

SCOTTISH ENVIRONMENT PROTECTION AGENCY

AGENCY BOARD MEETING

The one hundred and sixty-seventh meeting of the Agency Board took place at 1.00pm on Tuesday 26 May 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
Jo Green	Chief Officer, Performance and Innovation
Martin Grey	Head of Communications & Marketing
John Kenny	Chief Officer, Circular Economy
Bridget Marshall,	Regulatory Strategy and Government Relations Manager (item 11)
Fiona Martin	Chief Officer, People & Property
Stuart McGregor	Chief Officer, Finance
Jennifer McWhirter	Clerk to the Board
David Pirie	Executive Director Evidence and Flooding
Laura Stewart	Assistant HR Officer
Anne Turner	Business Strategy Unit Manager

Safe SEPA@Board

The Clerk to the Board gave an update, highlighting that we are exploring another communication platform to further strengthen collaboration in the longer term. We are currently working through a pilot while equality and privacy impact assessments are being undertaken, after which governance arrangements will be developed before wider use. The new platform will also mean that access is not restricted to a particular brand of device.

The Board noted the update

1 Board Discussion

The Chair highlighted that as agreed at the previous Agency Board meeting on 28 April 2020 today's meeting included the first informal Board discussion on a Board members topic of choice. He advised that Fran van Dijk was leading the discussion on 'A post COVID-19 sustainable world'.

Fran van Dijk gave specific examples from New Zealand, Denmark and Spain and highlighted the EU Green Deal. The Board discussed the potential overlap with the wellbeing economy and the opportunities around COP26.

The Chair thanked Fran van Dijk for her contribution and asked that Board members express their interest and topic of choice to the Clerk to the Board for the next informal discussion on 30 June 2020.

2 Chair's opening remarks

The Chair welcomed everyone to the meeting and welcomed Laura Stewart, Assistant HR Officer, who is attending to assist the Clerk to the Board.

The Chair advised that breaks were being scheduled into future agendas. A five-minute break has been allocated between items 10 and 11 today with the option of a further five/ten-minute break between the public and private sessions if required.

The Chair highlighted that consideration is being given as to how the Board will work together in the future. The new collaborative platform referred to earlier makes the best of the situation we are currently in as it has facilities for chat, questions and presentations. He confirmed that it is likely that there will be a hybrid situation in the future, the Board should not be virtual at all time. The Clerk to the Board is looking at the space and technology we have to ensure that all necessary requirements are factored into considerations including travel. The Chair asked the Board to share any thoughts with him and the Clerk to the Board.

He confirmed that no members of the public were in attendance and that we had not received any approaches in advance of the meeting.

3 Apologies for absence

No apologies for absence were received.

4 Order of Business

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

The Clerk to the Board advised that the Annual Review of Risk Management to 31 December 2019 had been due to come to the Board in April 2020. The Corporate Risk Register has been re-evaluated due to COVID-19 and is going to the Audit Committee on 30 June 2020 and the Agency Board on 28 July 2020. She proposed that the Annual Review of Risk Management to 31 December 2019 is added to the Resource Centre in Diligent Board so that Board members have it for information and awareness.

The Board **agreed** to the proposal.

Julie Hutchison raised the Scottish Government Bathing Water consultation for discussion under AOB.

5 Declarations of Interest

No declarations of interest were made.

6 Approval of minutes of meeting on 28 April 2020

The minutes of the meeting held on 28 April 2020 were **approved** as an accurate record of the meeting with minor amendment. The Board **agreed** that the last sentence in paragraph 2 of item 9 be deleted.

7 Matters arising

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

Action 636: Text has been added to the Board section of the website. This action is ongoing.

Action 637: This was the seminar session this morning, 26 May 2020. This action is now closed.

Action 638: Extra time has been allocated to the Board Buddy Register at item 13.3 on the agenda today, 26 May 2020 as requested at the Agency Board meeting on 28 April 2020. This action is proposed closed.

The Board noted the updates.

8 Chair's Report – verbal update

The Chair provided a verbal update

He advised the Board that he had joined the Agency Management Team (AMT) Corporate meeting via Intercall on 5 May 2020. He highlighted the importance of not losing sight of our role and our mission and about being innovative in our approach.

He highlighted the continuing quarterly 1:1 calls he is having with AMT members and advised that he has started Board appraisal meetings via Facetime. He will draw what has been raised together once these are complete and report back to the Board.

The Chair advised that he, along with the Chief Executive, had met with Scottish Land & Estates, Mark Tennant, (Chair) and, Sarah Jane Laing (CEO) via Intercall on 13 May 2020. He confirmed that this was the first time he had met with them and highlighted the multi faceted nature of the organisation.

He highlighted that along with the Chief Executive he had met with Graham Hutcheon (Chair) and Tracy Black (CEO) of CBI via Intercall on 20 May 2020. They discussed their worries about the impact on business as we come out of lockdown and their surprise that other organisations had not reached out to them in the same way as SEPA had and as they expected them to. The Chair highlighted the importance of staying in touch to help ensure that there is no detriment to environmental standards.

On 20 May 2020 he and the Chief Executive had a follow up meeting with Scottish Salmon Producers Organisation Chair, Atholl Duncan, and CEO, Julie Hesketh Laird via TEAMS. A good relationship is developing.

The Chair advised that yesterday, 25 May 2020, along with the Chief Executive he had met the Scottish Enterprise Chair and Chief Executive. There was a discussion about One Planet Prosperity and Circular Economy and how the organisations can work together. Scottish Enterprise encouraged a response be made to the Higgins Group (Economic Renewal) and spoke about specific projects there is value in.

The Chair concluded by highlighting that he has a quarterly meeting with the Cabinet Secretary, Roseanna Cunningham, via Intercall later this week.

9 Management Reports

9.1 Chief Executive's Report (SEPA 16/20)

The Chief Executive introduced his report.

In response to a question about the outsourcing of invoicing (section 2.1) including considerations around Health and Safety, Stuart McGregor advised that various attempts had been made to get email contacts for all those we invoice but that there were still invoices that required to be sent out in hard copy. He confirmed that AMT considered various factors including the issues for us around return mail when offices are closed. An assessment was undertaken around both National Security and Data Protection considerations and a framework agreement concluded as being the safest, most secure way to proceed. The assessment also found that there is a value for money benefit in using a third-party contractor. He highlighted that a backup plan had been scoped around using ASB but that this should not

be required. The Chief Executive confirmed that we were satisfied that the third-party contractor was well set up to undertake this role in the current circumstances. It also ensures a better level of customer service as hard copy correspondence will be responded to. The Board commented that this appeared to have been well thought through but that it should be monitored on an ongoing basis.

In response to a related question about the impact on the internal Finance Team, Stuart McGregor advised that there are staff in both the vulnerable category and who have childcare responsibilities. There would have been challenges in getting staff to ASB to do this work. This is a small proportion of the Finance teams work, we only invoice once a year, therefore it does not impact on reducing their overall roles.

In response to a question about the percentage split between electronic invoicing and hard copy, Stuart McGregor advised that he will come back to the Board with this information.

Action: Stuart McGregor

In response to a question about whether live chat had been a customer service style facility considered, David Pirie that it was not something that had been considered but that further discussion would be welcome. He also confirmed that the offer of sharing industry best practice would be very well received. Martin Grey highlighted that transforming customer experience is part of the Communications Strategy and that a review of the SEPA Contact Centre was currently underway with an update coming to AMT in the next few months.

In response to a question around environmental performance (section 2.6.2), Ian Buchanan confirmed that this is not unusual, it happens in normal circumstances. There are two/three sites where things have intensified due to more individuals currently being at home during the day not just at evenings and weekends. He advised that there is a workstream looking at community impact and that staff are going into the field on a prioritised basis, when it is safe to do so. There are a reduced number of sites that are causing problems. In response to a related question, he advised that the risk of adverse publicity has been managed by having more consistent management around these sites at a senior level which has provided greater oversight. The Chief Executive confirmed that this is an example of phase 2 working paying dividends.

In response to a question about the early and late log on times and whether staff are ok (section 2.5.3), the Chief Executive advised that we have been clear to staff that they are supported, if they can work their full hours they do. Some key staff are working too many hours and are under pressure but they are being supported and helped and further work is being undertaken around this.

The Board discussed the opportunities around the sector plan and enhancing relationships in respect of section 2.2.3, **noted** the holistic and reassuring structure of the revised report, and asked that consideration be given to using data points, metrics and timelines, like those in section 2.5.3, where possible.

Action: Agency Management Team

The Board noted the report

9.2 **Quarter 4 Financial Monitoring report (SEPA 15/20)**

Stuart McGregor introduced his report and advised that he would pick up the questions raised in advance of the meeting as he went through the paper. He apologised for the wrong table being inserted at table three (Income analysis, page 11) in the original report and confirmed that the use of acronyms would be addressed in financial reporting going forward. He highlighted that the report was drafted in advance of the annual accounts so figures were subject to change.

Stuart McGregor drew the Boards attention to the key points including: the management of operating expenditure within income to produce a surplus of £2,133k against a target of

£2,000k; the invested £1,965k in non-current assets, against a target of £2,000k, the capital expenditure of £1,965k against a target of £2,000k; the cash balance of £589k against a target of £500k; the underspend of £168k against the Departmental Expenditure Limits (DEL) resource budget targets set by Scottish Government and the budgeted cost recovery rate across all charging schemes of 98% against a target of 97%.

He advised that the net underspend of £133k was due to a less than budgeted expenditure combined with a higher than budgeted income of £56k, drew attention to the efficiency saving (paragraph 1.3) and the estimated COVID-19 expenditure (paragraph 1.4). Stuart McGregor confirmed that there have been further adjustments since the report was drafted in respect of bad debt and in assessing further COVID-19 impacts.

He concluded by drawing the Boards attention to table 8 (International Services contribution, page 16) advising that to increase transparency a value on the time being spend on other areas of SEPA work had been estimated at approximately £41k. He confirmed that there were no material adjustments anticipated in respect of the main financial risk (paragraph 9.2). The feedback in respect of the audit being carried out remotely, has so far been good, with no material issues being flagged to date.

In response to a question about the overspend in respect of supplies and services (section 3.5) and the process around purchase orders and approvals, Stuart McGregor advised that there is a facility in Agresso that can be used when a budget is reached but that we have not used this, instead relying on management accountants speaking to Heads of Function to get early notifications at portfolio level. In response to a related question about the underspend in training (other staff costs) and whether there was any unmet need, Stuart McGregor advised that he was not aware of any impact on essential training.

In response to a question about whether we might not have made any of the efficiency saving had we known about COVID-19, Stuart McGregor advised that there was nothing he could think of that would have made a difference and highlighted that we had to make the savings at the time due to Grant in Aid implications.

In response to a question about the risk in respect of LIFE SMART Waste, Stuart McGregor advised that there had been a review the week before and that the EU was relaxed about how they take receipt of the data and evidence we have to submit. The delivery against the project is still being reviewed but he is not aware of anything that will impact on income.

The Board discussed that non-recurring efficiencies, the mothballed sites, the reflective nature of the current plan in terms of anticipated income not being available when we are a sixth of the way through the year and the use of turnover. Stuart McGregor advised that non-recurring includes turnover and that we are doing month by month portfolio monitoring looking at the totality of finances from portfolio level up to the whole of SEPA to look to see how we can draw back any potential overspend. He advised that we are looking to move away from turnover going forward, we have been controlling it for over twenty years however he acknowledged that the way it is presented is confusing. The Board discussed the language used and suggested offset and reallocation might be better. In response to a point of clarity about whether we mean deliberate budget spend rather than overspend and whether it could be described differently to better reflect this, Stuart McGregor confirmed that the majority is choice not mistakes and that the narrative will be discussed by AMT.

Action: Stuart McGregor

The Board thanked Stuart McGregor and the Finance Team.

The Board noted the report

10 Thoughts on coming out of Lockdown (SEPA 19/20)

The Chief Executive introduced the report and highlighted that it had been written prior to the recent Scottish Government decisions. He advised that he has been speaking to the Scottish Government Sponsor team and that Government offices will remain closed for the next few months. Work is being undertaken around increased flexibility for lining up Lab work with field work with priority around high community impact sites as Government lockdown relaxations come into effect.

The Chief Executive confirmed that further work needs to be done but drew the Boards attention to the five principles in recovery planning (paragraph 3.1) highlighting that some were principles, others more practical decisions. The Board commented that these are internally focussed and that external impact is missing. The Board also questioned that because the activities we carry out are to protect the environment, if we are not doing something and it is not causing a detrimental impact or causing no impact why we are doing that activity. The Board also commented that equalities, safety and inclusion are missing from the principles and should be included. In response to a question about the impact on society and potential widening of inequality and how we might impact on policy, the Chief Executive referred to the earlier conversation around invoicing (item 9.1) and the flow through to this discussion around using a third-party contractor to respond quicker and the associated equality issues. He highlighted the work to prioritise sites based on noise and odour issues confirming that more people on lower incomes live near these sites.

In response to a question around how external feedback is being fed in, when the Chief Executive and Chair are doing a lot of engagement as are Sector Sponsors, Jo Green advised that this is being picked up in the Regulatory Resilience work being undertaken.

The Board noted the report

The Board took a five-minute break.

11 Economic Renewal (Verbal)

Jo Green introduced the item with Bridget Marshall in attendance. She advised that she had been listening to the comments on Economic Renewal that arose at the morning's seminar session and in respect of item 1 on the agenda.

Jo Green referred to an article by Douglas Fraser, the Business Economy editor over the weekend and drew the Boards attention to key points around: the demand for change that started before the crisis; the initial response; and the need for politics to come together around aligning practical policy examples of what the future could be. The crisis could drive greater divisions in society. This is a key year for Scotland, including in respect of the significance of climate change work. She highlighted the key focuses as being: (1) understanding what's developing in Scotland, the trends we need to look at; (2) targeting engagement and influencing – building on what has been done previously. The results of the recent MSP survey show that SEPA is still up there in terms of both awareness and favourability; and (3) using this as a catalyst for delivery in a practical sense, including in respect of the changes within the sectors we regulate. She advised that the place-based work is still a priority and that stakeholders are now looking at green recovery including incorporating vacant and derelict land. There is a greater opportunity for sharp focus and to work with sectors who want to do the right thing. Jo Green confirmed that work will be done with Board Buddies to look at how we engage and support this.

In response to a question about SEPA's role and what will come back to the Board, Jo Green advised that insights will be brought to the Board as well as the sharing of insights being sought from Board members. She confirmed that work will be undertaken on the place-based agenda's around Glasgow and that the Board direction and support will be required. The Chief Executive advised that the culture change aspects will come back to the Board.

The Board commented on policy areas converging and highlighted the extension to the Just Transition Commission response deadline until the end of June 2020. Jo Green advised that she is speaking to them this month.

The Board discussed the lead up to the next Scottish election and the expectations on SEPA. Jo Green advised that our position as a progressive regulator is important, that the political engagement before the manifesto's in Autumn is key and that we need to think about the opportunities and threats.

In response to a comment about the potential increase in bankruptcies and the importance of planning around how we deal with them in terms of charging and regulation, the Chief Executive confirmed that this was a good point and highlighted the potential for abandonment of sites.

In response to a question about the opportunity to evidence beyond compliance and the need for fresh business cases with factual/ measured examples and evidence, Jo Green confirmed that we are looking at international examples.

The Board discussed the need for a framework around green renewal, the Green Book is used in infrastructure but there is no framework for decisions in a net zero world. The Board suggested ensuring that strategic environmental assessments are fully integrated into the decision making processes rather than an afterthought and highlighted the EU green taxonomy work.

The Chair encouraged anyone interested in contributing to the Higgins Group response to submit their ideas.

The Board noted the update.

12 Agency Board Change Committee – Terms of Reference and membership (SEPA 17/20)

The Chief Executive introduced the report and highlighted that it would be helpful to have a Change Committee for 2020/21.

In response to a question about whether there was a close enough connection with the remit of the Committee and the delivery of the Annual Operating Plan the Chief Executive confirmed that this is critical. The Board **agreed** that an addition should be made to the end of section 3.1.1.

In response to a question about whether we were aware of examples of change around COVID-19 from other Environment Protection Agencies and others in Scotland and the United Kingdom, the Chief Executive advised that we have taken a global focus and are learning from everyone.

The Board **agreed** that as this is a formal committee the report should come back to the Board in formal session. A verbal update will be provided to the Board on 30 June 2020.

Action: Chair of the Change Committee/Clerk to the Board

The Board approved this proposal for membership of the Change Committee and approved the Terms of Reference.

13 Board Work Programme

13.1 Report on Board Seminar 26 May 2020

The Clerk to the Board gave a verbal update on the seminar session in the morning which had consisted of a presentation on Future Issues.

She advised that an update had been provided in respect of what the organisation has done in the first two months of lockdown, focusing on key achievements including around staff, work and position statements and describing the next phase. The Board discussed the risks and opportunities around this. Some of which will be explored further internally.

The Board asked that a follow up be provided at a future Board meeting and highlighted the need for a value chain analysis of waste.

Action: Chief Executive/Clerk to the Board

It was **agreed** that any additional questions or comments should be sent to the Clerk to the Board and that key documents would be circulated to the Board this week.

Action: Chief Executive/Clerk to the Board

13.2 Board Member Engagement Activity

Julie Hutchison confirmed that she had attended the online conference organised by the Edinburgh Centre for Carbon Innovation, themed as "Climate, Covid and COP26" on 21 May 2020. Professor Katharine Hayhoe was one of the speakers. There had been a global audience of over 360 people. She highlighted that Dr Sarah Ivory had spoken about the formal and informal pathways to influence.

13.3 Board Buddy Register

The Clerk to the Board advised that the Health and Safety Board Buddy project would be added with Nicola Gordon and Martin Hill are Board Buddies. She proposed that the Performance Measures Board Buddy project is closed and picked up by the Audit Committee.

The Board **agreed** to close the following Board Buddy projects: International Services (due to the fact that (1) Board Buddies were critical in the first 2-3 years of getting the new function established and (2) the change of focus to being more about staff development and knowledge sharing so there isn't as much pressure on the commercial element); Pensions (an annual report on pensions goes to the Board); Sector Plan: Commercial and Public Premises, Development and Use; Sector Plan: Mining and Quarrying; Sector Plan: Packaging Manufacturing, Reuse and Reprocessing (the work on the planned development will stop with focus on COVID-19 and green recovery changing the focus); Transformational Change (the Change Committee has been approved); Performance Measures (the Audit Committee will pick up the work in this area); and Compliance and Beyond Report (wider topic around reporting picked up elsewhere).

The Board **agreed** that the following Board Buddy projects should remain active: EU exit (the resilience element is picking up again, a meeting will be arranged for next month); Board Succession Planning (now incorporates the wider Diversity work); Flood Risk Management (useful to have Board Buddies in respect of work planned for later in the year); Deposit Return Scheme; SEPA becoming a One Planet (Net Zero) Organisation; Water Environment Fund (update to Board postponed from May to the Autumn so useful to continue having Board Buddies in the meantime. Hapreet Kohli to be added as a Board Buddy); Procurement Strategy (beneficial to have until delivered); Green Recovery (a telephone meeting is being arranged); Health and Safety to be added.

The Board **agreed** that each active project and all new projects going forward need to have Terms of Reference including both the purpose and the start and end date of the projects.

Action: AMT/Clerk to the Board

In response to an expression of interest for any Board support required around consumer/communications/PR work, Jo Green advised that further discussion was required with Martin Grey around the framing and focus of any work. Elements will be pulled into the influencing and recovery work around the green recovery project.

The Board noted the update

14 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 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 – No further action has been undertaken in the past month due to COVID-19. This action is ongoing.

Action 602 - A meeting of the Board Succession Board Buddy Group took place on 25 May 2020 to discuss the information received from the recent Board recruitment. This work links into action 630. This action is ongoing.

Action 628 – The update has been postponed until 29 September 2020. This action is ongoing.

Action 629 – This has been postponed to later in the year. This action is ongoing.

Action 630 – This links into Action 602. This action is ongoing.

Action 631 – This will be ready for July 2020. This action is ongoing.

Action 632 – A full review will take place once normal working resumes. This action is ongoing.

Action 633 – A draft framework has been received from Scottish Government and is being reviewed internally. This action is ongoing.

Action 635 – Approach to Board Buddy register considered today, item 13.3. (Links to action 638) This action is now closed.

In respect of the actions under Matters Arising Action 636 is ongoing and Actions 637 and 638 are now closed.

In response to a question about when normal service will resume (Action 632), Anne Turner advised that the focus is on the COVID-19 response and that there is not currently the capacity to think about the revisals. She confirmed that the report will continue to be produced.

15 Any Other Business

Scottish Government consultation on Bathing Waters

Julie Hutchison advised that the consultation states that it seems unlikely there will be large numbers of people bathing on our beaches from the usual start of the season on 1st June, and proposes postponing the designation of bathing waters. She asked what SEPA's view is, particularly in light of the lockdown relaxations expected at the end of the week permitting outdoor swimming.

David Pirie advised that there had been discussions with Scottish Government at the start of COVID-19 around the feasibility of beginning the season and sampling. He confirmed that SEPA will reply to the consultation.

The Chief Executive advised that we formally advised Scottish Government of our role around four/five weeks ago, highlighting that we would not be putting staff at potential risk when people are not swimming, this was well received. He confirmed that it is not the highest priority compared to high hazard sites and advised that there will be various pressure points as lockdown relaxes.

16 Date and time of next meeting

The next meeting will be held on 28 July 2020 at 1.00pm virtually.

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

17 Key Challenges - Verbal

The Board noted the update

18 Audit Workshop (SEPA 18/20)

The Board noted the update