

## SCOTTISH ENVIRONMENT PROTECTION AGENCY

### STRATEGY MEETING

The forty-second Board Strategy meeting took place at 1.00pm on  
Tuesday 15 December 2020 via Microsoft Teams

#### Present:

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

#### In Attendance:

Ian Buchanan	Chief Officer Compliance and Beyond
John Burns	Charging Schemes Manager (Item 14 only)
Sophie Cheney	Graduate Trainee
Olivia Cunningham	Principal Policy Officer (Item 9 only)
Kieron Gallagher	Head of Governance
Jo Green	Chief Officer, Performance and Innovation
Martin Grey	Head of Communications & Marketing (Items 1-11)
John Kenny	Chief Officer, Circular Economy
Martin Marsden	Head of Environmental Quality (Item 14 only)
Bridget Marshall	Regulatory Strategy and Government Relations Manager (Items 9 & 13)
Fiona Mactaggart	Head of Workspaces and Environment
Stuart McGregor	Chief Officer, Finance
Jennifer McWhirter	Clerk to the Board
Mike Montague	Specialist II (Item 14 only)
David Pirie	Executive Director Evidence and Flooding
Peter Pollard	Head of Ecology (Item 14 only)
Kari Speirs	Corporate Officer
Alan White	Equality and Human Rights Senior Business Consultant (Item 11 only)
Anne Turner	Business Strategy Unit Manager

#### 1. Board Discussion – Nuclear Sector

The Board thanked Philip Matthews for leading the discussion.

#### 2. Chair's Opening Remarks

The Chair welcomed everyone to the meeting and welcomed Fiona Mactaggart as delegate for Fiona Martin.

The Chair drew the Boards attention to two matters: a letter received by the Cabinet Secretary from the Scottish Salmon Producers Organisation about Marine Cage Fish farming and the Board Day on 27 January 2021. He advised that the day in January would be split between a check on things that have happened including COVID-19, Brexit and technology with an outside in focus and a planned discussion on the continued evolution of the Annual Operating Plan (AOP) with Agency Management Team (AMT) involvement.

In respect of the first item, the Chief Executive highlighted the ongoing challenges with the industry,

who believe that regulation in Scotland is too burdensome. It is not clear exactly what is being sought but SEPA is aware of the ongoing dialogue between the Industry and the Cabinet Secretary. The Chair advised that further discussion can be had under item 14.

The Board **agreed** that the Aquaculture Board Buddy project should be resurrected, recognising that membership will have changed. Any Board members interested in being involved should notify the Clerk to the Board.

### **3. Apologies for absence**

Apologies from Fiona Martin were noted.

The Chair highlighted that Fran van Dijk had to leave at 3pm.

### **4. Order of Business**

The order of business was as outlined on the agenda.

### **5. Declarations of Interests**

No declaration of interests were made.

### **6. Approval of the minutes of meeting held on 27 October 2020**

The minutes of the meeting held on 27 October 2020 were **approved** as an accurate record of the meeting.

### **7. Matters Arising**

The Clerk to the Board provided an update. She advised that:

Action 124 -This will be added to the Board planner. Ongoing.

### **8. Board Engagement Activity**

No Board Engagement Activity was noted.

#### **8.1 Board Buddy Register**

The Clerk to the Board advised that it was proposed that the Financial Reporting Board Buddy project be closed.

**The Board approved the closure of the Financial Reporting Board Buddy project and noted the update.**

### **9. Update on Brexit Developments - Verbal**

Jo Green introduced the item with Bridget Marshall and Olivia Cunningham in attendance.

Bridget Marshall advised that an EU exit coordinating group (ERCG) has been set up and that meeting's take place weekly. She advised that the areas likely to be impacted are Trans-frontier Shipment of Waste, chemicals (the replacement to UK REACH) and the Emissions Trading Scheme. She highlighted that confirmation had been received yesterday that there will be a UK wide Emissions Trading Scheme. The impacts are not expected over Christmas but in January/February 2021.

Bridget Marshall advised that the regulatory hub has been updated on SEPA's website covering the Coronavirus and Brexit regulatory approach. She highlighted that the new Environment Standards

Scotland (ESS) shadow body is going live in January 2021 and that they have recently appointed a Chair and four new board members. She advised that ERCG have been looking ahead to developing a relationship with ESS.

Bridget Marshall drew the Board's attention to an airgap in legislation with regards to Trans-frontier shipment. She advised that DEFRA are carrying the risk for this until the legislation comes in and that it is fair and managed.

**The Board noted the update.**

## **10. Stakeholder Outlook (STRAT 11/20)**

Jo Green introduced the report and asked Board members for their views on who SEPA's key stakeholders are now and who they should be during the period of the next Corporate Plan 2022-2027.

The Board highlighted the importance of section 2.9.1 and in keeping the potential for a second independence referendum on the horizon.

In response to a question regarding other dimensions that could be considered including: academic ; consumers; and community groups (including around buy outs), Jo Green agreed that it is important to get different perspectives.

In response to a question regarding the private sector and financial sector engagement, Jo Green advised that she would like to bring a session to the Board on Green Finance. The Board also asked for sector relationships to be brought to the Board.

**Action: Jo Green/Chief Executive**

In response to a question about whether we are looking at SEPA as a regulator and for key stakeholders under the core business of regulation and flooding or as an influencer of wider environmental improvement, the Chief Executive advised that SEPA makes the biggest mark on the two areas of regulation and flooding but is focused on wider engagement as an influencer of environmental improvement including in respect of education programmes.

In response to the prompting role SEPA can undertake, Jo Green advised that other organisations such as Scottish Water and Scottish Enterprise are adopting the approaches within One Planet Prosperity.

The Board discussed the four forward looking aspects of: growing green economy, involving relationships that have started but can be built on further; the transition of the pieces of the economy that need to go - there is a risk to the public purse of the private sector walking away from its liabilities; Just Transition, ensuring that we are there; and absorbing carbon, such as tree planting where we will not lead but will be involved particularly through the Water Environment Fund. The Board also discussed prioritisation, recognising that we cannot prioritise all thirty-four sectors at the same time and highlighted that if we claim to influence others we need to be able to evidence it. Jo Green confirmed that Just Transition and nature-based solutions can be linked into the Green Finance work she will bring back to the Board and advised that AMT is making considered judgements around priorities.

The Chief Executive asked for Board member feedback on the four sessions on Corporate Plan topics. It was agreed that it will be added to the material for the Board Day on 27 January 2021.

**The Board noted the report.**

**The Board had a ten-minute break.**

## **11. SEPA's Equality and Human Rights Programme (STRAT 13/20)**

John Kenny introduced the report with Alan White in attendance. John Kenny highlighted that the Board had previously expressed an interest in the equalities work and were keen to be involved before the actual outcomes come back in February 2021. The purpose of this session is to highlight where we have got to.

Alan White advised that as a public sector organisation SEPA is required to publish equality outcomes. He advised that SEPA last published equality outcomes in 2017 and that we are required to publish them again in 2021. He highlighted that AMT has agreed that we will have one - year equality outcomes covering 2021-2022 partly due to COVID-19 but also to align with the start of the next Corporate Plan in 2022.

Alan White highlighted that a Staff Ideas Group (SIG) with between 40-50 staff had been set up to get feedback and help prioritise the work. The SIG has primarily been focused on outcomes but has also given staff an avenue to share their personal experiences and feel supported and listened to. He advised that the main themes from the SIG included: bias (conscious and unconscious), gaps in policies and procedures, lack of support, raising awareness of equality issues amongst both managers and the wider workforce, making sure that systems and equipment are accessible and communications (there are limited opportunities to share and tell the organisation). He highlighted that the main themes were then put into a result map (Appendix 1) and that there are three long term goals (Appendix 2). Alan White asked the Board for: reflections on the findings/themes; whether the three goals are what we should be aspiring to; and suggestions for short term priorities.

In response to a question around unconscious bias in recruitment, Alan White confirmed that SEPA is signed up to the disability confidence scheme.

In response to a comment about expecting the paper to include more on SEPA as a public sector body and how it relates to wider society when part of our role is around addressing inequality in the environment, and about how are we making ourselves accessible in terms of for example recruitment and flood alerts to people who may not have the internet, Alan White advised that the SIG focused on their own experiences rather than external elements but confirmed that external services need equalities built in. He highlighted that COVID-19 did not impact on everyone in the same way and that it is helping move equalities forward including in respect of the change in focus being on people not just legislation.

In response to a question about whether mental health is on the agenda, Alan White confirmed that HR are leading in this area and although it is not explicit there is a link into equalities.

The Board discussed the gaps in visible support arising from not being in offices, giving LGBT champion lanyards as an example and questioning whether there is anything that could be done with MS Teams/Zoom backgrounds. The Board also discussed the importance of external elements, the bias towards low social/economic areas and the work already being done around flooding and place making that needs to continue.

The Chair concluded by saying that there is a great deal of support for what we are trying to do and highlighted that the time to do it is now.

**The Board noted the report.**

## **12. Annual Operating Plan 2021/22 – discussion (STRAT 14/20)**

Anne Turner explained the process used to develop the AOP and highlighted that all planning is focused on the sectoral approach, drawing attention to the timetable set out in the presentation. There are sixty-eight, two page summaries covering the three areas of: regulation, flooding and corporate, with thirty four sectors, seven places, fifteen other regulated summaries, three flooding and nine corporate related areas. The AOP should cover everything we are doing. She advised that quantifiable targets are encouraged but that those leading have been asked for accessible targets. Anne Turner concluded her presentation by asking the Board three questions: are we covering the

right areas in our planning; are these the kind of targets that the Board is hoping for; and any suggestions for improving the AOP planning process.

In response to a question about the first example target and who would do the recognising – ‘*SEPA is a recognised leader and active partner in team Scotland’s green finance work*’ – Anne Turner advised that at this stage we have identified the areas we want to measure and that time then has to be spent defining or refining them.

The Board commented that identifying targets is an interactive process, that targets need to be achievable and suggested that work needs to be done up front to prioritise so that we know what we will have resource to do. The Board asked that the criteria for prioritising be made available to the Board.

**Action: Chief Executive/ Anne Turner/Kieron Gallagher**

Kieron Gallagher confirmed that AMT has been split into six groups to look at the summary plans and any overlaps in order to determine the best ways of delivering ambitious targets.

In response to a comment about linking into the national performance framework and sustainable development goals (SDG), and the importance of connecting the people focus aspects including health and wellbeing to other aspects to help address the fact that they are difficult to measure but impactful, Kieron Gallagher confirmed that we are delivering on One Planet Prosperity which aligns with the SDGs. We are trying to make the fundamental change process as simple as possible.

In response to a comment that next year is likely to be another peculiar year but that we should try and think about measures that will survive and apply to the next Corporate Plan not just the AOP, Kieron Gallagher advised that we will probably end up with a bit of both. He highlighted that once we have the agreed measures we need to articulate what success looks like.

The Chair concluded by highlighting that thinking should be done around components such as inspections which are not measures in their own right but cost money and take time to progress so could demonstrate value for money.

**The Board noted the report.**

**13. SEPA/Scottish Government framework document (STRAT 16/20)**

The Clerk to the Board introduced the report and highlighted the background and the current situation.

The Board questioned some of the terminology and language including around internal audit (paragraph 21), income generation (paragraph 44), and procurement and payment (paragraph 55) and noted the clarity provided around pensions (paragraphs 40 and 41).

In response to a question on the legislative focus for SEPA’s additional independence as a regulator not just as an NDPB, Bridget Marshall advised that Scottish Government are the final appellant in appeals so although they have a wide power of direction, they cannot direct us operationally. She confirmed that she would feed this back to Government.

The Board questioned the interplay between the framework delegations and SEPA’s own scheme(s) of delegation, and asked that this be reported back to the Board.

**The Board approved SEPA’s Framework Document, in principle subject to addressing the minor issues highlighted, agreed to delegate authority to the Chief Executive to continue discussion with Scottish Government and finalise the Framework accordingly for publication and agreed that any substantial revisions, following discussions with Scottish Government, will be re-submitted to the Board by circulation for final approval and homologated at the Agency Board meeting on 16 February 2021.**

## **The Board had a ten-minute break.**

### **14. Marine Cage Fishfarms Charging - STRAT 12/20**

Stuart McGregor introduced the report with John Burns, Martin Marsden, Mike Montague and Peter Pollard in attendance.

Mike Montague advised that the purpose of the session is to provide an update on where we are in respect of the charges and to get confirmation from the Board to proceed as outlined in the paper. He summarised the responses received from both NGO's and industry and advised that we are proposing to look at proportionality as part of the amended proposal and ensure that we still achieve cost recovery. Stuart McGregor confirmed that Finance are comfortable and can budget accordingly.

In response to a question about why we were not cost recovering previously, Stuart McGregor confirmed that when the charges were set, there was a phased recovery over a set time period.

In response to a question about whether we can operate a better service (section 4.1), Mike Montague confirmed that there is a risk, if in two years industry do not feel that we are doing our day job to the appropriate standard. The Chief Executive advised that we have to aspire to meet the service levels that we set.

The Board discussed innovation (sections 4.8-4.10) and the importance of the messaging around charging rewarding a reduction in pollution.

The Board asked that regular updates be provided in the Chief Executive's report with any issues being reported by exception.

## **The Board approved the increases in charges and fees as modified by the proposals in this paper; and approved the submission of these proposals to Ministers**

### **15. Scottish Government Consultation - Model Code of Conduct for members of devolved public bodies (STRAT 15/20)**

The Clerk to the Board introduced the report and highlighted that the comments received in advance of the meeting will be incorporated into the response being submitted.

Martin Hill, the SEPA Board representative on the Scottish Government group revising the Model Code of Conduct, advised that the focus had been on modernising, using plain English and incorporating more on bullying and harassment and governance around decisions.

The Board discussed the problematic wording at section 3.3, the changes to the processes around the operation of the board at section 5 including the distinction between connection and interest, declarations of hospitality and the terminology around declaring the value of shares.

## **The Board discussed the response and noted the report.**

### **16. Action Note**

The Clerk to the Board provided an update on the Action Note and advised:

Action 96 – Some progress has been made on getting some of the data needed to provide this information into a system and format that makes this type of reporting possible, however there is significant work required including to systems to get to a point where this is possible without significant manual data cleansing and analysis. It is therefore proposed that a plan is brought nearer 1 April 2021. Ongoing.

Action 98 – The MSP survey session is being arranged for 16 February 2021. Ongoing

Action 99 – A session to come to the Board in February/March 2021. Ongoing

Action 104 – No further update. Ongoing.

Action 105 – No further update. Ongoing.

Action 109 – This was on the agenda for the Agency Board meeting on 24 November 2020. Proposed closed.

Action 110 – This was on the agenda for the Agency Board meeting on 24 November 2020. Proposed closed.

Action 121 – This is on the agenda for 16 February 2021 Agency Board meeting. Ongoing

Actions 109 and 110 are closed.

Actions 96, 98, 99, 104, 105, 121 and 124 are ongoing.

#### **17. Any Other Business**

No AOB was raised.

#### **18. Date and time of next meeting**

The Board **noted** that the next meeting would take place on 23 March 2021 at 1.00pm.

#### **Board members only private session**

Nothing was raised for discussion.