

# Natural England Board



Title: **Confirmed minutes of the 85<sup>th</sup> Natural England Board meeting 23<sup>rd</sup> January 2019**

<b>Members attending</b>	<b>Senior Leadership Team</b>
Lord Blencathra, Chairman	Tim Hill, Chief Scientist
Julia Aglionby	Alan Law, Chief Strategy and Reform Officer (afternoon session)
Andy Clements	Julie Lunt, Chief Officer Legal and Governance
Teresa Dent	James Diamond, Director Operations
Henry Robinson	Amanda Craig, Director Operations
Professor Michael Winter	<b>Guests</b>
Simon Lyster (afternoon session)	Liz Newton (item 3)
Marian Spain, Chief Executive	Rob Cooke (item 4)
<b>Apologies</b>	Peter Jinks (Item 5)
Catherine Dugmore	Ian Fugler (Item 6)
Professor Sue Hartley	Evelyn Jack (item 7)
	David Harrison (item 7)
	Mel Hughes (item 8)
	<b>Secretariat</b>
	Olivia Heston, Legal and Governance Team

## **Welcome from the Chairman and Declarations of Interest**

The Chairman welcomed everyone to the meeting. Apologies were received from Catherine Dugmore and Professor Sue Hartley. The Board expressed their well-wishes for Catherine.

Apologies received from Simon Lyster and Alan Law for the morning session as they were attending a net gain stakeholder meeting with the Secretary of State but they would be joining for the afternoon session.

In response to the Chairman's invitation for any perceived or potential declarations of interest in respect of the Board agenda, beyond their usual interests Julia Aglionby and Teresa Dent declared specific interests in respect of item 7 (NEB 85 05)

## **1. Confirmation of December Minutes and Matters Arising (NEB M84 01)**

1.1 The minutes of the December Board meeting were confirmed.

**Action: Legal and Governance Team to produce confirmed December Board minutes**

## **2. Chief Executive's Report (NEB 85 01)**

2.1 The CEO highlighted the staff survey results and advised that she would be spending a lot of time on staff engagement in the short term. She also advised the Board that she was meeting with the Trade Unions to discuss the staff survey report.

### 2.2 Senior Leadership Team

2.2.1 The Board were updated on the current plans for senior executive recruitment.

### 2.3 Stakeholder Roundtables

2.3.1 The Board noted that the roundtables were a good initiative which were received well by NGOs. Recognised that the Board should follow up on this initiative.

2.3.2 It was acknowledged that Board members should be given clear briefings when dealing with tricky issues.

### 2.4 White tailed eagle

2.4.1 James Diamond advised that we are working with a credible applicant to introduce White Tailed Eagle into southern England. The application is expected to arrive within the next few weeks. It will need to be determined by mid-March whether the reintroduction can proceed this year. It was noted that Defra will need to be kept sighted on this.

2.4.2 The Board considered the process that would be followed and were particularly interested in the consultation exercise and the decision making process.

### 2.5 Countryside Stewardship

2.5.1 The good work on Countryside Stewardship (CS) as evidence by the KPI was recognised. The Board were advised that NE still have a significant role to play in making the scheme work. The Board agreed that NE have to be exemplary in delivery. The Board asked for concerns about delivery to be raised with them.

2.5.2 It was noted that the MoU with the Forestry Commission and Rural Payments Agency was still in draft; and that the CEO of the RPA had been invited to the February board meeting where any issues could be discussed.

2.5.3 The Board noted that wherever possible NE was supporting the RPA with paying claims and making agreements live.

**Action: James Diamond to bring MoU and report on any issues with RPA to the February Board.**

2.6 HLS Extensions

- 2.6.1 The Board noted that there had been a really positive reception from agreement holders to this initiative, with a high level of uptake. A paper is to be produced, jointly written by RPA, Defra and NE, with lessons learned and recommendations for the future in case this process is repeated.
- 2.6.2 The Board agreed that this was really positive to hear and acknowledged the benefits that this would bring on an environmental level. The Board also acknowledged that there were outstanding issues regarding commons and organic farms.
- 2.6.3 The Board discussed the absence of access payments going forward which could have financial repercussions for some communities.

2.7 District level licensing

- 2.7.1 The Board acknowledged that this was moving forward with a plan to have 23 licences in place by the end of the calendar year.

2.8 Income generation

- 2.8.1 Acknowledged our future income may be reduced due to lower demand for advice from nuclear power projects.

2.9 English Coastal Path

- 2.9.1 The Board noted the conversations taking place with Defra about the future budget for the ECP.
- 2.9.2 The Board also noted that there was a delay on opening some stretches due to the recent *People Over Wind* judgment from the ECJ.

2.10 People

- 2.10.1 The CEO advised that extending FTAs was a high priority and the uncertainty surrounding FTAs was concerning for staff. She advised the Board that there are crucial pieces of work ongoing where jobs will come to an end in 6 weeks. To address this a short term measure will be put in place to extend these critical roles until the end of June 2019. The Board agreed that this was concerning and had been raised to them by those working in local area teams.
- 2.10.2 The Board noted that this raised a question as to how the business evolves regarding the nature of short term projects. The Board recommended that NE should clearly communicate the length of a post from the start of a contract.

2.11 Risks

- 2.11.1 The risks on EU Exit and Uplands were acknowledged and discussed in detail as part of the later agenda items.

## 2.12 No deal work

2.12.1 The Board were advised that a team has been put together to work on No Deal scenario preparations and that funding for this has been bid for.

## 2.13 Future Budget

2.13.1 The Board discussed how much budget is likely to be received through the EU Exit Tranche 4 bid. Discussed that NE have had a cut of 48% of our budget over the last 5 years and how only 0.3% of the NE budget is classified as 'protected.'

## 2.14 Legal cases

2.14.1 Julie Lunt updated the Board on the Hen Harrier Judicial Review and advised that we should expect the judgment sometime in the next few months.

## 2.15 Roadmap

2.15.1 The Board acknowledged that a lot of work was being done on the Roadmap and that they would like to understand how Defra has received it. It was agreed this would be picked up with the Deputy CEO when he re-joined the meeting.

## 2.16 Children and Nature Deep Dive

2.16.1 The Director Strategy Development, was welcomed to the meeting

2.16.2 The Board were advised on the progress with the project and described how the Children & Nature project sits within the 25 YEP. It was noted that it was important to get this right and that there was a high degree of interest including at Prime Minister level.

2.16.3 In discussion, the Board agreed that this was a great initiative and were encouraged by the great work that has been done by the team to get the project to this stage.

2.16.4 The Board asked to be kept updated on progress.

## 2.17 Communications Protocol

2.17.1 The Board confirmed that they liked the new communications report and agreed a detailed report should be produced once a quarter.

**Action: Legal and Governance team to ensure quarterly communications report included in CEO pack.**

## 2.18 Chief Scientist

2.18.1 The Board were advised that the Computer Vision project had funding pulled by Defra on advice from Microsoft however NE will explore alternatives, eg with regards to EU Exit funding and analysis.

2.18.2 It was acknowledged that if payment by results was going ahead, the technology needed to be fit for purpose.

## 3. **EU Transition update (NEB 85 02)**

3.1 The Director for EU Exit, was welcomed to the meeting.

- 3.2 In discussion the Board:
- 3.2.1 Noted contributions to ELMS are going well as NE work with Defra to understand our role in the scheme.
  - 3.2.2 Noted that some of the SIs are beginning to be laid in the affirmative procedure. The Habitats Regulations have been withdrawn to be redrafted. There is not a date for resubmission at this stage.
  - 3.2.3 Noted NE's work on guidance and making amendments to documentation was going well.
  - 3.2.4 Acknowledged that NE are not a 'Day 1 Responder' and so there are no immediate concerns if there is 'no deal'.

### 3.3 Environment Bill

- 3.3.1 The Environment Bill was discussed and concerns raised. The Board noted that the provisions have been published. The Joint EFRACom is undertaking pre-legislative scrutiny. NE has not yet been asked to give evidence. The Board asked to see NE's submission.
- 3.3.2 The consultation on the new independent regulator, the Office for Environmental Protection (OEP) was discussed. The Chair asked the Board whether it agreed that we should submit a response to the consultation. Areas that were discussed as to where NE could submit evidence included the independence of the new body and enforcement powers. The Board also discussed whether there was a role for NESAC in offering services to the OEP.

#### **Action: Director EU Exit to produce a note for the Board to consider**

- 3.3.3 It was agreed that comments on the draft consultation response are to be made by the Board and collated by officers with final sign off by the Chair.

### 3.4 Future Farming and Dame Glenys Stacy Review

- 3.4.1 The Board discussed delivery of farm advice and the skillsets a third party advisor would need to have so that land managers can be reassured they can rely on the advice given.
- 3.4.2 The Board noted that it would be beneficial if we could involve our staff in this work and make the most out of the skills we have.
- 3.4.3 The Board acknowledged that charging for advice would militate against smaller and harder to reach farmers taking up a new scheme.

## 4. **Staff Survey update (NEB 085 03)**

- 4.1 The Chief Scientist was SRO for this project. He advised the Board that SLT had a conversation regarding the themes which have emerged from the results of the staff survey.
- 4.2 The Board noted that, from last year, there has been a drop in the level of positive responses. A number of themes have been revealed, including the relationship with Defra, well-being and health and safety. The employee offer was noted to be a strong theme, in terms of pay and career development.
- 4.3 The Board noted that for pay NE is bound by the general public sector guidance. A significant constraint is affordability. This was flagged with Defra at the budget spending review. The Board confirmed that we should review the NE pay and grading policy as part of the road map work to

make sure we can recruit and reward the right skills for the future.

- 4.4 In considering the responses to the survey, the Board noted:
- 4.4.1 the extraordinary dedication of the staff,
  - 4.4.2 the wording of some questions may have influenced a response in a certain way,
  - 4.4.3 the importance of focussing on what can be changed,
  - 4.4.4 short term matters and changes such as the assignment process, transfer of CS/ES staff to the RPA which may have impacted morale,
  - 4.4.5 the dip in results is not unusual however this was quite a large drop in positive responses,
  - 4.4.6 the responses were disappointing and that there is a need to tackle the reasons behind them.
- 4.5 The Chairman questioned the large drops in the employee engagement scores and the reasons behind this.
- 4.6 The Board were advised that at the time the survey was launched, a lot of was going on with assignment, transfer of staff, anxieties over Brexit which could have been contributing factors.
- 4.7 The Board reflected on the analysis of the results produced by social scientists and agreed staff need to be reassured that we are arguing for more resources and getting involved in key components of 25 YEP.
- 4.8 The Board asked SLT to think about what can be done to make people feel proud to work for NE. The Board advised that an action plan should be put in place.

**Action: Senior Leadership Team to produce an action plan.**

## **5. Business Planning (NEB 85 04)**

- 5.1 The Director for Business Planning was welcomed to the meeting.
- 5.2 The Board were advised that Defra have populated a resource allocation model which shows the budget lower than the budget we had last year. The Board discussed the deployment of resources and priorities. Questioned whether the priorities identified look correct but acknowledged still a work in progress. Aware that more money will be received from Defra for Tranche 4.
- 5.3 The Board were concerned regarding a potential significant budget cut. They were informed that NE's budget is not classified as 'protected'.
- 5.4 The Chairman relayed concern regarding the cut of 32 members of staff dealing with Bio2020 work. Acknowledged the detrimental effect this would have on SSSIs. Noted a paper listing the consequences of cumulative pressures could help highlight the problem NE is facing.
- 5.5 Discussed risk appetite in investing in staff who could generate income and whether provisions for voluntary exit were appropriate.
- 5.6 The Board were advised that cost recovery for wildlife licensing will begin from the 1<sup>st</sup> of April and that it is currently estimated that this will generate £1.3million a year alongside other non GIA income.
- 5.7 The Board were informed about the skills that need to be developed which would allow us to invest in new areas. This would allow funding from external sources. Advised that a strong steer from the Board would be beneficial as to this kind of investment.

## **6. Upland Delivery Programme update (NEB 85 05)**

- 6.1 The Upland Programme lead and Principal Solicitor for uplands were welcomed to the meeting.
- 6.2 Specific declarations of interest were made by Julia Aglionby and Teresa Dent.
- 6.3 The CEO reflected on the position from the last Board meeting. Reaffirmed commitment to the outcomes approach and recognised burning for restoration purposes is legitimate in certain exceptional circumstances. Informed the Board that we had received advice from leading Counsel. This suggested that it is only NE who could make any decisions as to burning and in any case that burning should only be permitted in exceptional cases. It was made clear that this is the position NE should be adopting.
- 6.4 The Board discussed the advice in depth and noted:
- 6.4.1 that it was important, so far as possible within the legal parameters, to make the Position Statement and technical guidance workable for land manager;
  - 6.4.2 the importance of being clear and confident when delivering legal reasons for the shift in position;
  - 6.4.3 that the recent cases from the ECJ have amounted to a tightening of the current position; and
  - 6.4.4 that burning for restoration purposes can only be undertaken in exceptional circumstances.
- 6.5 The Chairman noted that the legal advice seemed unambiguous.
- 6.6 The Board discussed the two supporting documents provided in the pack – the technical guidance, to help our advisors understand when burning would be successful in restoring habitat and the monitoring protocol. The Board were informed that the protocol is required as the EU Commission have asked us specifically to monitor the actions taken. It was noted that the protocol should be kept under review as work on monitoring evolves.
- 6.7 The Board noted that staff sessions will need to be held to ensure staff are on board and are well briefed. A stakeholder handling plan will also be developed.
- 6.8 Subject to some minor amendments the Board agreed to approve the Position Statement and supporting documents subject to any final comments from Counsel.

## **7. Net Gain (NEB 85 06)**

- 7.1 The Chair gave a brief introduction of the item and introduced the Director for Innovation and Reform.
- 7.2 Simon Lyster and the Deputy CEO had been at a Net Gain Roundtable in the morning and gave feedback from this, noting:
- 7.2.1 There was widespread support for the concept of mandating net gain for future development and perceived positivity of NE's involvement. Some concerns were expressed about some elements of the plan – for example, some suggested excluding small developments from net gain requirements, while others disagreed.
  - 7.2.2 The large developers broadly welcomed the proposals; some expressed some concern about the impact on SMEs
  - 7.2.3 There was a lot of support for focusing on biodiversity initially and using the Defra biodiversity metric, and then considering a broader eco-metric once it was better developed and tested.
  - 7.2.4 There was support for the hierarchy of on-site, local and tariff, but with flexibility built in, and for the development of local net gain plans to maximise impact.

- 7.3 The Chair asked what could be fed into discussions with the Secretary of State.
- 7.4 It was noted that Nationally Significant Infrastructure Projects are excluded from the consultation. It was agreed that NE should press for their inclusion. It was noted that Treasury had concerns because of the potential cost implications, and this should be discussed with the SoS.
- 7.5 Simon Lyster asked for general comments on the consultation and covering letter.
- 7.6 It was confirmed that it was important to address this head on and be bold and affirmative in our response.
- 7.7 The Chairman resolved to meet with Therese Coffey to discuss Net Gain further.

## **8. Board Effectiveness Review & Governance update (NEB 85 07)**

- 8.1 The Board were advised that a review has not taken place over the last 12-18 months as we were considering the wider issues raised by the UKGI review of governance. There is an outstanding action to conduct a board effectiveness review which will be carried out independently.
- 8.2 The Board noted that when the final UKGI report was available it would be shared with Board Members, likely to be at the March meeting.

## **9. Health and Safety Strategy (NEB 85 08)**

- 9.1 The Board were reminded that they have overall responsibility to ensure that the organisation complies with its health and safety duties.
- 9.2 The Board were advised that a new strategy has been put together for comment and endorsement by the Board.
- 9.3 The Chairman queried whether mental health was part of the Strategy as it was not clear from the paper. It was confirmed that it was covered under "Reducing work-related Ill Health" but acknowledged that this could be made clearer. The Chair emphasised that it was important that mental health was well-recognised and as early as possible.
- 9.4 The Board were advised that there is a lot being done on mental health issues alongside the charity, MIND. The Board were also advised of the 'personal passport' to assist discussions with managers around sensitive topics. The Board noted NE is introducing things into the workplace to improve the way mental health is handled.
- 9.5 The Board confirmed their approval of the strategy.

## **10. Board Committee Updates**

- 10.1 NESAC (NEB 85 09)
- 10.1.1 Noted the Board were familiar with NESAC reports.
- 10.1.2 Chair stated he was impressed by level of detail. Discussed NE being leader of the cohort out of other environmental bodies. Question as to how this fits into what is being discussed at JNCC. The CEO noted the need to fit this with the Road Map.
- 10.1.3 Discussed the rotating office where JNCC and other environmental bodies such NRW get together to share experience and intel. Lots of value in these meetings.



## 10.2 BIG

10.2.1 Simon Lyster noted that BIG met 10 days ago and confirmed minutes of previous meeting.

**Action: Legal and Governance team to check with BIG secretariat of October meeting to circulate minutes.**

10.2.2 Simon Lyster noted that BIG was not intended to be a decision making body and if minutes were available the Board could see in more detail the results from the discussions.

10.2.3 Simon Lyster reported that much of the meeting was devoted to considering NE's response to the net gain consultation. He noted that the points agreed had been fed into the draft response circulated to the Board.

10.2.4 Simon Lyster noted that there has been steady growth with regards to funding. Discussed how funding could be looked at in a more strategic way, for example through HLF match funding. Potential for Defra to be brought into this.

10.2.5 The CEO noted that there is a choice as to how much risk we want to take in generating income. Simon Lyster noted the idea of investing to gain in the long term.

10.2.6 Simon Lyster noted the good work being done with District Level Licensing. Believed to be in a better position now than 6 months ago. Highlighted importance of delivering correctly to MHCLG and to let them know of any potential delays. Noted relationships with key partners have improved. Noted the great work done by the team in bringing stakeholders on board. BIG were reassured that things were progressing in a better direction.

10.3 General discussion of the importance of the sub-group reports and the potential for discussing these reports before lunch as often due to time constraints these are not given full consideration.

**Action: Legal and Governance to consider discussing Board Committee updates earlier in the agenda for future meetings.**

## 11. **Board Diary and Forward Look (NEB 85 10)**

11.1 There was some uncertainty as to the location of the next Board meeting.

**Action: Julie Lunt to confirm location for next Board meeting**

11.2 The Chair was keen to maximise opportunities to engage with others and there was a brief discussion as to the structure of meetings, for example proposals of a guest speaker.

The Chairman thanked everyone for attendance and the meeting was closed.

### **Actions log**

No	Agenda item/paper	Ref	Action	Owner
1	Confirmation of December minutes and matters arising	1.1	Produce confirmed December Board minutes.	Legal and Governance team

2	CEO Report	2.5	Bring MoU and report on any issues with RPA to the February Board.	James Diamond
3	CEO Report	2.17.1	Legal and Governance team to ensure quarterly communications report included in CEO pack.	Legal and Governance team
4	EU Transition update	3.3.2	Produce a note for the Board to consider on evidence for Environment Bill pre-legislative scrutiny.	Rob Cooke
5	Staff Survey update	4.8	Produce Action Plan in response to survey	Senior Leadership Team
6	Board Committee updates	10.2.1	Circulate October minutes of BIG meeting	Legal and Governance team
7	Board Committee updates	10.2.7	Consider the position of Board Committee updates in the agenda for future Board meetings.	Legal and Governance team
8	Board Diary and Forward Look	11.1	Confirm location for next Board meeting	Julie Lunt