

## Board Meeting

### Minutes of the Board meeting held on Wednesday 6 December 2023 at Mary Ward House Conference Centre, London and via MS Teams

#### Present

Alan Lovell  
Judith Batchelar  
Robert Gould  
Stewart Davies  
John Lelliott  
Mark Southern  
Ines Faden Da Silva  
Sarah Mukherjee (Items 1-3)

Chair  
Deputy Chair  
Board member  
Board member  
Board member  
Board member  
Board member  
Board member

#### In attendance

Philip Duffy  
Caroline Douglass (Items 1-3, 6-13)

Sarah Chare  
John Leyland  
Pat Bolster (Items 1-5, 7 & 10)  
Ilana Conn

Anna Burns  
Laura Milton  
David Hill (Items 1-4 & 6-13)  
Mike Cuthbert  
Corry McDiarmid  
Alex Hole  
Beth Lamb

Chief Executive  
Executive Director, Flood & Coastal Risk  
Management  
Executive Director, Local Operations  
Executive Director, Environment & Business  
Director, Finance  
Defra Deputy Director of Operational & Local  
Communications  
Deputy Director, Governance & Engagement  
Director, Legal & Audit Services  
Defra Director General, Environment Group  
Director, Strategy, Planning & People  
Board Governance Manager  
Board Governance Senior Advisor  
Board Governance Advisor

#### Item 3

Helen Wakeham  
David Hallam  
Malcolm Lythgo

Gemma Sweet  
Rose Macfarlane  
Henry Gilliver  
Alan Cansdale

Director, Water Transformation  
Defra Director, Floods & Water  
Director, Operations, Regulation, Monitoring  
& Customer  
Deputy Director, External Affairs  
Defra Deputy Director, Strategy and Delivery  
Strategy Lead, Defra Delivery Unit  
Deputy Director, Water Industry Regulation

### Item 5

Lucy Ward

Performance Manager

### Item 6

Antoine Lebrun

Advisor, National Flood Hydrology Team

### Item 7

Harry Leeder

Manager, Planning, Performance and Strategy

### Item 8

Neil Davies

Director, Sustainability, Funding, & Service Operations

Simon Dawes

Manager, Sustainable Business

Becky Hibbert

Deputy Director, Sustainable Business (job share)

Van Griffiths

Deputy Director, Sustainable Business (job share)

### Item 9

Richard Houghton

Deputy Director, Health, Safety & Wellbeing

Rachel Jones

Deputy Director, Assurance & Risk

### Item 11

Richard Bowen

Partnership Funding Manager

## Item 1 Welcome and Introductions

### Apologies

- 1.1 Apologies were noted from Caroline Mason, Lilli Matson and Nicola Lawton.

### Declarations of interest

- 1.2 No new declarations of interest were made.

### Minutes of the Board meeting held on 10 October 2023

- 1.3 **The Board approved** the minutes of the Board meeting held on 10 October 2023.

### Matters arising

- 1.4 The Board reviewed the action log and noted the progress made against all open actions.
- 1.5 The Board noted the verbal update given on the action relating to high-risk activities and 'red carded' activities.

- 1.6 **Action:** The Board asked that the Executive Director of Local Operations hold a call with Ines Faden Da Silva, Stewart Davies and Lilli Matson on high risk and 'red carded' activities being undertaken by Environment Agency colleagues and Environment Agency subcontractors.

## **Item 2 Board Updates**

### **Chair's Update**

- 2.1 The Chair updated the Board on his recent visits to Manchester, Cumbria and Yorkshire and provided a brief update on the progress of Board member recruitment. The Board noted that interviews would take place in January.

### **Chief Executive's update**

- 2.2 The Chief Executive updated the Board on the progress of the pay case, the recent flooding roundtable, as well as his recent appearance at the Public Accounts Committee (PAC).
- 2.3 The Board praised the Chief Executive and the Executive Director of Flood and Coastal Risk Management (FCRM) on their successful session at the PAC.
- 2.4 The Board discussed concerns around the flow of information between areas and local MPs during flood incidents. They noted a possible solution could be to host a proactive call with MPs of impacted areas in the days before or day of any major flooding to alleviate pressure on area teams.
- 2.5 The Board discussed the pressure on area teams due to ongoing flood recovery work. The Board noted that that Executive Director of Local Operations would be hosting a bi-weekly meeting with affected teams to oversee the progress of the recovery work and would be visiting teams in Lincolnshire and Northamptonshire areas soon.

## **Item 3 Water**

- 3.1 The Board welcomed Helen Wakeham, David Hallam, Malcolm Lythgo, Gemma Sweet, Rose Macfarlane, Alan Cansdale and Henry Gilliver to the meeting.
- 3.2 The Executive Director of Environment and Business (E&B) introduced the item and Helen Wakeham provided an overview of the session and context ahead of the discussion.
- Water industry regulation transformation**
- 3.3 Alan Cansdale introduced the session and gave an overview of ongoing regulatory compliance work, the development of innovative

digital technologies to aid in regulation, and work to streamline the Environment Agency's approach to enforcement.

- 3.4 The Board discussed the progress of water company wastewater treatment technologies, the potential for Citizen Science to contribute on enforcement and the scale of the challenge around training and upskilling staff to underpin transformation in the Environment Agency's regulatory capacity.
- 3.5 The Board noted both the Secretary of State (SoS) and Prime Minister's support for work to transform regulation and how the plans to deliver these major changes draw from the review of Environment Agency regulation undertaken by William Priest.
- 3.6 The Board discussed how the Environment Agency and Ofwat can work together to address systemic issues within water companies that exacerbate non-compliance.

#### Strengthening water enforcement

- 3.7 Malcolm Lythgo introduced the control strategy outlined in the paper and set out how this strategy will adopt an intelligence led compliance approach. The Board noted the plan to simplify regulatory processes and adopt a tiered method to investigations linked to likely outcome.
- 3.8 The Board discussed the ongoing capability and capacity challenges that Environment Agency enforcement staff face and the potential to utilise the apprenticeship levy to improve resilience nationally.

- 3.9 The Board also discussed the need for stronger drivers of positive change in the water sector and stronger deterrents to offending.

#### Water metrics

- 3.11 Mike Cuthbert set out the ambition to develop further a comprehensive suite of metrics to monitor outcomes and activities of the water industry and related impacts on water quality.
- 3.12 The Board praised the positive collaborative effort between the Defra Delivery Unit and the Environment Agency in facilitating a collaborative workstream to identify new metrics for monitoring the performance of the water industry and of water quality.
- 3.13 The Board noted ongoing problems with the quality and format of event duration monitoring data submitted by water companies and the need for this to be addressed as a priority.
- 3.14 **Action:** The Board asked the Executive Director of E&B to investigate the possibility of standardising data submitted by water companies.

- 3.15 The Board discussed the utilisation of metrics to identify emerging risks and opportunities and how such metrics were to be tested. They also discussed how water companies could share learning which could help improve the lowest performing.
- 3.16 **Action:** The Board asked Helen Wakeham to road test the new water measures with stakeholders.
- 3.17 The Board noted that this work was the first step in a wider programme to develop a suite of metrics for the whole water system, including impacts of other sectors such as mining and transport.
- Engagement and communications**
- 3.18 Gemma Sweet gave an overview of the communications approach up until this point and the context on the need to change to a more proactive approach.
- 3.19 The Board noted the SoS's ambition to demonstrate that better regulation is being implemented.
- 3.20 The Board endorsed a more proactive approach to communications and engagement as laid out in the paper and discussed the need for a granular stakeholder map. The Board reiterated the importance of the Environment Agency's strategic communications showing clearly that the Environment Agency is following through on its duties and ambitions.
- 3.21 The Board discussed the utilisation of internal communications and the need to have one clear message on regulation that all staff can promote. The Board considered how a general election might impact communication plans and encouraged the team to develop a contingency plan for this.
- 3.22 **Action:** The Board asked the Executive Director of E&B to return with an update on the strategic plan for communication on water regulation as soon as possible.
- 3.23 **Action:** The Board asked the Executive Director of E&B to return to the Board with an update on progress of actions raised during this item in due course.

## Item 4 **FSoD and NFSoD**

### **Financial Scheme of Delegation (FSoD)**

- 4.1 The Board noted the items which had been approved by the Chair under standing order 4.1, and that where appropriate Board members had reviewed each project.

- 4.2 The Board discussed the Kendal flood risk management scheme (FRMS) project, which is now significantly different from the original project proposed, and the importance of considering the lessons learned from this project.
- 4.3 The Board noted that the Kendal FRMS generated an unforeseen level of scrutiny and interest from the community and other stakeholders and that early stakeholder engagement and proactive communications should be considered for similar large projects in future.
- 4.4 The Board noted that an annual lessons learned review on business case update reports (BCURs) would be taken at the Audit and Risk Assurance Committee meeting the following week.
- Non-Financial Scheme of Delegation (NFSoD)**
- 4.5 The Director of Legal and Audit Services gave an overview of the proposed changes to the Board's delegations.
- 4.6 **The Board approved** the proposed amendments to the Non-Financial Scheme of Delegation (version 55, July 2023) to deal with new powers relating to the UK Emissions Trading Scheme.

## **Item 5 Q2 Corporate Scorecard and update on Balanced Scorecard**

- 5.1 The Board welcomed Lucy Ward to the meeting. The Director of Finance provided an overview of the paper and the Q2 performance. The Board noted that the corporate scorecard is currently under review to ensure the right measures are included for 2024/25.
- 5.2 The Board discussed the measure relating to kilometres of the water environment improved and noted that the target set for 2023/24 was a 20% stretch target and that work was ongoing to reach green status.
- 5.3 The Board discussed the measure relating to the proportion of staff who are from a Black, Asian or Minority Ethnic (B.A.M.E) background and noted that the B.A.M.E network were consulted regarding the wording of this measure and concluded a change was not needed at this time. The Board considered the need for the target of this measure to reflect the local communities in each Environment Agency area.
- 5.4 **The Board approved** the quarter 2 corporate scorecard ready to publish on gov.uk.
- 5.5 Lucy Ward provided an overview of ongoing work on the balanced scorecard to ensure the right suite of measures are included in the 2024/45 scorecard to reflect Environment Agency priorities and core

business processes. The Board noted that the new metrics will be ready for the start of the 2024/25 financial year.

- 5.6 EDT members took the Board through all the balanced scorecard measures currently at 'red' status.
- 5.7 The Board discussed the measures relating to asset inspections and public safety. The Board noted that incident recovery was impacting the status of these measures, and that work was underway to get these measures to green status as soon as possible.
- 5.8 The Board discussed the measure relating to high-risk illegal waste sites and noted the resource challenges and difficulties in recruiting and retaining staff.
- 5.9 **Action:** The Board discussed the measure relating to rod licence evasion and asked Lucy Ward to clarify the end of year target for this measure.
- 5.10 The Board discussed the measure relating to control of major accident hazard (COMAH) delivery and what could be done to target specialised skills when recruiting into these teams.
- 5.11 The Board discussed the measure relating to incident response capability.
- 5.12 **Action:** The Board asked for an item on the new sustainable incident management model known as 'IMX' and improving the resilience of incident rosters to be brought to the Board.
- 5.13 The Board noted the 12% difference between the 83% completed so far and 95% end of year target for corporate scorecard measure X04-N, which relates to internal environmental actions.
- 5.14 **Action:** The Board asked Lucy Ward to check the profile for X-04-N and update the scorecard as to whether this measure was likely to be amber or green by the end of the year.
- 5.15 **The Board approved** the change to the quarterly information provided to the Board.

## Item 6 Celebrating our successes

- 6.1 The Board welcomed Antoine Lebrun to the meeting who provided an overview of the Environment Agency's second showcase at the London Science Museum during summer 2023.



- 6.2 The Board noted the positive feedback and communications from the event.
- 6.3 The Board commended Antoine and all that had volunteered at the showcase on the success of the event, and thanked Antoine for sharing this achievement.

## Item 7 EA'X' – discussion and approval of next steps

- 7.1 The Board welcomed Harry Leeder to the meeting. Harry provided an overview of the areas of consensus reached on purpose, audience, time horizon and communication and engagement approaches for the next corporate strategy, EA'X', by Executive Directors Team (EDT), Strategic Business Forum (SBF) and the Board.
- 7.2 The Board discussed communicating with stakeholders on the new strategy, as well as the need to consider how engagement can be measured and if the right metrics are currently in place to do this. The Board discussed the language and tone of the strategy and encouraged the team to centre the language around striving for excellence whilst also being clear that the Environment Agency is holding itself to account and how the work being undertaken will drive change.
- 7.3 The Board discussed the need for more emphasis on the Environment Agency both as a regulator and a facilitator of sustainable development and economic growth. The Board also asked the team to further draw out how the Environment Agency is helping the UK prepare to adapt to the climate emergency.
- 7.4 The Board noted the next steps on the development of EA'X', and that the team would be sharing an initial draft with individual Board members for comment in the near future.
- 7.5 **Action:** The Board asked for a further session on EA'X' to be scheduled to discuss the draft structure of the plan.

## Item 8 Net Zero approval

- 8.1 The Board welcomed Neil Davies, Simon Dawes, Becky Hibbert, and Van Griffiths to the meeting. Neil Davies provided an overview of the paper.
- 8.2 The Board noted the proposed carbon emissions reduction of 90% in scope 1, 2 and 3 emissions between 2045 and 2050 as well as the transition milestone targets as laid out in the paper.



- 8.3 The Board discussed the development of the revised target, the need to be clear that this was evidence based, and how the Environment Agency's plans fit in with those of the government on net zero.
- 8.4 The Board discussed the evolving technologies in this space and asked the team to consider how these would be taken into account throughout the lifespan of the strategy.
- 8.5 The Board discussed funding for implementation of measures to achieve carbon reduction as well as the challenge the Environment Agency faces on construction-related emissions. The Board acknowledged that the Environment Agency will need to ensure it is a leader on carbon reduction in this sector.
- 8.6 **Action:** The Board discussed the communications and engagement around the reset and asked the Defra Deputy Director of Operational and Local Communications and the Chief Operating Officer to bring back a plan for this to the Board in due course.
- 8.7 **The Board approved** the revised Environment Agency net zero delivery date of 2045-50 and reduction/removal balance of 90/10.

## Item 9 People Updates

### Health, safety and wellbeing (HSW)

- 9.1 The Board welcomed Richard Houghton to the meeting. Richard drew out the main themes in the paper.
- 9.2 The Board noted the update and considered the current HSW culture within the Environment Agency. The Board noted that there had been an external review of the Environment Agency's work on HSW as part of the recent ISO 45001 (health and safety management system) certification. The Board noted that the reporting of 'near-miss' incidents had overall been good since the last Board update.
- 9.3 The Board discussed the ongoing issue of absences linked to poor mental health and burnout. They also noted that all line managers had been issued with an action to carry out a 'stress action plan' discussion with their teams and complete the associated risk assessments to help address this issue.
- 9.4 The Board discussed aggression against staff working on the ground and concerns that this would be perpetuated in the wake of the recent BBC Panorama documentary. Richard reassured the Board that work was ongoing to put the necessary support measures in place for affected staff and raise awareness of how these incidents should be reported.

- 9.5 The Chair stressed the importance of exemplary HSW performance and reporting, and queried what could be done to improve the Environment Agency's proficiency in these areas.
- 9.6 **Action:** The Board asked the Board secretariat to schedule HSW as the first item on the agenda at each Board meeting going forward.
- 9.7 **Action:** The Board asked the Chief Operating Officer to look into an external audit of the Environment Agency's HSW performance relative to similar organisations.
- 9.8 The Board acknowledged that this would be Richard Houghton's last Board meeting as Deputy Director of HSW and thanked him for his contribution over the years. The Board noted that Dan Hutley from NHS England would be taking over this role in January 2024.

#### Employee Relations

- 9.9 The Board welcomed Rachel Jones to the meeting. Rachel provided a verbal update on the latest developments with regard to the ongoing pay negotiations and industrial action.
- 9.10 The Board noted the update and that the decision on pay was now with the Trade Unions for ballot. The Board discussed the pay case and the ongoing impact of the rising cost of living on the lowest paid Environment Agency staff.
- 9.11 The Board thanked Rachel and all those involved in the pay negotiations for their work and commended the positive working relationship between the Environment Agency and Trade Unions.

## Item 10 Committee and Area Board Member Updates

#### Committee Updates

- 10.1 The Board noted the topics of focus from each committee meeting as set out in the paper.
- 10.2 The Chair of the E&B Committee provided an update on recent deep dives the committee had participated in, including one on 'forever chemicals'. The Chair of the E&B Committee suggested that this would be a useful topic for the Board to discuss in future.
- 10.3 **Action:** The Board asked for a session on PFAS chemicals to be added to the forward look.
- 10.4 The Chair of the Pensions Committee updated the Board on the recent Investment Sub Committee (ISC) and their renewal of the responsible investment policy. The Board noted that there would be a Pensions Committee meeting the following week which the Capita Pensions

Managing Director would be attending to discuss cyber security and the Capita data breach.

- 10.5 The Chair of the FCRM Committee provided an update on recent discussions regarding the FCRM Capital Programme.

**Area Board member updates**

- 10.6 Board members reported back on issues and notable updates from each of their areas. There were common themes across the country around resource and internal recruitment churn. Board members reported nervousness around incident response capability due to the length of time since the last major incident, as well as strain from large workloads coupled with incident recovery following storms Babet and Ciaran.

**Item 11 FCRM Grant Memorandum of Understanding**

- 11.1 The Board welcomed Richard Bowen to the meeting. Richard provided an overview of the paper and the proposed exceptions process to the current Grant Memorandum of Understanding.
- 11.2 The Board noted that this proposal had received the endorsement of the FCRM Committee.
- 11.3 **The Board approved** the creation of an Exceptions Process to the Grant Memorandum relating to capital grants for other Risk Management Authorities (RMAs) in England on a trial basis until 2027.
- 11.4 **The Board approved** the changes to the FSoD to allow RMAs to claim Resource (RDEL) and Capital (CDEL) funding.

**Item 12 Sentencing Guidelines and Polluter Fines**

- 12.1 Laura Milton introduced this item and provided an overview of the progress made to date on sentencing environmental offences and the scope for further improvement.
- 12.2 The Board noted the SoS's interest in holding polluters accountable.
- 12.3 The Board discussed communications around this issue and the need for care and consideration in the messages that the Environment Agency is putting out regarding prosecutions. The Board also discussed the opportunities to convey the real terms cost of environmental crimes and the duty of care of reputable companies.
- 12.4 The Board discussed the potential for the threat of reputational damage to companies acting as an effective deterrent against polluting.

- 12.5 The Board noted the Environment Agency data on fines and imprisonment, and enforcement undertakings included in the paper.
- 12.6 **Action:** The Board asked the Director of Legal and Audit Services and the Director of Ops RMC to bring an item to the Board on the current position on enforcement across the Environment Agency, including recommendations for the future.

### Item 13 AOB and Date of Next Meeting

#### AOB

- 13.1 The Deputy Chair gave a brief overview of recent engagement on food waste reporting and an upcoming WRAP event on this issue.
- 13.3 The Deputy Chair gave an update on the Esmee Fairburn Foundation's work to remove peat from horticulture and the opportunity for the Environment Agency to engage on this through its own work on peat.

#### Date of next meeting

- 13.2 The Board noted that the next meeting would be the Board call on Monday 8 January.

#### Meeting review

- 13.3 The Board praised the quality of the papers delivered for the water session and shared that they were finding the deep dive style sessions at the recent meetings useful. The Board discussed the benefits of having Defra colleagues in the room during these sessions.
- 13.4 The Board discussed the balance of challenge and support they were providing and asked that they continued to be engaged early on large projects and streams of work.

The meeting closed at 16.10.