

SCOTTISH ENVIRONMENT PROTECTION AGENCY

AGENCY BOARD MEETING

The one hundred and eightieth meeting of the Agency Board took place on Tuesday 24 May 2022 at 1.00pm in the Corstorphine Room, Hilton Edinburgh Carlton, 19 North Bridge, Edinburgh, EH1 1SD, and via MS Teams.

Present:

Bob Downes (Chair)	Craig Hume
Nicky Chambers	Julie Hutchison
Fran van Dijk	Vinay Mulgundmath
Nicola Gordon	Philip Matthews
Martin Hill	

In attendance:

Ian Buchanan	Chief Officer, Compliance and Beyond (attended via MS Teams)
Vincent Fitzsimmons	Head of Hydrology and Flooding (item 10 only)
Jo Green	Acting Chief Executive
Martin Grey	Head of Communications and Marketing
Laura Hamilton	Personal Assistant to the Chief Executive
David Harley	Acting Chief Officer, Circular Economy
John Kenny	Acting Chief Officer, People and Property
Amy Laird	Senior Engagement and Customer Service Officer (item 10 only via MS Teams)
Roisin Lochrin-Hopkins	Senior Business Consultant (items 8.1 & 8.2 only via MS Teams)
Fiona Mactaggart	Head of Workspaces and Environment (items 11 and 18 only via MS Teams)
Bridget Marshall	Acting Chief Officer, Green Economy
Stuart McGregor	Chief Officer, Finance
Jennifer McWhirter	Clerk to the Board
Laura Paterson	Project Manager (item 10 only via MS Teams)
David Pirie	Executive Director, Evidence and Flooding
Kari Speirs	Corporate Officer (attended via MS Teams)
Anne Turner	Unit Manager (items 8.1, 8.2 and 9 only via MS Teams)
Alan White	Senior Business Consultant (item 9 only via MS Teams)

Safe SEPA @ Board

The Clerk to the Board provided a housekeeping update, confirming that no fire alarm test was scheduled. She advised the location of fire exits and toilets and confirmed that lunch would be served in the room with tea and coffee available in the lobby area.

In response to a question about use of the hotel WIFI, David Pirie provided assurance that it was fine to use.

The Clerk to the Board advised that anyone who has not yet contacted Kari Speirs to confirm the device they use for Diligent Boards so that 2-factor authentication can be finalised, should do so as soon as possible.

1. Chair's Opening Remarks

The Chair welcomed everyone to the meeting and welcomed Martin Grey. He also welcomed Kari Speirs and Laura Hamilton from AMT and Board Support team in attendance with the Clerk to the Board.

He highlighted the impact since the cyber-attack, COVID and the departure of the previous CEO, advising that we have a job do to in Scotland that we need to focus on. The Deputy Chair has been speaking to the Agency Management Team (AMT) members about how to best use our time together.

The Chair confirmed that a 10-minute break had been scheduled before the private session.

The Chair confirmed that no member of the public were in attendance and that we have received no approaches in advance of the meeting.

2. Apologies for Absence

Apologies for absence were received from Harpreet Kohli.

3. Order of Business

The order of business was as outlined on the agenda.

No AOB was raised.

4. Declarations of Interest

No declaration of interests were made.

5. Approval of minutes of meeting held on 26 April 2022

The minutes of the meeting held on 26 April 2022 were **approved** as an accurate record of the meeting.

6. Matters Arising

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

Action 706 (Chief Executive's Report – SEPA 14/22)

Update: Information was provided to the Board member who raised the question on 27 April 2022 and has been added to the action note. Proposed closed.

Action 707 (Chief Executive's Report – SEPA 14/22)

Update: Information was provided to the Board member who raised the question on 27 April 2022 and has been added to the action note. Proposed closed.

Action 708

Update: This is on the agenda for today's Board meeting, item 11. Proposed closed

Action 709

Update: Further information was provided to the Board member who asked the question on 4 May 2022. This information has also been uploaded onto the Resource Centre in Diligent Boards. Proposed closed

Action 710

Update: The Board will be notified when the report is published. Ongoing

Action 711

Update: This will be incorporated into the reporting schedule going forward with a shorter, more concise report coming to the Board in April 2023. Proposed closed.

Action 712

Update: Information was emailed to Board members on 17 May 2022. Proposed closed.

7. Chair's Report – verbal

The Chair confirmed that he had attended the CEO Recruitment Longlist meeting on 16 May 2022. He advised that he and Nicola Gordon are leading on the recruitment, which is due to be completed by June 2022.

He advised that he had attended a meeting with the Acting Chief Executive on 23 May 2022 with the NFUS president with the discussion focusing on slurry and sediment. He highlighted that we are back into an engagement routine with a Finfish meeting taking place later this week then one with Environment Link.

The Chair drew attention to the scheduled Board member appraisal meetings highlighting that the summaries that are sent to Scottish Government and advising that they will be complete in the next three to four weeks.

He concluded by advising that Bridget Marshall will be Acting Chief Executive while Jo Green is on leave.

The Board noted the update.

8. Management Reports

8.1 Chief Executive's Report (SEPA 19/22)

The Acting Chief Executive introduced the report with Anne Turner and Roisin Lochrin-Hopkins in attendance via MS Teams.

She highlighted her attendance at the NEPA (Network of European Environment Agencies) event in Paris, by train, with Chief Executives and Directors of other Environment Protection Agencies who are sympathetic and recognise what we have been through. She drew the Board's attention to some of the topics of discussion including, Norway with carbon capture and storage, Ireland with peat restoration and France with offshore emissions (Europe) and advised that it had been good to speak to colleagues from Iceland and Finland around the shared issues with aquaculture. We co-Chair the better Regulation Interest Group with Ireland, which is being revitalised. She concluded that it had been really helpful to attend.

John Kenny highlighted that final offers had been made in respect of Voluntary Severance to eight members of staff and had all been accepted. He explained the reasons for only eight offers having been made including payback and criticality of posts and confirmed that next year we would start the workload plan earlier. In response to a question about the number of disappointed staff, John Kenny confirmed that numbers in the low hundreds had applied.

In response to a question about the criticality of posts and financial payback, John Kenny explained that we were limited due to when in the year the offers were made and the need for this to be self-funding and that what is currently defined as a critical role is likely to change next year once we have done the workforce plan. In terms of the financial payback, he also confirmed that we cannot go beyond two years and that there was the addition of pension strain costs to consider.

The Board agreed that the Audit Committee should receive more detail on the figures and discuss later in the year.

Action: John Kenny/Clerk to the Board

David Pirie drew the Boards attention to the UKCAS technical accreditation audit where staff are witnessed undertaking tests and results checked by the team of five auditors over the three-week audit. He confirmed that it had gone extremely well. We are not back to where we were before the cyber attack but have come along way. The Chair highlighted that this is a testament to those involved and asked that the Board's thanks be passed back to them.

Ian Buchanan highlighted the Strategic Infrastructure Sector Workshops and the huge difference they make to the quality of applications.

David Harley highlighted three firsts within the report: the 3km of habitual restoration on the River Nith; the first time a water scarcity report has been issued so early in the year and the first response to an Environmental Standards Scotland information Notice in respect of Air Quality.

In response to a question about the percentage of work that the labs are currently doing compared with previously, David Pirie advised that they are doing 40 % but are ramping up and should be doing 100% after summer 2022, highlighting that an increase in volume of work is quicker than diversity and range.

In response to a question about how relevant to SEPA the anti-bacterial resistance work is, David Pirie advised that we are doing it alongside the Bathing Waters work at the same sites as it is a big environmental challenge - the source of bugs getting into the environment and waterways impacts on Bathing Waters. The water environment is a pathway, and we regulate discharges.

In response to a question about the new Chair of ESS and whether there are any resource implications, Bridget Marshall advised that it is very early days, that ESS are going out to consultation with a Board seminar planned for July 2022 to give an update to which they will be invited. She confirmed that they can handle a maximum of six investigations at the one time and that not all of these involve us. In response to a follow up question in respect of how onerous it is on us, David Harley advised that there is a fifteen-day deadline and that with the Air Quality example there were a lot of questions but that they were straightforward with only one unit in SEPA needing to be involved. A lot of learning will follow.

In response to a comment about a pre meeting question on Fluorinated gases, David Harley confirmed that the note prepared in response can be shared with the full Board on Diligent Board.

Action: David Harley/Clerk to the Board

In response to a question about the creation of a new e-learning model and whether e-learning was mandatory or optional, John Kenny confirmed that it was both giving examples of H&S and cyber training as being mandatory.

In response to a question about the cost of living, John Kenny advised that we have not committed to any financial offers but now that HMRC are seeking evidence that individuals have to work from home we are helping staff with the information they need to apply. This is a massive issue in the pay offer and will become more significant in the Autumn if staff are not back in offices.

In response to a comment about the significant numbers of queries in respect of the recovery of debt and whether a similar approach to that taken by the Deposit Return Scheme could be adopted with an FAQ page to reduce queries, Stuart McGregor advised that we are looking at trends and ensuring we communicate. Further discussion is required with AMT, but the invoicing planned for May/June has been pushed back to July 2022.

In response to a question about when Job Evaluation will be complete, John Kenny advised that we are two years away from implementing the scheme but that there are things we can currently do so that this does not constrain us.

The Board noted the report

8.2 Quarter 4 Performance Report (SEPA 20/22)

Bridget Marshall introduced the report and advised that it is an end of year assessment with fourteen out of the twenty measures being achieved. She highlighted that permitting performed better than the data indicates but that we do not have the data to demonstrate this, and that consideration had been given to reporting it as a near miss rather than as not achieved.

In response to a question about the performance measures for the AOP and Corporate Plan, Jo Green confirmed that there will be new measures in this years AOP advising that we know we are not where we need to be with performance measures.

The Board commented that the report is generally positive which reflects the hard work done.

The Board commented that it was difficult to get a sense of relativity in respect of the regulatory section when reporting changes between percentages and numbers. Ian Buchanan advised that against the backdrop of not having access to data the most significant sites had been checked, and prioritised on a risk basis with a focus on significant harm to the environment and communities which meant there was a dynamic approach throughout the year.

In response to a question about septic tank application turnarounds and whether there is an opportunity to have a seminar session to reflect on things that are being done now that are more One Planet Prosperity, the Acting Chief Executive advised that rather than having stand alone topics this would be built into reporting on AOP priorities.

In response to a question about the reasons for the high number of queries in respect of measure 14, Stuart McGregor advised that this was due to a range of things including the need to build back historic data and the change in licence conditions. He

advised that there was a high volume of queries but that they were not contentious, and that money is starting to come in with second letters about to be issued.

In response to a comment that it was good to see actions plans in place and monitoring being undertaken, Ian Buchanan advised that the previous CEO report had reported some outcomes on the activities being undertaken and that although some of the regulatory tasks around enforcement are still being done manually, we are moving in the right direction.

In response to a question about the communications strategy in respect of anticipated questions about what we did not achieve, Martin Grey advised that there is still work to do on positioning for the year ahead with a new CEO.

The Chair concluded that in the circumstances it is great to see a year-end report like this.

The Board noted the report

9. Equality Outcomes 2022-26 (SEPA 18/22)

John Kenny introduced the report with Anne Turner and Alan White in attendance via MS Teams. He highlighted that the outcomes came from the Staff Ideas Group (SIG) and discussions with Unison and others including external sources.

Alan White advised that the SIG had worked well, although it was delayed the engagement from staff was positive. He advised that the outcomes need to lead to tangible change and achievements, highlighting that previous outcomes were not as connected to actions.

The Board commented that they were delighted to see the paper and the language within it. The Board discussed the role audit might play in respect of outcome two, sub outcome six around complaints handling both quantitative and qualitative, and whether the Board cover paper should have more of a focus on the inclusive activity used to get the equality. In response Alan White advised that audit would be part of the measure and that the inclusive practice should be done through Equality Impact Assessments.

In response to a question about the ambition in the paper which is applauded but a concern about the definition of the sub outcomes with the example of outcome two, sub outcome five around low-income background and the design of all products querying what is deliverable when there are twenty-five sub outcomes in total, Alan White advised that the sub outcomes are not all separate, there is a lot of overlap. In response to a related question about KPI's and the number of measures, Anne Turner advised that there are six outcomes which will result in six or seven measures of which the Equality Oversight Group will pick the top two or three to monitor and measure.

The Board approved the report and asked to see how it is developing over the period with a focus on definitions and measures.

10. New 3-Day Scottish Flood Forecast (SEPA 22/22 & Presentation)

David Pirie introduced the item with Vincent Fitzsimmons in attendance and Amy Laird and Laura Paterson in attendance via MS Teams.

They described in detail the priorities for the year around Avoid, Protect and Warn, highlighting that communication is key. Laura Paterson explained the background to the new 3-Day Scottish Flood Forecast including the involvement of the Met Office, the different phases to it, the stakeholder engagement undertaken including with Category 1 and 2 responders and MSP's. Amy Laird provided detail on the media plan, including that there will be national coverage at local level, that a video has been produced describing the product and how to give feedback and highlighted the six-week social media targeted campaign.

In response to a question about the social media channels SEPA use and whether this includes Instagram, Amy Laird advised that we used the standardised current SEPA channels which are Facebook and Twitter. Martin Grey confirmed that this is a partnership product, highlighted the big push for the launch with Scottish Government and the Minister and confirmed that a new social media policy is being drafted.

In response to a question about feedback received, Laura Paterson advised that as of this morning there were twenty-three responses, highlighting that a flood event should encourage more feedback as will the launch planned for Autumn.

In response to a question about the accuracy of data when things can change in three days, David Pirie highlighted that it is a forecast so is future looking and that discussions on accuracy are currently taking place around mechanisms and the measuring of medium and large events. Vincent Fitzsimmons confirmed that projects within Warn are looking at the technical aspects in parallel with communications including in respect of surface water.

In response to a question about drought, Vincent Fitzsimmons advised that it comes under the Warn banner of work and that better more local flood warnings linked to phase 2 includes drought and reservoir warnings.

The Board thanked all those involved.

The Board noted the report and presentation

11. Future of Work (SEPA 23/22)

John Kenny introduced the report with Fiona Mactaggart in attendance via MS Teams and advised that AMT have been meeting every week to discuss this hugely important issue. Health and Wellbeing and service delivery have been impacted by the Future of Work with a lot of effort having been put in to get a deliverable plan. He explained that going back into offices and fully opening as well as getting the core capacity in place to get people working had been considered and that AMT had decided to do normal hybrid opening while at the same time getting core capabilities into other offices. Fiona Mactaggart highlighted the key areas within the paper – the vision (Annex 1) approved by the Board in October 2021 and the update on challenges and opportunities provided to the Board in February 2022 (Annex 2). Since the last update in February the AOP target has been approved, by the Board in April 2022. Work is being done across SEPA on a realistic and achievable plan for re-opening recognising that it is a significant and complex situation due to both COVID and the cyber-attack. She concluded by drawing attention to the phasing (Annex 3) highlighting that buildings with a high chance of success will open as quickly as we can taking into account service delivery, geographical coverage of services, ease of opening and lease breaks for example. There will be regular check ins with AMT.

In response to a question about the start and finish dates for the project plan, John Kenny advised that the weeks rather than actual dates have been included, highlighting that this is realistic in terms of IS resource but that there may still be opportunities to do things quicker. David Pirie provided further detail in terms of IS requirements including in respect of the SWAN network and WIFI, highlighting that initial work arounds will be improved as we get into offices.

The Board discussed risks and the need to be clear about how many people will be back in which offices, doing what, by when. John Kenny advised that there are a lot of unknowns but that the first batch of five offices will be complete by the end of the summer while others are dependent on lease breaks for example which require discussions with Scottish Government. Ian Buchanan advised that a rounded approach is being taken to risk.

The Board **agreed** that the Board Buddy group would look at different scenarios including dependencies around risk.

The Board thanked Fiona Mactaggart and the team.

The Board noted the report

12. Board Work Programme

12.1 Report on Board Seminar 24 May 2022

The Clerk to the Board advised that the Board seminar session focussed on Serious Organised Crime with Alison York, Head of Legal and Colin Hershaw, Acting Head of Enforcement presenting on SEPA's Enforcement policy and guidance, the new measures that came in under the 2015 order including Fixed Monetary Penalties, Voluntary Monetary Penalties and Enforcement Undertaking. They explained how the Lord Advocate's guidelines apply to SEPA, the use of enforcement measures, advised that SEPA is a specialist reporting agency and gave examples of sentencing, describing the Scottish Sentencing Council. They then provided detail on the current profile and landscape of serious environmental crime with examples and detail on the multi-agency approach. The session concluded with detail on Scotland's Serious Organised Crime Strategy and the additional enforcement measures. The Board discussed the key themes and areas of influence such as supply chain analysis of waste and prosecution and sentencing powers and thanked those involved for the work done.

The Board noted the update.

12.2 Board Member Engagement

Fran van Dijk and Nicola Gordon advised that they had attended the All-Energy Conference the previous week. Fran van Dijk drew attention to a session she had attended with Chris Stark who advised that we are not going to be able to deliver on the carbon reduction plan and that there is also concern about the UK meeting targets. She highlighted a presentation with Scottish Power and SSE including planning consent and the need for pumped hydrogen, and commented on a discussion that had taken place on floating wind. Nicola Gordon advised that hydrogen is oversold as a solution to net zero, drew attention to the Board seminar session planned for October 2022 and highlighted the range of new ideas discussed including tidal and wave energy.

The Board noted the update.

12.3 Board Buddy Register

The Clerk to the Board advised that Vinay Mulgundmath is going to be the second Board Buddy for International Services and that we are looking for one more Board Buddy in respect of the Grangemouth - net zero targets by 2045 project to join Vinay Mulgundmath. Nicola Gordon volunteered.

The Board noted the update.

13. Board Committee Reports

13.1 People Committee Update

Martin Hill as Chair of the People Committee advised that the Committee had met on 21 April 2022 highlighting the comprehensive paper on staff surveys presented to them which gave reassurance. We are adept at varying the ways we use surveys, and the response rates tend to be high compared to others in the public sector. He advised that there had been a discussion on the implications of the Annual Operating Plan with a focus on cultural issues. He concluded by providing detail about what is on the agenda for the next meeting on 6 June 2022.

The Board noted the update.

14. Action Note

The Clerk to the Board provided an update to the action note

Action 649

Update: A full report will go to the Board when the actions are complete. Ongoing

Action 678

Update: A Strategy Board session on decarbonisation is being planned for no later than October 2022. Ongoing.

Action 684

Update: IAF is part of the Regulatory Reform project. Board Buddies have been informed and a seminar session took place on 26 April 2022. A further session is being added to the Strategy Board agenda for 28 June 2022. Ongoing.

Action 690

Update: A seminar session took place this morning, 24 May 2022, on sentencing guidelines. Proposed closed.

Action 693

Update: Planning for the new Corporate Plan will begin in quarter one of new financial year. Sessions will be added to the Board planner for Strategy board meetings and seminar sessions. Ongoing.

Action 702

Update: The Model Code of Conduct was on the agenda for the Agency Board meeting on 26 April 2022 with training planned for a Board seminar session after this. The Clerk to the Board is contacting the Standards Commission to check whether they offer training. Ongoing.

Action 703

Update: This work is ongoing. Ongoing.

Action 705

Update: A session took place 23 May 2022. Proposed closed.

15. Any Other Business

No other business was raised.

16. Date and time of next meeting: 26 July 2022 at 1.00pm

The next meeting will be held on 26 July 2022 at 1.00pm, venue to be confirmed.

10-minute break

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

17. SEPA Future Funding – Verbal

The Board noted the update.

18. SEPA Future Estate – Verbal

The Board noted the update.

19. Consideration of New Risks (SEPA 21/22)

The Board noted the update and agreed that the paper should be re-shaped going forward.

Board members only private session

20. Culture and Conduct – Verbal

The Board noted the update