#### **17 Board Updates**

The Board noted the updates.