

# Natural England Board



Title: **Confirmed minutes of the fifty eighth Natural England Board meeting on 2 December 2015**

<b>Members attending</b>	<b>Senior Leadership Team</b>
Andrew Sells (Chairman)	James Cross, Chief Executive
Julia Aglionby	Tim Hill, Chief Scientist
Andy Clements	Paul Lambert, Chief Finance and Governance Officer
Will Cockbain	Alan Law, Chief Strategy and Reform Officer
Teresa Dent	Julie Lunt, Chief Legal Adviser
David Hill	Guy Thompson, Chief Operating Officer
Joe Horwood	Ken Roy, Director Chairman and Executive Office
Simon Lyster	<b>Invited speakers</b>
Nigel Reader for items 1-5 and 7-9	Audrey Roy, Area Manager (items 2 and 3)
John Varley	Laura McDixon, Principle Adviser, Organisation Development (item 5)
	Kevan Cook, Senior Specialist, Marine Operations (item 5)
	Tim De-Keyzer, Manager Biodiversity (item 6)
	Jonathan Burney (items 5 and 8)
	Lydia Barnes, Manager Marine Protected Areas Designation (items 5 and 8)
<b>Apologies</b>	<b>Secretariat</b>
None	Emily Finnie

## Welcome from the Chairman

The Chairman extended his welcome and asked for declarations of interest. Declarations were received from:

- Nigel Reader as recorded in his protocol as a Board member of Marine Management Organisation and Natural Resources Wales.
- John Varley as a Board member of the Environment Agency.
- Julia Aglionby in relation to Birkbeck Common (if discussed)..

## **1. Confirmation of the November 2015 Minutes and Matters Arising (NEB M57 01)**

- 1.1 The minutes of the November Board meeting were confirmed subject to correction of some typographical errors.

**Action: Board and Executive Services to produce confirmed November Board minutes.**

- 1.2 The Board noted that all matters arising from the last meeting were completed or in progress and noted the following update:

- In relation to action 6, Tim Hill reported a delay in the JNCC's Wildlife and Countryside Act review, and that it would be circulated to Board members once it was available.

## **2. Chief Executive Report (NEB 58 01)**

- 2.1 James Cross introduced the latest Performance and Risk report (to October 2015) and welcomed Audrey Roy, Area Manager for South Mercia. In discussion the Board:

- 2.1.1 Welcomed the 'green' or 'amber-green' status for 75% of performance indicators and noted that the Ministerial Performance Review had focussed on protected sites, Countryside Stewardship and casework consultation.

- 2.1.2 Queried the apparent discrepancy between the 'amber-green' status for financial performance in the balanced score card report and its 'red' status in the operational risk register, and noted the former reflected that Natural England was on track to deliver the £2.6m in year gap, while the latter took account of additional risks associated with a further in-year budget cut of £0.6m.

**Action: Paul Lambert to give an update on handling of the additional in-year budget cut in the next Chief Executive Report to the Board**

- 2.1.2 Commended strong progress with our establishment of the England Coastal Path and noted the outlook was 'green' for this year and next subject to continuity of funding.

- 2.2 The Board noted the Grant in Aid (GIA) and Rural Development Programme for England (RDPE) financial performance to 31 October 2015 and report on managing in-year budget cuts. In discussion the Board:

- 2.2.1 Recognised the additional risks from the further in-year budget cuts identified by Defra, including to National Trails' maintenance and to Technical Services staffing, and stressed the importance of maintaining clear messages to stakeholders.

- 2.2.2 Expressed concern about the impact of further in-year cuts on staff morale and supported management's open and transparent approach to ongoing explanation to and engagement with staff.

- 2.2.3 Encouraged continued pursuit of opportunities to engage with Defra to influence any further financial cuts or reallocations.

- 2.3 The Board noted issues outlined at Annex 3 and identified the following actions:

**Action: Alan Law to bring an update on Beaver licencing to the January or February 2016 Board meeting.**

**Action: Alan Law to bring a strategic approach to HS2 for discussion at the February or March 2016 Board meeting.**

2.3.1 The Board noted ongoing media activity by the Lynx Trust and agreed any discussion at this stage would be premature and should wait until any formal licence application was received.

2.4 The Board noted Julie Lunt's update on the legal issues at Annex 4 and her verbal update on the successful defence of the stop notice served on Forager Ltd in respect of damage caused by the foraging of sea kale at Dungeness. The following action was identified:

**Action: Julie Lunt to provide a paper on the wider implications of the recent Buzzard licensing case to the January or February 2016 Board meeting**

2.5 Audrey Roy set the scene for South Mercia Team including reference to: ongoing Countryside Stewardship delivery; celebration of achievement of favourable conservation status for 300ha of the Black Mountains (working with Natural Resources Wales); staff morale, resilience and capability; and, the imminent Worcester office move. In discussion the Board:

2.5.1 Explored and noted the reasons for the difference between the number of initial expressions of interest for Countryside Stewardship and the final number of agreements. More detail would be provided by the continuing lessons learned exercise – emerging themes included: the need to build capacity and confidence of Area Teams, and to manage customer expectations.

2.5.2 Noted the Board's continued ambition for operational autonomy of Area Managers enabling them to build effective relationships with stakeholders and to create shared local visions for environmental outcomes.

### **3. Medium Term Strategy and Defra Transformation Programme (NEB 58 02)**

3.1 James Cross introduced the paper which reported progress on SR2015, set out the proposed approach to Natural England's Medium Term Financial Planning, and provided an update on key issues arising from the Defra Transformation Programme. The Board:

3.1.1 Noted the update on the Spending Review outcome for Defra; and discussed the principles by which Natural England would seek to prioritise its work in 2016/17 and beyond.

3.1.2 Discussed the scrutiny by ARAC of the emerging propositions for local alignment of Natural England and EA's operations through coterminous boundaries and Single Area Leads and agreed a record of the Board discussion and conclusion as at 3.2 below.

### **3.2 Aligned Area Boundaries and Single Area Lead**

- 3.2.1 The Board considered John Varley's possible conflict of interest as Board member of Environment Agency as well as Natural England. After discussion it was decided that on this occasion it was not necessary for him to be excluded from either the discussion or decision.
- 3.2.2 The Board noted the letter from the Secretary of State to the two Chairs of Natural England and the Environment Agency on 26 October asking for alignment of Area boundaries and proposals for a Single Area Lead, and supported this ambition.
- 3.2.3 The Natural England Board was also advised by the scrutiny of the project proposals carried out by the Natural England ARAC on 1 December (see attached note at Annex 1)
- 3.2.4 The Board noted the work on the alignment of the boundaries and was reassured by the close working that has happened on this at an operational level and supported submission of this work to ExCo and the Secretary of State.
- 3.2.5 The two options for a single lead were discussed. The Board noted the large number of significant risks, governance and other issues, and costs surrounding the proposal for a Single Area Manager that the project had presented to ARAC. The Board was concerned that these issues needed further work to ensure they were practical and affordable.
- 3.2.6 The second option was explored. The Board thought that this could be implemented as a single lead for each area within the ambitious timescales and would cause the minimum impact on delivery and cost. It created the immediate opportunity of working with the rest of Defra ALBs and other environmental partners in a local area to support the development on the ground of the local environmental strategy supporting the 25 year Environment Plan.
- 3.2.7 The Board concluded that the second option of a Single Area Lead would achieve many of the Secretary of State's ambitions without many of the risks of option one, and was therefore the Board's preferred option.

#### **4. Designations Programme Update (NEB 58 03)**

- 4.1 Alan Law introduced the update on the SSSI Series Review and the interim programme of cases to be considered for potential designation in 2016/17. The Board welcomed the report and, in the context of the reminder from Julie Lunt about their role in relation to designations, focussed their discussion on matters relevant to Board consideration including fit with the Conservation Strategy and tools and affordability for delivery. In discussion the Board:
  - 4.1.1 Noted avoidance of prescribing a timeline until it was known whether the sites met the criteria for designation.
  - 4.1.2 Acknowledged the importance of Area Teams progressing only when confident of resourcing and recognised that the process would need to be open and transparent to ensure prioritisation was given to the right sites.
  - 4.1.4 Advised desired conservation outcomes were not always best achieved through designation with alternative less resource intensive tools also available to achieve favourable conservation status.
- 4.2 In conclusion the Board:

- 4.2.1 Noted progress with the SSSI Series Review;
- 4.2.2 Noted the interim programme of cases to be considered for designation in 2016/17 in the wider context of the agreed programme and our marine designations and access work.

## **5. Health, Safety and Wellbeing Report (NEB 58 04)**

- 5.1 Kevan Cook introduced the overview of health and safety arrangements for high risk activities undertaken by staff engaged in the delivery of marine work. The Board welcomed the clear and comprehensive paper and in discussion:
  - 5.1.1 Recognised the benefits of building capability and organisational reputation derived from undertaking diving work and supported its continuation.
  - 5.1.2 Noted the risks associated with marine work but agreed these risks were appropriately managed and mitigated.
  - 5.1.3 Noted use of Natural England staff provided a clear cost saving to the organisation, although it was acknowledged that contracting the work out presented fewer risks albeit with Natural England retaining a duty of care as the contractor.
- 5.2 Laura McDixon gave an update on the two RIDDOR incidents for which full reports would be included in the quarterly report to the Board in January. The Board welcomed the updates and were reassured that the necessary action had been taken in relation to a member of the public falling while dog walking on an NNR, and for a member of NNR staff's Carpel Tunnel Syndrome case.

**Action: Paul Lambert to include full reports on the RIDDOR incidents in the Health, Safety and Wellbeing report to the Board in January 2015.**

## **6. Countryside Stewardship and the Legacy Environmental Stewardship Payments Update (NEB 58 05)**

- 6.1 Guy Thompson set the context for this item reporting that the lessons learned exercise and contingency plan for 2015 demonstrated a way to getting CS into a better place for the 2016 application window; the success of ES payment delivery this autumn; publication of the NAO report on CAP D and ongoing stakeholder engagement, including a session with the NFU Council in the New Year. Tim De-Keyzer gave an update on progress with delivering Countryside Stewardship and on Environmental Stewardship payments. In discussion the Board:
  - 6.1.1 Congratulated all involved on processing of ES advance payments to get us ahead of profile despite the nine months' delay in confirmation of associated BPS data and the two and a half months' delay in running the single annual cross check caused by the failure of the Rural Payments system earlier in the year.
  - 6.1.2 Highlighted the potential problems created by the uniform start dates which were determined by the single control year defined under EU regulations as running from January to December, but noted the opportunity presented by the exploration of the interpretation of the regulations in relation to Higher Tier conversion to open up a dialogue with the Commission on how to overcome the associated compliance risks.

- 6.1.3 Offered experience of the ES livestock recording requirements and recognised the work being done to provide assurance to the Commission on different stocking levels and wider farm level requirements.
- 6.1.4 Welcomed the update on lessons learned and planned improvements for CS in 2016 towards delivering an outcomes approach in which the schemes were used as a tool to deliver for the environment.
- 6.1.5 Were reassured, by the information presented on forward planning, and that capacity to undertake BEHTA surveys would not be an issue for delivery.
- 6.1.6 Advised future opportunities for building on the collaborative working with the FC enabled by bringing in the woodland options to CS, should be explored.

**Action: Guy Thompson to bring an update on collaborative working with the FC on CS.**

- 6.1.7 Advised of the potential reward for increased CS uptake from an increased modulation next year.

## **7. Bovine TB Update (NEB 58 06)**

- 7.1 The Board noted Tim Hill's update on Bovine TB. The Board:
  - 7.1.1 Advised that if there was to be any roll out, the safety implications for Board members should be revisited.
  - 7.1.2 Did not support creating chargeable services in relation to this area of work.

## **8. Marine Protected Areas Update (NEB 58 07)**

- 8.1 Jonathan Burney gave an update on Marine Conservation Area (MCZ) designations and Lydia Barnes an update on Marine Special Protection Area (SPA) designations.
- 8.2 The Board was impressed by both the paper and the quality of work undertaken by the Marine Team with confidence, authority and common purpose to deliver the marine programme, and in discussion:
  - 8.2.1 Commended examples of the outcomes approach demonstrated for example by the work at Teesmouth. It was noted that the outcomes approach, with stakeholders supportive of achieving favourable condition, had the potential reduce the risk of infraction.
- 8.3 In conclusion the Board, as requested:
  - 8.3.1 Noted the current timetable and that the Marine KPI had been met with the Marine Team now working with Area Teams to deliver additional sites in line with Area Team delivery plans.
  - 8.3.2 Noted the challenges in designating SPAs for birds and the continued risk for SPAs at Teesmouth and Cleveland Coast, Solway Firth and Falmouth to St Austell Bay.

8.3.3 Noted successful delivery of the marine programme was a priority for Natural England and Defra in the context of Natural England's Strategic Direction, current manifesto commitments and Defra's strategy.

## **9. Audit and Risk Assurance Committee Update (NEB 58 08)**

9.1 The report from the supplementary ARAC meeting on 1 December had been given under item 3.2.

9.2 The Board noted the unconfirmed minutes of the October 2015 ARAC meeting. Nigel Reader gave an update on discussions with Defra colleagues on the models for future delivery of Corporate Services. The Committee offered some steers on the emerging propositions including the need for clear lines of accountability (which could be delivered through some form of Intelligent Client Function).

## **10. Conservation Strategy Group Update (NEB 58 10)**

10.1 Teresa Dent gave an update on activity from the Conservation Strategy Group and the Board noted the conclusions from the discussion on:

- Delivering ecological networks and systematic conservation planning.
- How to reverse biodiversity loss on farmland.
- Natural England's engagement across sectors and stakeholders.
- The potential role and contribution of Green Infrastructure in delivering Natural England's objectives.

10.2 In discussion the Board:

10.2.1 Welcomed partnership working with Defra to ensure that Natural England's Conservation Strategy would support Defra's 25 Year Strategy work.

10.2.2 Advised that while Green Infrastructure presented strategic opportunities, it should not be used at the expense of getting proper compensation, and that a differentiation should be made as GIA funding was not sufficient for all cases.

10.2.3 Advised a mechanism was needed to encourage Local Enterprise Partnerships to engage further with Natural England. There was an important opportunity for Natural England to be more visible in providing a lead in the planning sector.

10.2.4 Noted the CSG was now at the stage of working up the content of the Strategy and would be seeking advice from the Board on its engagement with this.

## **11. Natural England Science Advisory Committee Update**

11.1 Andy Clements gave a verbal update on the last NESAC meeting held on 30 November which had focussed on the Conservation Strategy, horizon scanning and a forward look. The Board welcomed the opportunities to demonstrate Natural England's authority and competence presented by the proposed series of seminars on 'science in practice'.

11.2 The Board welcomed Defra's confirmation of NESAC's unique role in examining the use of evidence and science in Natural England as a basis for advice to, and decision making by, the Board.

## **12. Upland Working Group (UWG) Update**

- 12.1 Julia Aglionby gave a verbal update on the Upland Working Group which had not met since the last Board meeting but would be meeting again before Christmas. Key issues were managing stakeholders' expectations in the face of constraints posed by CS and internal capacity and continuing to develop staff understanding of the potential from the outcomes approach to unlock more opportunities for delivery.

### 13. Board Diary 2016 (NEB 58 10)

- 13.1 The Board noted the 2016 dates and suggested exploration of alternative locations for the May meeting.

**Action: Board and Executive Services to explore options for alternative locations for the May meeting.**

### 14. Any Other Business

- 14.1 Tim Hill reported publication of the 2015 MENE report with a joint press statement with Defra highlighting visitor numbers at a record high.

#### Actions log

No	Agenda Item/Paper	Ref	Action	Owner
1	<b>Confirmation of the November 2015 Board Minutes and Matters Arising (NEB M57 01)</b>	1.1	Produce confirmed November Board minutes.	BES
2	<b>Chief Executive Report (NEB 58 01)</b>	2.1.2	Give an update handling of the additional in-year budget cut in the next Chief Executive report to the Board	Paul Lambert
3	<b>Chief Executive Report (NEB 58 01)</b>	2.3	Bring an update on Beaver licencing to the January or February 2016 Board meeting	Alan Law
4	<b>Chief Executive Report (NEB 58 01)</b>	2.3	Bring a strategic approach to HS2 for discussion at the February or March 2016 Board meeting	Alan Law
5	<b>Chief Executive Report (NEB 57 02)</b>	2.4	Provide a paper on the wider implications of the recent Buzzard licensing case to the January or February 2016 Board meeting.	Julie Lunt
6	<b>Health, Safety and Wellbeing Report (NEB 58 04)</b>	5.2	Include full reports on the RIDDOR incidents in the Health, Safety and Wellbeing report to the Board in January 2015.	Paul Lambert
7	<b>Countryside Stewardship and the Environmental Scheme Payments Update (NEB 58 05)</b>	6.1.6	Bring an update on collaborative working with the FC on CS.	Guy Thompson
8	<b>Board Diary for 2016</b>	13.1	Explore options for alternative locations for the May meeting.	BES



**Supplementary Natural England Audit and Risk Assurance Committee meeting on 1 December 2015**

1. Supplementary and single topic meeting called to:
  - Meet Defra's timescale with paper to ExCo on 7 December and submission to SoS before Christmas;
  - In response to the Natural England Board's request for ARAC to stand over and examine the risks around Defra's transformation programme and on this occasion consideration of the risks and issues around options for aligned boundaries and single lead ensuring that risks had both been identified and addressed in the proposal; and
  - To advise the Board but not to seek to form a view.
2. There was a constructive discussion on the paper's proposals with Sonia Phippard and Tanya Arkle with ARAC seeking to understand and support the SoS ambition.
3. This provided ARAC with a greater understanding of, and general reassurance about, area boundary realignment proposals, (while not underestimating the challenges).
4. ARAC welcomed the opportunity to explore and understand the thinking on the risks and issues raised on single lead proposals and:
  - Recommended that a Business Case should be developed with equal balance given to both single lead options and with a job description included for the second option.
  - Advised that the Business Case would need a full articulation of the costs, benefits and risks attributable to each option.
  - Raised concerns about timescales and commended caution and noted the view that any lengthening of timescale would likely be a matter of weeks or months rather than years. In terms of the risk profile there was a relationship between risks materialising and the pace of change.
  - In terms of governance, and in particular reporting lines, it was recognised that the first option would not have been the preferred starting point. The significant governance issues were acknowledged and the project team understood the need to address these.
  - Raised concerns about the significant employment law issues surrounding the appointment of a single lead as described in the paper
  - Noted ARAC Chair would report back to the Natural England Board and that next steps for Board involvement would need to be addressed, noting Defra sought a view from the Board.
  - Reported Natural England shared the SoS's ambition as described in her letter to the two Chairs on 26 October and our wish to help execute that direction with the primary driver being a shared objective for a better environment.