

SCOTTISH ENVIRONMENT PROTECTION AGENCY

AGENCY BOARD MEETING

The one hundred and sixty-ninth meeting of the Agency Board took place at 1.00pm on Tuesday 29 September 2020 via Microsoft Teams.

Present:

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

In Attendance:

John Burns	Charging Schemes Manager (item 19 only)
Sophie Cheney	Graduate Trainee
Nathan Critchlow-Watton	Manager (item 12 only)
Jo Green	Chief Officer, Performance and Innovation
Martin Grey	Head of Communications & Marketing
Rachel Harding-Hill	Unit Manager (item 12 only)
David Harley	Head of Function, Water (item 12 only)
John Kenny	Chief Officer, Circular Economy
Martin Marsden	Head of Environmental Quality (item 19 only)
Fiona Martin	Chief Officer, People & Property
Stuart McGregor	Chief Officer, Finance
Jennifer McWhirter	Clerk to the Board
Kari Speirs	Corporate Officer
Anne Turner	Business Strategy Unit Manager
Jennifer Welsh	Head of Finance (item 20 only)

Safe SEPA@Board

The Clerk to the Board highlighted that Board and Audit Committee papers from April 2019 onwards have been moved to the archived section in Diligent Boards. If there is anything else the Board would like added to Diligent Boards, please contact the Clerk to the Board.

The Board noted the update

1 Board Discussion – How to enable transformative change - A case study about speed, compliance and mindset

The Board thanked Julie Hutchison for leading the discussion.

2 Chair's opening remarks

The Chair welcomed everyone to the meeting. He welcomed Anne Turner and Martin Grey. The Chair confirmed that a 10-minute break had been scheduled after item 10 and another after item 18 before the private session, and that Philip Matthews had to leave at 3pm.

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

The Chair noted that item 12 is the first paper in relation to the forward planning work being undertaken to ensure that the Board covers the important strategic issues in advance of the next Corporate Plan. He advised that in terms of forward-looking agenda's further sessions are planned in October (Outlook on Economic and Social Contexts), in November (Workforce

and Financial Plan), and December 2020 (Stakeholder Outlook).

3 Apologies for absence

Apologies for absence were received from Fran van Dijk and Fiona Wyllie.

4 Order of Business

The Chair confirmed that item 19.3 Hydro Charging Scheme consultation would move to 19.1 with the other two charging papers following. The other order of business was otherwise confirmed as outlined on the agenda.

5 Declarations of Interest

No declarations of interest were made.

6 Approval of minutes of meeting on 28 July 2020

The minutes of the meeting held on 28 July 2020 were **approved** as an accurate record of the meeting.

7 Matters arising

Action 646 – The revised reporting requirements will be in place for the Q2 report (end September) which will be presented at the 24 November 2020 Agency Board Meeting. Ongoing.

Action 647 – Further information on sickness absence and COVID impacts was presented to the Audit Committee in the morning and is on the agenda today, item 9.2. Proposed closed.

Action 648 – Further discussion after the July 2020 seminar session took place at the Board Planning Day on 16 September 2020 and work is progressing to collate the actions in the note and present them on Diligent Boards. Ongoing.

Action 649 – AMT approved the paper on 12 September 2020 following the seminar session in July 2020, with the action plan currently being finalised. Further discussion will be diarised in the Board planner. Ongoing.

Action 650 – We have yet to go to consultation on Marine Cage Fish Farms. Ongoing.

Action 651 – An update on permitting is included in the CEO report (section 1.6), item 9.1, and will continue to be included in future reports. Proposed closed.

8 Chair's Report – verbal update

The Chair provided a verbal update.

He advised that he had attended the Board Succession and Diversity Group meeting on 10 August 2020 preparing for the Diversity discussion at the Board Planning Day on 16 September 2020.

He highlighted that the Change Committee is going at full pace, and that there is another meeting scheduled for 1 October 2020.

The Chair confirmed that the Annual Report and Accounts had been signed off but that it raised a few questions on the value and relevance of the structure and reporting of annual reports in the current climate, while acknowledging that it is a legal requirement

He advised that he had attended the Board Planning Day on 16 September 2020, with the

Board, including the Chief Executive. The overall feedback from the session was very positive and participants found the session very useful and participative. He highlighted that it is important to follow up on the discussions and actions that arose individually as well as collectively.

He drew the Board's attention to the meeting he had attended with the Chief Executive and the Cabinet Secretary on 9 September 2020. Aquaculture was high on the agenda but not the only item discussed. The Cabinet Secretary was very supportive and positive about SEPA and our innovative approach. He noted that the report AMT had produced describing the changes made and the proposed changes as part of an ongoing rolling agenda, was impressive and when put together it is a very powerful demonstration of what SEPA does. They also discussed Environment Standards Scotland (EES) and he raised concerns.

The report should be circulated to the Board for information and awareness.

Action: David Pirie/Clerk to the Board

The Chair concluded his update by highlighting how much he is enjoying his ongoing 1:1 meetings with both AMT and Board members.

The Board noted the update.

9 Management Reports

9.1 Chief Executive's Report (SEPA 30/20)

The Chief Executive introduced his report.

The Chair highlighted that the report is providing much better insight for the Board on critical topics in each area of work however, expressed that he would like to see more numbers appearing, with some areas being better than others.

In response to questions on Information Services Systems – Homeworking Support (section 3.4), - whether there is the right IT resources to support homeworking and around the challenges with broadband connectivity in rural areas, David Pirie confirmed the morale is good within the IS team but they are pushed at the moment. Senior management is conducting regular meetings with the team and monitoring their working hours. We have not switched to the full-term support model for Working from Home but laptops and the use of personal IT equipment will require more support. He confirmed that the four modern apprentices have remained which helps. In relation to broadband, he advised that the vast majority of employees are logging on but that some staff still do not have or have poor broadband.

In response to a question regarding Regulatory Resilience (section 1.1) and how the 130 deployments compares with levels pre-COVID, Ian Buchanan confirmed that this is significantly down. It is a small proportion of the normal programme of activity in terms of on site, compliance checking and responding to environmental events. We have been undertaking remote checks with 1200 having been undertaken instead of on site checking. Overall, it is less than 10% of what SEPA would normally do in terms of visits on the ground.

In response to a question regarding Tarbolton landfill site (section 1.13) and whether this is the latest update when the text starts with June 2018, David Pirie confirmed the opening sentence was in reference to the site going into liquidation in June 2018 only and that the wording could have been clearer. Regular monitoring was taking place as well as site inspections once a month from June 2018. When COVID happened, the monitoring and inspections were paused briefly however, the monitoring and site inspections resumed in June and July 2020 and another is scheduled in September 2020.

The Chair advised that Chris Dailly has been asked to produce a detailed response to correspondence received regarding Mossmorran (section 1.3). In response to a question

(section 1.3) about whether there were breaches in August 2020 and about whether SEPA is involved in the debate with Mark Ruskell MSP that evening, 29 September 2020, Ian Buchanan advised that care needs to be taken due to overlaps in the timescales of conclusions and report. The Chief Executive confirmed that we are not involved in the debate process.

In response to a question about risk assessing what may be raised with Environment Standards Scotland, the Chief Executive confirmed that it is critical to develop a relationship with the Chair and staff and advised that further discussion would be had at item 12.

In response to a question regarding People & Property (section 3.2) on what the mental health and well-being hub consists of, and whether it includes a helpline that staff can call, Fiona Martin confirmed that the information goes beyond work and includes sign-posts to our employee assistance provider. Staff can access it directly as can managers looking for assistance to help them support individuals within their teams. She confirmed that there is more work required to promote the hub which has been developed jointly with UNISON, and that the take up of the employee assistance programme has been low.

In response to a question about whether electronic waste tracking (section 1.14.2) will assist in providing evidence for prosecution purposes if needed, John Kenny confirmed that it would but that the benefit is that it was easier to check compliance and for businesses to see compliance in real time.

In response to a question about whether there were any internal issues with the annual United Kingdom accredited service surveillance audit 2020 (section 3.3), David Pirie advised that the visit had gone well, with the auditors being positive - it was one of their first post-COVID-19 remote audits. He highlighted that we have a flexible scope for the accreditation which means that we can take on new scope as we need without having to go through the whole audit process again which is very helpful.

In response to a question about the process in place once we are in a position to issue Voluntary Monetary Penalties (VMP's) (section 1.5), and whether there had been any Fixed Monetary Penalties (FMP's) issued since those published on the website, date August 2019, Ian Buchanan confirmed that in relation to VMP's there has been good consultation with the industry, The Crown Office and Procurator Fiscal Service (COPFS) and Scottish Government and that once ministers were briefed we should be able to start using them by the end of the calendar year as planning was done in parallel with the consultation exercise. In respect of FMP's, Ian Buchanan advised that he would follow up with more detail outwith the meeting.

Action: Ian Buchanan/Clerk to the Board

The Chair commented that it is important to include numbers in respect of quantities and timescales in areas like Voluntary Monetary Penalties (section 1.5) and Permitting (section 1.6).

In response to a question about whether aspects of customer complaints handling (section 1.4) had been drawn out to influence process design historically, Ian Buchanan advised that it had not been done to the extent it should have with a tendency to focus more on resolving the issue than the root cause. However, there is now a dedicated team with a more preventative approach.

In response to a question about the Deposit Return Scheme update (section 1.15) David Pirie advised that a Board Buddy meeting was required as a lot has been done that can be shared.

The Chair noted that it was great to see Water Environment Fund (section 1.8) projects of this scale and interest and highlighted that the River Nith update was well described and added a new dimension to the Chief Executive's report.

The Board noted the report

9.2 **Safe SEPA Digest (SEPA 31/20)**

Stuart McGregor introduced this report highlighting that it had gone to the Audit Committee meeting that morning. Anne Turner advised that it provides an update on the work being done, the focus is still on COVID-19 and that it is hoped that previous feedback has been addressed in the format.

In response to a question about the uptake of the Business Continuity Messaging Service (section 4.2.1) Anne Turner confirmed that registration is voluntary as it requires a personal email address or phone number and advised that it is not the only way to get messages to staff, we also use for example the CEO emails and line managers.

The Board commented on the cyber security spike and suggested phishing email tests be undertaken with staff (section 3.2.1).

In response to a question about the review of our estate (section 3.3.1) documented in the Annual Operating Plan (AOP) and the link with transport and embedding net zero targets, highlighting the importance of having a good picture to present at COP26, Fiona Martin advised that Fiona Mactaggart is no longer the lead for net zero due to capacity issues with COVID -19 recovery work and that Neil Deasley and Jo Green are now leading in this area.

In response to a comment in respect of the COVID-19 code, and the underlying reasons for the reduction in reported staff sickness absence and annual leave (comment made at the Audit Committee meeting that morning but felt should be addressed at the Board), Fiona Martin advised that in Q1 of 2019 there were 2800 days sickness compared to 1300 days in Quarter 1 of 2020. This might be because people are working from home and there are not the same physical barriers. There is nothing to evidence that staff are healthier. This has been compared with other organisations where similar reductions have been reported. Fiona Martin confirmed that annual leave is down when compared with other years and highlighted that the Union have advised that the messaging around leave could be clearer so that staff understand the importance of taking leave. Due to the change in policy around carry over leave, a lot of staff are holding onto leave for next year.

In relation to the use of the COVID-19 code, Fiona Martin advised that Scottish Government had introduced a Trade Union COVID protocol that sits over existing terms and conditions, stating that staff should not be discouraged from complying with Government guidance. By the end of August 2020 655 (60%) staff had used the code. The patterns show that significantly more females than males had used the code with females recording fewer hours to it than males who use it less but record more time. Comparisons with other organisations are difficult due to different recording methods.

The Board noted the report

10 **SEPA's Response to People Survey (SEPA 33/20)**

Fiona Martin introduced the report and highlighted that there is some work being done around Learning and Development in this year's AOP. She advised that the approach to address staff feedback has four prongs: 1) make the best use of the AOP and build staff survey feedback in; 2) use the information from the portfolio results and the results broken down by different categories to address issues at a portfolio level; 3) use it as richer analysis for next year's AOP and its areas of focus; and 4) ensure that we use ongoing and clear communications – 'you said we did'. The Staff Survey action plan is not the only way this is being progressed. Fiona Wyllie is considering how to make better use of the pulse surveys on the back of the 1:1's managers are having with staff. There is also a group looking at internal communications and how they can use pulse surveys.

The Board discussed that it was good to see feedback and that to really change an organisation you have to find people who believe in change and get them to spread communications through the organisation rather than rely on a top down approach. Fiona

Martin advised that there is a Staff ideas Group where people who are passionate about change can help with delivery. John Kenny confirmed that it is managers with a passion for change that are involved in the Management Development Programme, but that care needs to be taken not to be exclusive.

The Board queried the language used at point 4 (STRATEGY - People Survey priorities this year), highlighting that success is down to everyone so we should be engaging with staff not communicating.

The Chair commented that poor performance and training does not feel as urgent or as action orientated in the paper as staff may expect and that how this is presented needs to be considered. The Deputy Chair and Chair of the Change Committee advised that the Change Committee are going to look at certain areas in more detail (action 5 EXECUTION – a roadmap of actions) starting with performance management.

The Board discussed the importance of short- and long-term mapping - the road map for this year and the aspirations at the end of year five in terms of delivery and measuring and highlighted that leadership across the whole organisation need to lead change.

In response to a question about when this will come back to the Board, Fiona Martin confirmed that the Change Committee will be more involved with further reporting to the full Board being built into the Chief Executive's report. The current AOP project leads are being asked how they are using the feedback. Projects within next year's AOP should respond more fully to the feedback with this year being more of an opportunity to get a better understanding of the issues so that future actions are more likely to be successful.

The Board noted the report.

The Board had a ten-minute break

11 Engagement Plan (SEPA 39/20)

The Chief Executive introduced the report, highlighting that the focus today was on board engagement and that it is a flavour of what is happening to seek feedback on certain areas to then come back with an action plan.

Martin Grey advised that the response to COVID-19 was viewed positively due to our stakeholder approach and mapping and that it was quicker than the other UK Environment Protection Agencies. Our positioning continues to evolve, and the relationship management model will be game changing. How we position SEPA in the year ahead is aligned to the Team Scotland approach.

In response to a question about what the Board should expect in terms of Relationship Management, the Chief Executive advised that the aim is to have 100% by the end of the financial year. An update on the current pilot will come to the Board in December 2020. Going forward when we use Board members for engagement it will be targeted, and they will be more informed with better information.

In response to a question around stakeholder mapping -where we have strong relationship, where there are gaps and what relationships are most important in terms of engagement, the Chief Executive advised that this would be picked up as an opportunity under item 13.

The Board discussed the importance of being careful to include messaging on achieving compliance as well as on beyond compliance to ensure that compliance is not being taken for granted and that the platforms, we use reach wide audiences. The Chief Executive highlighted the work being done with the Institute of Directors and the work Jo Green is doing on Green Recovery with Scottish Enterprise. Martin Grey advised that the recent four on line events over a six-week period were aimed at four distinct audiences and that opportunities have arisen from them for future work.

In response to a question about capturing online events and thought pieces on the website to build a library, Jo Green advised that One Planet Prosperity is our response to Green Recovery and that in the lead up to COP26 we will be showcasing delivering on compliance and beyond and in the place based approach.

The Chair asked that a stakeholder session come back to the Board including aspects from the September 2020 Board Planning Day.

Action: Chief Executive/Martin Grey

The Board noted the report.

12 Water Environment Fund Update (SEPA 32/30)

John Kenny introduced the report with Rachel Harding-Hill, David Harley and Nathan Critchlow-Watton in attendance. He advised that there had been a Board seminar session in November 2019 with an update being due to come back to the Board in Spring 2020 which had been delayed due to COVID-19.

David Harley led the presentation describing that a successful city in the future needs to deal with water differently, by living with it. If we get it right cities will be healthier, more viable in respect of flooding/damage and kept cooler against the background of climate change. He explained the approach being taken at the Garrel Burn restoration, as well as the wider groundwork planned in the next few months and the new projects being developed with partners and highlighted all the wins that will result from this collaborative place-based approach.

Rachel Harding-Hill explained how the Water Environment Fund (WEF) has changed and evolved over the last eight years from previously having singular to now having multiple drivers, partners, projects, deliverables and outcomes. She highlighted the ambition for delivering on One Planet Prosperity and the vision about what is needed for rivers and urban areas. In order to manage this increased workload improvements have been made, as detailed in the paper, including around making governance more robust. Rachel Harding-Hill advised that the WEF team had been operating at 75% capacity over the last six months due to COVID-9 but are now at 90% and that the issues being faced by both SEPA and partners in respect of what could physically be done within the instructions caused delays and budget changes with an increase of 10-15% in terms of what we planned to spend on ground work projects. These projects have now started in line with Scottish Government guidance. Work is being undertaken around accessing benefits, improving procurement, looking across financial years, aligning project and programme risks with SEPA risk management, capacity building, including looking at training and transferable skills linking into the AOP target and net zero goals around both directly commissioned and third party projects.

The Board commented positively on the visuals illustrating an inspiring story and congratulated the WEF team on addressing the issues the Board had previously raised and on moving to a One Planet Prosperity approach. The Board noted that links into public health with example of health and wellbeing and active travel.

In response to a comment about the importance of the benefits of this work being well known, particularly in respect of longer term funding, the Chief Executive confirmed that the WEF team have a good relationship with Scottish Government.

The Board noted that, when permitted and in line with Scottish Government guidance, it would be beneficial to have an on-site outdoor seminar in the future.

Action: Chief Executive/John Kenny/Clerk to the Board

The Board noted the report.

13 Environmental Outlook – Major Challenges for 2022-2027 (SEPA 38/20)

The Chief Executive introduced the report and highlighted that it is the first of four themed sessions planned in advance of the next five-year Corporate Plan. We have a decade left and need a massive transformational change in society to make the changes and ensure we have a prosperous future. He highlighted that the paper includes hard edged decisions that need to be made in the Corporate Plan.

The Board discussed working with partners to combine other lenses such as social and economic with the environmental lens as is being done with the Leven project and about the link with item 12 (Water Environment Fund Update). The Water Environment Fund is a natural level and thought should be given to shifting resource to where we have other levers.

In response to a comment about the importance of looking at towns and villages, not just cities, the Chief Executive advised that there will be relationship managers of all thirty-two Local Authorities.

The Board noted the report.

14 Board Work Programme

14.1 Board Member Engagement Activity

No Board member engagement activity was noted.

14.2 Board Buddy Register

The Clerk to the Board highlighted that there was a proposal to extend the Water Environment Fund project for a further 6 months and that the Procurement Strategy project was proposed closed.

She advised that EU Exit Board Buddy calls had been scheduled for 30 September 2020 and 16 November 2020.

The Board noted the update

15 Board Committee Reports

15.1 Audit Committee – verbal update of meeting held on 29 September 2020

Nick Martin, Chair of the Audit Committee introduced the item and advised that there had been no internal audit reports, that the Terms of Reference for two audits had been approved (Whistleblowing and Health & Safety), that the role of internal audit discussion had looked at the dual roles of assurance where we have good processes and controls and at forward looking where there is work to do. He confirmed that there will be a more focused discussion on performance measures in December 2020 with measures for the board to review ahead of the next financial year.

The Board noted the update.

15.2 Change Committee – Verbal Update

Michelle Francis, Deputy Chair introduced the item and highlighted the four areas that had been discussed at the August 2020 Change Committee meeting as including: the change implications of lockdown and the recovery work being led by Lin Bunten; the improvements made to the Change Plan which is coming back to the Committee in November 2020, the phase 2 work being undertaken on Regulatory Response by Ian Buchanan and Shona McConnell where different risks are being taken and there is increased collaboration and good

case studies; and the Staff Survey results. The Change Committee will focus on four areas of the Staff Survey results going forward - culture, performance management, Learning and Development and internal communications. She concluded by highlighting that the Change Committee meeting on 1 October 2020 will focus solely on the Management Development Programme.

The Board noted the update

16 Action Note

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

Action 572 – The review is still underway. Ongoing.

Action 587 - No further action has been undertaken in the past month due to COVID. Ongoing.

Action 628 – This has been postponed until later in the year/next year. Ongoing.

Action 629 – This is on the agenda for today, item 12. Proposed closed.

Action 630 – Updates will continue to be provided to the Board. Proposed closed.

Action 632 – This is on the agenda for today, item 9.3. Proposed closed.

Action 633 – The draft framework is being considered internally. Ongoing.

Action 641 - There is a proposal to combine this action with action 646. Proposed closed.

Action 643 – An approach is being developed following discussion with Scottish Government. Proposed closed.

Actions: 630, 632, 641, 643, 647 and 651 are closed.

Actions: 572, 587, 628, 633, 646, 648 and 650 remain open.

17 Any Other Business

Julie Hutchison and Michelle Francis offered their support on the further Engagement Plan (item 11) work prior to the December 2020 meeting.

18 Date and time of next meeting

The next meeting will be held on 24 November 2020 at 1.00pm virtually.

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

10 minute break

19 Charging Consultations

19.1 Hydro Scheme Charges Consultation (SEPA 37/20)

The Board noted the content of the paper and agreed that the consultation could be launched.

19.2 Emissions Trading System (SEPA 34/20)

The Board approved the revised scheme.

19.3 Changes to Non-nuclear Charges (SEPA 36/20)

The Board approved the consultation.

20 Financial Update (SEPA 35/20)

The Board noted the report.