

SCOTTISH ENVIRONMENT PROTECTION AGENCY

AGENCY BOARD MEETING

The one hundred and seventieth meeting of the Agency Board took place at 1.00pm on Tuesday 24 November 2020 via Microsoft Teams.

Present:

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

In Attendance:

Ian Buchanan	Chief Officer, Compliance and Beyond
John Burns	Charging Schemes Manager (item 19 only)
Sophie Cheney	Graduate Trainee
Cat Cunningham	Head of Change (item 18 only)
Neil Deasley	Manager, Regulatory Strategy and Government Relations (item 10 only)
Kieron Gallagher	Head of Governance
Jo Green	Chief Officer, Performance and Innovation
Martin Grey	Head of Communications & Marketing
John Kenny	Chief Officer, Circular Economy
Kelly Mathewson	Senior Business Consultant (items 9.1 -9.3 only)
Stuart McGregor	Chief Officer, Finance
Jennifer McWhirter	Clerk to the Board
David Pirie	Chief Officer, Evidence and Flooding
Jennifer Russell	Head of Human Resources
Kari Speirs	Corporate Officer
Anne Turner	Business Strategy Unit Manager (item 18 only)
Jennifer Welsh	Head of Finance (item 18 only)

Safe SEPA@Board

The Clerk to the Board referred to the Safe SEPA workshop that morning and asked that any feedback, ideas or comments should be provided to her and Kieron Gallagher.

The Board noted the update

1 Board Discussion – NHS Lothian - Sustainability

The Board thanked Martin Hill for leading the discussion.

2 Chair's opening remarks

The Chair welcomed everyone to the meeting. He welcomed Jennifer Russell, attending as delegate for Fiona Martin, Kieron Gallagher and Martin Grey.

The Chair confirmed that a 10-minute break had been scheduled after item 11.

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

Apologies for absence were received from Fiona Martin.

4 Order of Business

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

An AOB in respect of Net Zero was raised by Julie Hutchison which if not addressed at item 10 would be discussed under AOB, item 16 at the end of the meeting.

5 Declarations of Interest

No declarations of interest were made.

6 Approval of minutes of meeting on 29 September 2020

The Clerk to the Board advised that the text within para 4 of item 9.1 (Chief Executive Report) had been reworded with the Chief Officer Compliance and Beyond to make it clearer.

The minutes of the meeting held on 29 September 2020 were **approved** as an accurate record of the meeting.

7 Matters arising

Action 652 - This was added to Diligent Board Resource Centre on 12 November 2020. Proposed closed.

Action 653 – An email was circulated to the Board on 12 October 2020. Proposed closed

Action 654 - Stakeholder Outlook – Assessment of our stakeholders: who are our key stakeholders now and who should be our key stakeholders during 2022-2027 is on the agenda for the Strategy Board meeting on 15 December 2020. Ongoing.

Action 655 - This has been added to the Board planner. Proposed closed.

8 Chair's Report – verbal update

He advised that he had attended both Brexit and Green Recovery Board Buddy calls on 30 September 2020 and a second Brexit Board Buddy call on 16 November 2020. He highlighted the preparations for a no deal situation and the issues around Transfrontier Shipment of Waste and the Emissions Trading Scheme.

He confirmed that there had been an Agency Board Change Committee meeting on 1 October 2020 and that Michelle Francis as Chair of the Change Committee would provide an update under item 14.2.

The Chair drew the Board's attention to the meetings he had attended with the Chief Executive: with Atholl Duncan (Chair) and Anne Anderson of the Scottish Salmon Producers Organisation (SSPO) about SSPO Sector Vision on 13 October 2020 and with the new SSPO Chief Executive, Tavish Scott on 26 October 2020.

He advised that he had joined the Deposit Return Scheme Board Buddy Group meeting on 27 October 2020 and highlighted that he is meeting Scottish Government Sponsor in February 2021 with Michelle Francis, Deputy Chair to discuss the role of the scheme administrator which is an ongoing concern.

He highlighted the virtual Scottish Land & Estates Virtual Conference - "Gearing up for change in rural Scotland" he had attended on 10 November 2020, which had been very well

organised. The note has been added to Diligent Boards for Board members to access.

On 10 November 2020 he advised that with the Chief Executive he had attended a meeting with Scottish Property Federation: Robin Blacklock (outgoing Chair), Michaela Sullivant (incoming Chair) and David Melhuish (Director) and that these meetings will become part of the annual calendar of external engagement. He drew attention to the good progress being made on urban city development and flooding.

He confirmed that with the Chief Executive he had attended a meeting with the Chemical Industries Association: Tom Crotty (President) and Stephen Elliott (CEO) on 11 November 2020, highlighting the good relationship and that they are acutely aware of their environmental responsibility.

The Chair drew attention to the Board Succession and Diversity Group meeting with Fran van Dijk and Craig Hume that had taken place yesterday, 23 November 2020, confirming that Fran van Dijk would provide an update later in the agenda.

He concluded by advising that he has been continuing with his quarterly meetings and that a key theme arising from them is the importance of the Chief Executive's Report to give insight into the organisation, particularly given the absence of informal chat time. He asked Board members to let him and the Clerk to the Board know if they think it requires more than 20 minutes to be allocated to it on Agency Board agendas.

The Board noted the update.

9 Management Reports

9.1 Chief Executive's Report (SEPA 40/20)

The Chief Executive introduced his report.

In response to a question about the SSE Renewables, Viking Windfarm in Shetland (section 1.5) around whether lessons had been learnt from elsewhere in terms of our approach, Ian Buchanan confirmed that local management are very aware of local issues and that there is a Hub on the Local Authority website to help the local community understand what is happening. There is also good co-operation from the contractor and operator. In response to a question on the same section about whether we had learnt lessons from the peat slides in Ireland, Ian Buchanan advised that a lot of work was done in the original planning consent which SEPA contributed to.

In response to a question about whether we had considered doing a case study with Brewdog (section 1.4) given their ambitious plans and the PR they are currently doing, Ian Buchanan advised that we have ongoing engagement with them, some of which involves the regulation of specific activities. He also highlighted the work being done with others in the sector. Martin Grey advised that we shared our COP26 plans as have been engaging while the Chief Executive confirmed that we need to have something of value to offer any partner we work with.

In response to a question on the Monitoring Waste Water for SARS-CoV-2 RNA work (section 1.24), David Pirie advised that there is a Scientific Advisory Committee meeting tonight and that SEPA has been providing confirmation and assurance. Discussions will take place in the next few weeks around funding and longevity.

The Chair asked that compliments be passed back to those involved in the Digital Online work (section 1.11), the Lighthouse Award for Sustainable Innovation (section 3.4), the Flood Forecasting and Warning work (section 2.1), the Monitoring Waste Water for SARS-CoV-2 RNA work (section 1.24) and the Oil and Gas Decommissioning work (section 1.14)

The Board noted the report

9.2 **Quarter 2 Financial Monitoring Report (SEPA 42/20)**

Stuart McGregor introduced this report highlighting that it covers the same period as the previous monthly report. He advised that the report has been revised but that the Board Buddy feedback received in advance of the meeting showed that there is still work to do on the executive summary. He drew the Board's attention to the Charging Scheme Income (section 2.3), the reduction in the forecast overspend, highlighting that great work had been done but that it needed to continue with business critical spend only, the Grant in Aid (GiA) increase and the trading accounts. He explained that the recovery rate had been reviewed and adjusted from 102% to 100% due to the treatment of direct costs of GiA. He concluded by advising that some cost reductions will be maintained but as others will not savings will need to be looked at again for next year.

In response to a question about posts not being deleted but savings being found elsewhere, Stuart McGregor advised that this was challenging due to COVID-19 and that we do not want to carry vacancies as have resource challenges. The Board questioned why COVID-19 stopped it when the deletion is of posts not people and highlighted the need to be open and transparent. In response to a question about whether we are waiting for the workforce plan to delete posts, Stuart McGregor advised that some will be prior to the plan and some after. He highlighted that the majority of vacancies are in the bigger portfolio's, the need for flexibility and the related ongoing work with the Union around training and development.

The Board commented that the software maintenance and telecom costs (section 3.4) are a future investment.

In response to a question about whether the income reduction in application fees (section 2.3) was deferred or lost, Stuart McGregor confirmed that we do not know but are hoping it is a deferral to next year.

The Board commented that the new format was easier to read.

The Board **approved** the proposed moderate level of assurance that SEPA is on course to meet its financial targets.

The Board noted the report

9.3 **Quarter 2 Performance Report (SEPA 41/20)**

The Chief Executive introduced the report and highlighted that projects are generally green or amber, where plans have been adjusted and there has been a delay in the interim steps. He advised that it shows a lot of effort has been put into the priorities and confirmed that management is pleased with where we are.

In response to a question about whether any of the amber projects are a concern, the Chief Executive advised that the recent Job Evaluation tender was unsuccessful but that we are exploring why.

In response to a question about the Changes to Hydrology (page 11 - 5. Flooding and Drought in a climate change world) around how this has arisen and whether the vacancies were filled internally, the Chief Executive confirmed that there is an external recruitment freeze with some exceptions. This is a major reform project with vacancies being filled internally but creating gaps elsewhere that need to be considered. He advised that pressure points are being looked at.

In response to a question about what the changes to measures next year will look like, the Chief Executive advised that there has been a STEP change in business planning, that the Senior Leaders Team (SLT) had met yesterday, 23 November 2020, to discuss the production of two page summaries, highlighting that the metal sector document was an example of

bringing sector planning to life. We need sensible measures so that we can judge success.

The Deputy Chair/Chair of the Agency Board Change Committee highlighted a recent discussion at the Agency Board Change Committee around the RAG status and the fact that projects are only red if they go beyond the financial year even if the original deadline was before this, with care needed around what will fall into the first quarter of next year. The Chief Executive confirmed that there is a challenge around delays that reduce performance verses delays that do not matter. He advised that this would be looked at outwith the meeting for next year.

The Board noted the report

10 Net Zero work (SEPA 47/20)

Jo Green introduced the report with Neil Deasley in attendance. She highlighted that there had been no time for a Board Buddy meeting in advance of the paper coming to the Agency Board due to the tight deadlines associated with the publication, by Scottish Government, of their climate change plan in December 2020. She advised that the next steps include internal engagement and the generating of ideas to lead into other workstreams such as workspaces.

Neil Deasley spoke to the presentation slide, highlighting the ambition and what is included around: Net Zero Direct Emissions, where there is strong progress but more needed: Net Zero Indirect Emissions, where there has been some progress and there is lots of scope; and Regenerative, where there are opportunities to explore.

The Board applauded the ambition around regeneration but highlighted the importance of having the evidence to track the transition to zero for scope 1, 2 and 3 emissions.

The Chief Executive highlighted that there had not been much progress since the last Board Buddy meeting in early 2020 due to the lead for this being focused on the COVID-19 recovery work but that resource had recently been freed up. He advised, in response to comments on the lack of detail within the paper particularly around articulating the how and why, that it would come back to the Board in February 2021 but that today's paper was required due to the Scottish Government December 2020 publication. The Board highlighted the importance of being able to benchmark against other office based organisations to allow clear comparisons to be made, of avoiding double counting and in recognising that there may be significant costs involved.

The Chief Executive confirmed that work would be undertaken with Board Buddies and that a proposal would come back to the Board on 16 February 2020.

Action: Chief Executive/Clerk to the Board

The Board agreed that the proposed Goal as described in 3.13 is in the 'right territory' of ambition, but asked for further information setting out how SEPA would become a regenerative organisation. The preparation of this more detailed analysis should be the next step and presented to the February Board meeting when the other next steps as described in 3.15 can be considered and agreed as the basis for a solid organisational action plan.

11 Key Lockdown decisions (SEPA 46/20)

The Chair highlighted the context for the item, referring to section 3.3 of the paper.

In response to a question about whether we are able to report on the Compliance Assessment Scheme (CAS) yet, Ian Buchanan advised that the 2020 CAS will not report in the way we traditionally report, compliance needs to feature but we have not been working on CAS as we normally would. He referred to the Chief Executive's Report and the reference to the 2019 CAS (section 1.3).

In response to a question around the Bathing Waters decision, the Chief Executive advised that when we went into lockdown the decision was made to only send out a limited number of staff. Bathing Waters could not be prioritised above responding to a category 1 or 2 incident.

In response to a question about looking forward to a potential future pandemic style incident and the management thinking about what needs to go to the Board including in respect of consumer campaigns and the financial implications of decisions, the Chief Executive suggested having a seminar session at the end of COVID-19 to go into certain decisions, where there are differing views, in more detail.

Action: Chief Executive/Clerk to the Board

In response to a question about the extent of secondment requests, Kieron Gallagher advised that on the first day of lockdown this had been agreed in principle but that it did not get further than that.

The Board noted the report.

The Board had a ten-minute break

12 Phase 2 Regulation (SEPA 43/20)

The Chief Executive introduced the report with Bridget Marshall in attendance.

Bridget Marshall explained the process in relation to the new regulatory model, highlighting the desire to make it real for staff and provide a further level of detail including in respect of training modules beginning in April 2021.

The Board commented that it was a good summary of something so important.

In response to a question about the link into the management development programme, Bridget Marshall advised that there are different strands being embedded and that the management development programme is key as is the technical training programme. A number of things are coming together. John Kenny confirmed that the brilliant phase 2 manager aspect of the management development programme is a key link.

In response to a question about whether there was going to be a complete re-write of the Book, Bridget Marshall confirmed that the Change team had undertaken workshops with around 40 staff to understand the difficulties staff were having with the Book - the Book is too high level in its articulation, people understand the strategy but need more detail. In response to a question about whether it will have the desired end result for example if the impact will result in culture change, Bridget Marshall advised that we are working from the outcome that it lands well with staff and that they have a collective understanding. The Book and training are the more formal elements, there will also be informal aspects and embedding them will take time. She highlighted that the content of the Book will be interactive with video's and case studies.

In response to a question about how the different pieces are stacking up together and what the staff journey will be like, the Chief Executive advised that we are nearly there with the business mode, which will be complete by Christmas and that one of the building blocks around signposting success will be business planning. He advised that the next iteration will be in February 2021 with the draft Annual Operating Plan for 2021/22 and that conversations will be had with the Deputy Chair/Chair of the Agency Board Change Committee about the role of the Agency Board Change Committee.

The Board noted the report.

13 Board Work Programme

13.1 Report on Board seminar 24 November 2019

The Clerk to the Board provided an update on the Safe SEPA Workshop seminar session held in the morning

She advised that the seminar session had comprised of a Safe SEPA Workshop with the Clerk to the Board, Kieron Gallagher, Robbie Macdonald, Sophie Cheney and Kari Speirs focusing on situational awareness and current risks before splitting into groups to discuss risk in the context of board business and individual board members, COVID -19 response, Board Continuity Planning and COVID-19 recovery. The discussion will be written up and a draft Business Impact Assessment and prioritised action plan will come back to the Board at the Training Day on 27 January 2021.

13.2 Board Member Engagement Activity

The Board discussed the opportunities for Board member involvement. The Chair advised that he is doing a lot of virtual engagement but that further discussions would be had with the Chief Executive and Clerk to the Board around digitalising Board member involvement/engagement.

The Chief Executive advised that Jo Green was co-ordinating the engagement plan coming back to the Board and that key engagements and events for the Board would be built in.

The Board noted the updates.

13.3 Board Buddy Register

The Clerk to the Board highlighted that a new Project – Communications with Julie Hutchison and Craig Hume as Board Buddies had been added to the Register and asked for Board approval.

The Board **approved** the Communications Board Buddy project.

The Board noted the update

14 Board Committee Reports

14.1 Audit Committee – draft minute of meeting held on 29 September 2020

Nick Martin, Chair of the Audit Committee introduced the item and highlighted that internal audit is back on track with three reports due to go to the December 2020 Audit Committee meeting (SEPA Management response to COVID, Budget Management and Flood Forecasting), that good discussion had been had in respect of the role of internal audit (item 10) confirming that systems are good with controls and processes in place but not as good at saying that the right processes are in place and at suggesting more effective ways of doing things.

The Board noted the update.

14.2 Change Committee – Verbal Update

Michelle Francis, Deputy Chair/Chair of the Agency Board Change Committee introduced the item and highlighted that there were two items on the agenda: Change Plan where there is some refining to be done in reporting and that there are delays with certain projects including Future Science and the Book. She advised that the Change Plan does not incorporate everything needed for change but that this will link into the new Annual Operating Plan. The second item was Staff Survey with a focus on culture and performance management. It was

attended by various members of the Agency Management Team (AMT) and key staff involved in the positive developments in response to the Staff Survey which needs to be reflected across the organisation. A plan will come to the Board in February 2021. She concluded her update by highlighted that internal communications and learning and development were the areas of the Staff Survey on the agenda for the December Change Committee meeting. This would include difficult conversations. In response to a question about an example of such a conversation Michelle Francis described a situation where due to the little amount of turnover of staff, some new managers have to deal with long standing poor behaviour issues, highlighting that it helps them to know that they are supported.

John Kenny provided an update on the Management Development Programme, advising that voluntary network sessions were being held tomorrow and next week, the focus being on brilliant conversations.

Nicola Gordon confirmed that she had appreciated the opportunity to attend a Programme Board meeting.

The Board noted the update

15 Action Note

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

Action 572: - The review still underway. Ongoing

Action 587: - No further update. Ongoing

Action 628: - This has been postponed until next year. Ongoing

Action 633: - This is proposed to come to the Board on 15 December 2020. Ongoing.

Action 646: - The Q2 Financial Report is on the agenda today, item 9.2. Proposed closed.

Action 648: - Further discussion took place on 16 September 2020 at the Board Planning day. Proposed closed.

Action 649: - Further discussion is to be diarised. Ongoing.

Action 650: - This is on the agenda for the Strategy Board meeting on 15 December 2020. Ongoing.

Actions: 646, 648, 652, 653 and 655 are closed

Actions: 572, 587, 628, 633, 649, 650 and 654 are ongoing.

16 Any Other Business

Julie Hutchison suggested bringing the outside in more at seminar sessions and proposed hearing from the Met Office about future work and relationship outreach and net zero work with the Scottish Investment Bank, launched that week, as ideas. The Chief Executive confirmed that SEPA has a strong relationship with the Met Office and that David Pirie had attended a Met Office Board meeting. He advised that Jo Green is the lead in respect of the Scottish Investment Bank. Jo Green advised that work is developing in respect of Green investment and relationships.

Fran van Dijk gave an update on the Board Succession and Diversity Group meeting, on 23 November 2020, thanking John Kenny and Alan White for attending and highlighting that there had been three areas of discussion: Board recruitment where co-opting was discussed and

the Clerk to the Board is going to connect with the Sponsor team in Scottish Government in January 2021 to ensure we encourage as much diversity as possible; the Management Development Programme within the context of the overall leadership programme and around supporting managers to get more diversity of thought; and the recent Equality and Human Rights Staff Ideas Group (SIG) where 40 people had been involved over three days.

The Chair asked that Board members reach out to their networks. He highlighted that we used Changing the Chemistry last time and that we need to rework our engagement to speak to those we do not have relationships with and be social media ready early in the New Year. We are going to look at softer skills and characteristics that focus on bringing expertise to the Board. Board members will be asked to contribute their ideas.

The Board suggested asking Scottish Government whether there had been applications elsewhere that would be good for SEPA.

17 Date and time of next meeting

The next meeting will be held on 16 February 2021 at 1.00pm virtually.

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

18 Workforce and Financial Plans – Presentation of draft plans that propose the resource profile and options for 2022-2027 (SEPA 44/20)

The Board noted and approved the eleven actions listed in Section 5 of the draft Financial Strategy and noted progress in developing the 2021/22 AOP and Budget, highlighting the need to return to it on a regular basis.

19 RPI Charging Scheme increases (SEPA 45/20)

The Board noted the report and agreed with the proposal.