

Board agenda

Board Meeting Tuesday 6 December 2016

Time: 9.00am – 3.45pm
Venue: Ergon House, London
Quorum: 6 non-executive Board members

	1.	Apologies	Emma Howard Boyd	
	2.	Declarations of Interest	Emma Howard Boyd	9.00am 5 mins
	3.	Minutes of the Board meeting on 18 October 2016 and matters arising	Emma Howard Boyd	
	4.	Governance discussion and Implications for Environment Agency of: -Defra transformation -Defra big room -Autumn statement 2016 -Defra/EA framework document	James Bevan John Leyland	9.05am 60 mins
	5.	Chief Executive's update	James Bevan	10.05am 15 mins
	6.	Committee meetings – oral updates and forward look <ul style="list-style-type: none"> • Audit and Risk Assurance • Pensions • FCRM • E&B • Annual review of Remuneration Committee <i>For information</i> 	Karen Burrows Clive Elphick Lynne Frostick Gill Weeks Emma Howard Boyd	10.20am 30 mins
		<i>Short break</i>		10.50am 10 mins
Finance	7.	Finance Report <i>For information</i>	Bob Branson	11.00am 5 mins
	8.	Schemes of Delegation <i>For approval</i>	Bob Branson	11.05am 5 mins
	9.	LGPS Pooling <i>For approval</i>	Clive Elphick	11.10am 20 mins

FCRM	10.	Update and outcomes from Board and stakeholder breakfast – Flood ready economy	John Curtin	11.30am 5 mins
	11.	Flood readiness for winter <i>For information</i>	John Curtin	11.35am 20 mins
		<i>Lunch with Ergon staff. This will take place in the Café area</i>		11.55am 50 mins
E&B	12.	Waste crime- complex long standing cases update <i>For information</i>	Harvey Bradshaw Nicky Cunningham	12.45pm 45 mins
	13.	EU update	Harvey Bradshaw	1.30pm 30 mins
	14.	Water Resources long term planning framework 2015-2065	Peter Simpson Jean Spencer	2.00pm 60 mins
	15.	Health, Safety and Wellbeing update	Paul Woodcock	3.00pm 10 mins
	16.	Communications update and forward look	Mark Funnell	3.10pm 30 mins
	17.	AOB and date of next meeting – Tuesday 7 February 2017, London	Emma Howard Boyd	3.40pm 5 mins

Information papers –

Info 1 Chair's update (to be tabled at meeting)

Paper by: Chief Executive

Subject: Chief Executive's Update

FOR NOTING
Recommendations

The Board is asked to note the update on key topics since the last meeting.

1.0 Shale Gas planning appeals

- 1.1 On 6 October Secretary of State for Communities and Local Government, Sajid Javid, approved Cuadrilla's plans to allow hydraulic fracturing (and monitoring) at their Preston New Road site in Lancashire. He also approved plans for monitoring and is 'minded to approve' fracking at their Roseacre Wood site pending a further inquiry on road safety issues. On 19 October the Preston New Road Action Group wrote to the Secretary of State to ask him to reconsider his decision before they initiate a statutory legal challenge.
- 1.2 In Yorkshire, the planning permission that was granted to Third Energy in May 2016 for the site at Kirby Misperton is being challenged through a judicial review. The challenge is being led by Friends of the Earth and will be heard at the High Court in November 2016.
- 1.3 In Nottinghamshire, the County Council recently adjourned the decision on the IGas site at Misson until 15 November, pending legal advice to members on a covenant for a neighbouring conservation site. Nottinghamshire Wildlife Trust threatened to apply for judicial review of any decision to approve planning permission without consideration of the covenant.
- 1.4 We have not been legally challenged on our decisions to grant environmental permits for the proposed Cuadrilla, Third Energy and IGas sites.

2.0 Shale Wealth Fund

- 2.1 On 8 August 2016 the government published its Shale Wealth Fund consultation, seeking views from stakeholders on the priorities and delivery method of the fund. Over the next 25 years the fund could result in investment of up to £1 billion in local communities hosting shale gas activities. The consultation closed on 25 October 2016.
- 2.2 We have responded to the consultation via a letter from the Chair. We have highlighted the potential of the fund to be invested in environmental improvements to benefit local communities and the economy, in particular alignment to the government's 25 Year Environment Plan.

2.3 We also highlighted the opportunities the fund offers for leveraging innovative finance, such as green investment bonds, and have stressed the importance of using existing local groups, such as Catchment Partnerships and Local Nature Partnerships, to identify good local projects with a high benefit to cost ratio.

3.0 Bathing water results 2016

3.1 On 8 November, Defra released the bathing water results for 2016. Each bathing water is classified as excellent, good, sufficient or poor. Those receiving a poor classification will require signage next season advising against bathing. Bathing water quality, tested at 413 beaches and lakes up and down the country, is the best on record with 98.5% passing the standards this year.

3.2 There are 6 bathing waters that have been classified as poor. These are:

Bathing water	Area
Scarborough South Bay	Yorkshire
Clacton (Groyne 41)	East Anglia
Walpole Bay, Margate	Kent, South London and East Sussex
Instow	Devon, Cornwall and IOS
Ilfracombe Wildersmouth	Devon, Cornwall and IOS
Burnham Jetty North	Wessex

3.3 Last year was the first year that the new tighter standards were reported. 97% of bathing waters passed the standards, with 12 waters being classified as poor. Two of these have since been de-designated. This year's results show a continuing underlying trend of improvement in bathing water quality compared with previous years.

4.0 Bathing water Monitoring Review

4.1 As part of our overall review of monitoring, we are intending to introduce a risk based approach to bathing water monitoring for the 2017 bathing season, which will reflect our understanding of the long term water quality of the bathing waters.

4.2 This approach will enable us to reduce our monitoring effort at the highest quality sites and will provide an opportunity to reinvest at the sites which struggle to meet the highest standards. We are developing a communications and engagement plan to reassure the public and partners of our approach.

5.0 Averies Recycling (Swindon) Ltd

5.1 Following a major waste fire at Averies Recycling in 2014, a detailed criminal investigation was carried out. The investigation has now concluded and the defendants, Lee and David Averies, have been sentenced at Swindon Crown Court in relation to serious environmental offences committed at their waste

Ref: OB/1612-5

sites Swindon Skips Ltd at Brindley Close and Averies Recycling Ltd at Marshgate in Swindon. Lee Averies was also sentenced for a similar offence at his waste site at Calne in Wiltshire in his capacity as Director of Calne Aggregate Holdings Ltd.

- 5.2 Lee Averies accepted he was 'reckless' and was sentenced to 12 months imprisonment on each of the 3 separate offences, the sentences were suspended for 2 years. He was also made the subject of a Criminal Behaviour Order which will prevent him working in the waste industry for 5 years.
- 5.3 David Averies accepted he was 'negligent' and was ordered to pay fines and costs of £54,000. He was also disqualified from acting as a company Director for 3 years.
- 5.4 A Proceeds of Crime order was made by the Court in relation to Lee Averies and Calne Aggregate Holdings Ltd. Our challenge now is to resource and complete a comprehensive financial investigation. This has been scheduled to return to Court in the summer of 2017. We will also work with the Insolvency Practice and Her Majesty's Revenue and Customs in their ongoing investigations.
- 5.5 The outcome of this investigation sends a powerful message to unscrupulous waste operators that we will pursue them and that the Courts will use the full scope of their sentencing powers, including imprisonment.

James Bevan
Chief Executive

December 2016

Paper by: Secretariat

Subject: Board Committee Meetings

FOR NOTING

Recommendations

The Board is asked to note:

1. Substantive agenda items discussed at Remuneration, Audit and Risk, Pensions, FCRM and E&B Committee meetings since October 2016.

1.0 Introduction

- 1.1 This paper provides a summary of substantive agenda items that have been discussed at committee meetings since the last Board meeting on 18 October 2016.

2.0 Remuneration Committee

- 2.1 The Remuneration Committee has not met since the last Board meeting on 18 October.
- 2.2 The Committee is due to meet on 5 December and substantive items for discussion will include:

- Annual report on Board and Committee Chair expenses
- Annual committee review ahead of December Board, including Committee Forward look for 2017
- Performance ratings and PRP for CEO
- People Report

3.0 Audit and Risk Committee

- 3.1 The Audit and Risk Committee has not met since the last Board meeting on 18 October.
- 3.2 The Committee is due to meet on 1 December and substantive items for discussion will include:
 - HSW update report
 - Planning report for 2016-17 audit strategy
 - Update on NAO VfM and Financial audit work
 - Progress update – transition of IA services to GIAA
 - Update on Defra ARAC Chairs audit
 - Transformation and organisational change update
 - Natural capital and Financial reporting

Ref: OB/1612-6

- Internal Audit Progress Report
- Annual review of risk assessment across the organisation
- Annual Declarations of Interest Compliance report
- Whistleblowing policy and procedure update
- Annual FsoD update
- Annual review of ARAC Terms of Reference

4.0 Pensions Committee

4.1 The Pensions Committee have met once since the last Board meeting on 18 October to discuss LGPS investment pooling.

The Investment Sub Committee also met on 22 November. Substantive items discussed included:

- Implementing the EAPF Investment Strategy within BPP
- Fund Manager Performance
- Responsible investment update including:

-Progress on Policy to Address the Impacts of Climate Change
-Fund and manager RI benchmarking transition pathway initiative

5.0 Flood and Coastal Risk Management Committee

5.1 The FCRM Committee has not met since the Board meeting on 18 October.

6.0 Environment & Business Committee

6.1 Since the Board meeting on 18 October the Environment & Business Committee have met once, on 16 November. Substantive items discussed included:

- Chemicals and the Environment
- E&B Incident Ready
- New Waste legislation- raising the bar
- E&B Committee Annual Review

Alice Duncan
Board and Executive Secretariat Adviser

December 2016

Appendix: Financial Position as at 30 September 2016

Sponsor: Director of Finance

Title: Finance Paper

<p>Please clearly state what decision you are seeking from the meeting</p> <p>The Board is asked to note the latest full year forecast arising from the mid-year review</p>				
<p>Key points for discussion</p> <p>The mid-year review indicates that:</p> <ul style="list-style-type: none">- The year-to-date position is showing a significant underspend, whereas combined full year forecasts exceed our revenue and capital GIA budgets.- This is largely due to the requirement for EA to absorb pro rata organisational reform and other budget reductions from core Defra. We believe we can manage the forecast pressure and stay within our budget.- The capital forecast position has a much smaller level of over-programming than usual and therefore increased risk of underspend if there are delays in projects in the second half of the year.				
<p>Governance</p> <p>What meetings/groups have already reviewed this item?</p> <p>Various teams across Finance</p> <table><tr><td>EDT</td><td>26 October 2016</td></tr></table> <p>What meetings/groups need to review this item next?</p> <table><tr><td>N/A</td><td>N/A</td></tr></table>	EDT	26 October 2016	N/A	N/A
EDT	26 October 2016			
N/A	N/A			
<p>Are there any risks associated with the evidence and analysis in the paper?</p> <p>Some forecasts may change through the year as circumstances change.</p>				
<p>How will the key messages/decisions be communicated?</p> <p>Messages will be cascaded by attendees</p>				
<p>No legal annex is required</p>				

Form completed by: James Harmer
Date: 14 November 2016

Ref: OB/1612-7

1.0 Review of Year to date position

- 1.1 At the half year point we are behind year to date budget spend on most expenditure lines. We have invested 45% of our total revenue budget and 38% of our capital budget. We would usually expect a closer to even profile of revenue spend, especially on pay costs. The current position is a result of the additional £40m of FCRM revenue budget allocated to the Agency just before the start of the financial year. We needed to plan to efficiently invest this additional money which was necessarily more loaded to the later part of the year. On the capital side, recovery spending so far this year is offsetting an underspend against our core programme.

2.0 Possibility of capital underspend

- 2.1 We are currently forecasting a small underspend on capital (£8m) which is made up of over-programming on the core GIA programme (£3m) offset by a larger forecast underspend on local levy budgets. The shortfall in levy spend is a timing issue only as this income will be applied to capital projects in future years. We would expect a larger degree of over-programming at this point in the year to account for the slippage in the programme that can occur over the winter months.

3.0 Revenue pressure

- 3.1 Our net revenue expenditure position is manageable, thanks to proactive decisions taken on VERS, reducing FTE targets and self-discipline in many parts of the organisation on recruitment, mindful of future budget constraints. The pressure is not large and options for managing the pressure have been agreed and are being taken.

Name: Pat Bolster

Job title: Deputy Director – Financial Control

Date: 14th November 2016

Ref: OB/1612-7

Appendix 1: Financial Position as at 30 September 2016

Income and Expenditure by category

All in £m	Year to date			Full Year			
	Actual	Budget	Surplus/ (Deficit)	Forecast	Budget	Surplus/ (Deficit)	% Variance
FCERM Local Levy	(33)	(34)	(1)	(33)	(34)	(1)	3%
FCERM Other Income	(18)	(14)	4	(18)	(14)	4	-29%
E&B Water, Land and Biodiversity Charges	(191)	(191)	-	(193)	(194)	(1)	1%
E&B Regulated Industry Charges	(81)	(85)	(4)	(112)	(113)	(1)	1%
E&B Navigation Charges	(6)	(6)	-	(8)	(9)	(1)	11%
E&B Other Income	(12)	(10)	2	(25)	(23)	2	-9%
Total Billed Revenue Income	(341)	(340)	1	(389)	(387)	2	-1%
FCERM Capital Partnership Funding	(4)	(14)	(10)	(38)	(33)	5	-15%
Total Income	(345)	(354)	(9)	(427)	(420)	7	-2%
Wages and Salaries	161	168	7	334	335	1	0%
Social Security	18	19	1	38	38	-	0%
Pension Contributions	22	23	1	47	46	(1)	-2%
Temporary Staff Costs	5	2	(3)	8	5	(3)	-60%
Other Staff costs	12	16	4	26	27	1	4%
Travel and Subsistence	5	7	2	13	13	-	0%
Training	1	1	-	3	2	(1)	-50%
Manpower Recharges	(38)	(39)	(1)	(86)	(79)	3	-4%
Total Staff Related Costs	186	197	11	387	387	-	0%
Reservoir Operating Agreements	14	12	(2)	23	23	-	0%
Fees and Commissions	11	9	(2)	23	18	(1)	-6%
Hired and Contracted Services	7	10	3	22	20	(2)	-10%
Rents and Operating Leases	6	9	3	21	18	(3)	-17%
Utilities	6	6	-	12	12	-	0%
Transport and Plant	5	6	1	12	12	-	0%
Information Technology (exc Caggemini)	1	4	3	4	7	3	43%
Building costs	5	4	(1)	9	8	(1)	-13%
Consumables and Materials	2	2	-	5	4	(1)	-25%
Other	17	12	(5)	20	18	(2)	-11%
Total Operating Costs	74	74	-	147	140	(7)	-5%
Revenue Projects (incl. Caggemini Service Charge)	68	87	19	220	211	(9)	-4%
Capital Projects (incl. grants to other risk management authorities)	211	231	20	553	556	3	1%
Total Expenditure	539	589	50	1,307	1,294	(13)	-1%

Net position by funding stream

Revenue net position vs budget	Surplus/ (Deficit)	Surplus/ (Deficit)
FCERM Grant-in-Aid	21	(11)
FCERM Other	3	4
E&B Grant-in-Aid & Other (including Commercial and NRW)	5	(4)
E&B WLB Charges	4	(2)
E&B RI Charges	(2)	-
E&B Nav Charges	-	(1)
Total	31	(14)
Capital net position vs budget	Surplus/ (Deficit)	Surplus/ (Deficit)
E&B Grant in Aid (inc Charges)	1	-
FCERM Local Levy and Partnership Funding	1	11
FCERM Grant in Aid	8	(3)
Grants for Local Authority (LA) and Internal Drainage Boards (IDB)	-	-
Total	10	8

1.0 Introduction

- 1.1 This paper provides the Board with a summary of our health, safety and wellbeing (HSW) performance and progress for the six months to the end of September 2016/17. It supplements the monthly HSW data reports (by correspondence) to the Board and the annual report presented in July each year. Under the Chairmanship of Karen Burrows (the Board HSW Champion), the Board Audit, Risk and Assurance Committee now considers topical HSW issues at each of its meetings. The Board is asked to confirm that this mid-year summary report continues to provide value in its scrutiny of HSW.

2.0 Summary of Performance

Lost Time Incidents

- 2.1 10 colleagues suffered work related injuries which required them to take time off. This compares with 31 colleagues who suffered work related lost time injuries during the whole of 2015/16 and 30 during 2014/15. Our lost time incident frequency rate continues to decline, standing at 0.15 (0.16 at the end of 2015/16). This is an all-time low.
- 2.2 The Labour Force Survey 2010/11- 2014/15 reports 2% of all workers across all employment sectors reporting significant work related injuries annually, with 2.6% in the water and waste sector and 2.8% in civil engineering. Only 0.2% of our colleagues have suffered such injuries so far this year, and 0.3% in 2015/16. Our reporting levels are considerably better than the rest of the Defra group and we do not believe that this low rate is due to under-reporting.

Safety Critical Incidents

- 2.3 Safety Critical Incidents (SCIs) are subject to particularly rigorous review to maximise our learning. We experienced 8 such incidents in this reporting period. We had 14 safety critical incidents in 2015/16, 31 in 2014/15 and 36 in 2013/14.
- 2.4 Three SCIs were technical failures associated with the design or maintenance, by a third party, of plant. These included inadequate maintenance of the brakes on a trailer, faults in the design and installation of winches on some of our 4x4 vehicles, and the failure of a rod on the gears of a boat that caused it to lose the ability to shift into reverse. A number of SCIs have involved service strikes. These are of particular concern, and in addition to recent revisions to procedures the Operations Leadership Team is considering what other measures may be appropriate. Each SCI provides valuable learning that is shared through briefings or revisions to our instructions and where appropriate with colleagues in the supply chain, Defra group and other organisations.

Health

- 2.5 The 2016 occupational health surveillance programme concluded in June. It covered 975 employees who are regularly exposed to vibration, noise, chemicals, confined spaces, manual handling and night work. Twenty eight employees have been referred for further review by an occupational health physician (compared to 88 and 82 in 2014 and 2015 respectively). These were for potential hand arm vibration syndrome (HAVS) symptoms. The referrals identified one diagnosis of HAVS which required notification to the Health and Safety Executive, which was satisfied with our response.
- 2.6 We continue to promote referrals by management for occupational health advice for significant ill-health cases amongst their staff. We have demonstrated that proactive referrals reduce absence. Following active promotion by the HSW Service, the referral rate

Ref: OB/1612-15

reached 71.4% of all reported cases of mental and musculoskeletal ill health. At the end of 2015/16 it was 54.7%.

3.0 Delivery of 2016/17 HSW Plan

- 3.1 In 2015/16 we concluded our Safe and Well programme of staff engagement sessions (The Big Conversation) to help identify the priority areas for improvement that have informed our plan for 2016/17.
- 3.2 The plan is on-track for delivery. Some key achievements that have been made, by way of example, include:
- i) delivery of the ongoing wellbeing programme, with both healthy lifestyles and healthy bodies campaigns.
 - ii) re-launching “Challenge”, encouraging and empowering colleagues to look out for others, and to positively respond when somebody challenges them for acting unsafely. This includes a linked programme refreshing dynamic risk assessment across the business.
 - iii) supporting the Major Incident Ready programme to embed good HSW practice at the heart of our planning and response to incidents.
 - iv) revising our lone working arrangements across higher risk parts of the business, and beginning the procurement of the replacement to the Hostile Sites Database, which has a limited lifespan.
 - v) the introduction of a revised manual handling training package. The new training package includes emphasis on physiology and importance of early intervention.
 - vi) the development of a new confined spaces training package.

4.0 Independent Assurance – Audit and Inspection Programme

- 4.1 We operate three tiers of assurance. Tier one is undertaken by Team Leaders, in the form of active monitoring. Tier two is proportionate to the risk profile of a particular part of the organisation at Director/ Deputy Director level and includes SHERMS reviews, some localised audit programmes (such as in Facilities Management and the National Laboratories Service) and active monitoring. Tier three is the independent assurance provided on behalf of Executive Directors and the Board by the HSW Service, Internal Audit and, as appropriate, by expert third parties.
- 4.2 In the past 6 months, we have continued with the HSW Service's audit programme of our construction activities. Construction, either carried out by our own staff or contractors, is one of the highest risk activities for us, both in terms of risk of injury but also risk of HSE intervention. We undertake a programme of inspections designed to ensure that we and our contractors are discharging our responsibilities fully. The most significant finding this year related to improvements needed in the way ground investigations are commissioned and undertaken. Through NCPMS action is being taken to manage these risks.
- 4.3 An assurance audit was conducted to establish how well the lessons from previous SCIs involving overhead and buried service strikes had been embedded. This identified shortcomings in how the lessons had translated into our Operational Instructions. Once identified these were swiftly resolved. However it caused us to sample an additional 10% of actions from other unrelated SCIs to see if a similar problem was prevalent. This did not identify any significant problems, although it proved useful in identifying how our processes could be amended to avoid similar problems in the future.
- 4.4 In Q3 and 4 Internal Audit will:
- i) further test SCI reviews to establish the extent to which their outcomes have been translated into action and improvements.

- ii) assessing our arrangements for ensuring that we have competent, trained team leaders and senior team members able to manage the risks in their teams.

5.0 Sharing learning

- 5.1 A corporate scorecard measure is the percentage of accountable staff who respond to actions issued by Safeguard within a specified timeframe. Safeguard actions are issued where we need to ensure that colleagues have received and acted on certain instructions, and to create a record of that being done. We aim for 95% compliance with the most important actions by a specified deadline. Uncompleted actions are followed up via line management. In 2014/15 we achieved 94%, and in 2015/16 we achieved 97%. So far this year we have achieved 91%, which indicates that we need to maintain a spotlight on this measure.

6.0 Contact with the Health and Safety Executive

- 6.1 The HSE have expressed interest in three reportable incidents, illnesses or injuries that we have reported to them. We reported a defined dangerous occurrence at the beginning of the year following the failure of a hoist at St Neots lock gate, Cambridgeshire. After we had provided further information, the inspector confirmed that he had no further questions. We also reported a case of Hand Arm Vibration Syndrome in July. Although the inspector indicated verbally that they had no further questions, we have not heard anything formally. Finally, following an overhead electricity cable strike in Wessex in September, we have again provided further information following the HSE's request, and we await to hear if they wish to follow up further.

7.0 Conclusion

- 7.1 We remain ambitious to make this a safe and well place to work. Through 2016/17 we continue the progress we have made, using the feedback from the Big Conversation to enhance how we manage health, safety and wellbeing. We continue to simplify processes to make it easier for our colleagues to meet our standards.

Paul Woodcock
**Director of Corporate Assets, Safety,
Health, Environment and Wellbeing**

Richard Houghton
**Deputy Director of Health, Safety and
Wellbeing**