

Board Meeting

Minutes of the Board meeting held on Thursday 8 February 2024 at Aqua House, Birmingham and via MS Teams

Present

Alan Lovell	Chair
Judith Batchelar	Deputy Chair
Robert Gould	Board member
Stewart Davies	Board member
John Lelliott	Board member
Lilli Matson	Board member
Ines Faden Da Silva	Board member
Caroline Mason	Board member
Sarah Mukherjee	Board member
Mark Suthern	Board member

In attendance

Nicola Lawton	Chief Operating Officer
Caroline Douglass	Executive Director of Flood and Coastal Risk Management
Sarah Chare	Executive Director of Local Operations
John Leyland	Executive Director of Environment and Business
Clare Jeffreys	Director of Finance
Ilana Conn	Defra Deputy Director of Operational and Local Communications
Laura Milton	Director of Legal and Audit Services
David Hill	Defra Director General, Environment Group
Corry McDiarmid	Board Governance Manager
Alex Hole	Board Governance Senior Advisor
Beth Lamb	Board Governance Advisor

Item 4

Alison Matthews	Deputy Director, Operations Regulatory Service
Jo Larmour	Deputy Director, National Enforcement Service
Steve Molyneux	Deputy Director, Waste Regulation
Emma Bourne	Defra Director, Resources and Waste

Items 4 & 6

Georgina Collins	Director of Regulated Industry
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Item 5

Hugh Potter	Water and Abandoned Metal Mines Programme Manager
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Item 6

Faye Charlesworth	Deputy Director, Permitting Service
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Malcolm Lythgo Director of Operations, Regulation, Monitoring and Customer

Item 7

Lucy Ward Finance Manager

Item 8

Rowan Sunflower Deputy Director, Finance

Item 10

John Russon Director of Portfolio Management and Assurance
Gary Story Senior Finance Business Partner

Item 12

D-J Gent Manager, Water, Land and Biodiversity
Katie Fullilove Senior Advisor, Water Land and Biodiversity

Item 1 Apologies, declarations of interest, minutes and matters arising

Apologies

1.1 Apologies were noted from Philip Duffy, Chief Executive and Harry Leeder, Deputy Director of Governance and Engagement.

Minutes of the Board meetings held on 20 November 2023, 6 December 2023 and 8 January 2024

1.2 **The Board approved** the minutes of the 20 November 2023, 6 December 2023 and 8 January 2024 Board meetings.

Declarations of interest

1.3 No new declarations of interest were raised.

Matters arising

1.4 The Board noted the actions that had been closed since the last meeting as well as the progress on outstanding actions.

1.5 **Action:** Board secretariat to ensure due dates are listed for all outstanding actions going forward.

1.6 The Board closed action Board2022-6 due to the delays to the publishing of the Modern Slavery Statement as a result of the Home Office intention to produce a Central Government Statement. The Board Governance Team will flag to the Board when this issue is resolved.

Item 2 People matters

Health, safety and wellbeing

2.1 The Chief Operating Officer provided a verbal update on health, safety and wellbeing (HSW) including recent safety critical incidents, an ongoing

Health and Safety Executive (HSE) investigation and work to review the Environment Agency estate for Reinforced Autoclaved Aerated Concrete (RAAC).

- 2.2 The Board noted that both long and short-term actions were to be put in place on safe ways of working during incident response. This is following concerns raised around length of hours colleagues are working during these periods. It was acknowledged that a full update on this would be given at the March meeting and a more detailed look at the volunteer model for incident response would be taken as part of the 'IMX' item due to come to the Board later in the year.
- 2.3 The Board noted that Dan Hutley had now taken up the role of Deputy Director of HSW.
- 2.4 The Board welcomed the HSW update and asked that this be a written report in future.
- 2.5 **Action:** Chief Operating Officer and Deputy Director of HSW to bring a paper to support the HSW update item at future Board meetings.
- Employee relations**
- 2.6 The Chief Operating Officer updated the Board on the pay settlement paid to staff on 20 January and backdated to July bringing the current pay dispute to a close. The Board noted that work was already underway on the 2024/25 pay case and the risk of further associated industrial action.
- 2.7 The Chief Operating Officer also flagged the updates to the employee code of conduct which provides clearer guidance for those taking on roles at organisations regulated by the Environment Agency.

Item 3 Board updates

Chair's update

- 3.1 The Chair provided an update on the progress of Board member recruitment. The Board noted that a suitable ARAC Chair had not been identified and that a separate recruitment campaign would be launched to fill this post. The Chair asked Board members to engage their networks to assist in finding the right individual.
- 3.2 The Chair updated the Board on the upcoming National Farmers Union (NFU) Conference at which he would be giving a keynote speech.

Chief Executive's update

- 3.3 The Board noted the Chief Executive's update as laid out in the paper.
- 3.4 The Board discussed the costs and planned implementation of new Biodiversity Net Gain (BNG) requirements.

- 3.5 The Board noted the update regarding the new leadership structure in Environment and Business (E&B). The Board noted the new Director-level appointments in E&B including that Jo Nettleton had been successful in securing the Chief Regulator role , taking up post on 1 April.

Item 4 Waste

- 4.1 The Board welcomed Georgina Collins, Alison Matthews, Jo Larmour, Steve Molyneux and Emma Bourne to the meeting. Georgina Collins introduced the session and set out the diversity, challenges and opportunities of the waste sector.

Regulating waste & resource management

- 4.2 Steve Molyneux provided an overview of paper 'Regulating waste and resources management: Our control strategy' and invited the Board to consider the diversity of the waste sector and what this means for the way the Environment Agency regulates, as well as considering what it will take to achieve success in the regulation of 'non-cooperative' actors.
- 4.3 The Board discussed opportunities to engage with small and medium sized enterprises (SMEs) in order to address non-compliance as a result of operators not fully understanding their requirements and responsibilities.
- 4.4 The Board acknowledged the rapidly evolving nature of the waste sector. They discussed how the Environment Agency and Defra can work together to draw on each other's experience in order to future proof the sector, as well as the importance of building strong relationships across the sector to shift and change the regulatory landscape.
- 4.5 The Board discussed landfill capacity as well as risks around sites vulnerable to coastal erosion. The Board acknowledged that although landfilling of biodegradable waste is being phased out environmental risks remain around responsibility for these sites once they are closed, particularly where operators no longer receive an income.
- 4.6 **Action:** The Board asked Executive Director of E&B to provide a written update to the Board on environmental risk associated with active and closed landfills.
- 4.7 The Board considered the current financial pressures on local authorities and considered what the implications may be for the Environment Agency should this result in reduced capacity to carry out their waste functions. The Board noted that Georgina and her team would work with Defra to identify the scale of this risk as well as plans to address it.

Waste regulatory reform

- 4.8 Steve Molyneux introduced the paper 'Implementation of the Government's Resources & Waste Strategy: Future Control Strategy' and

Emma Bourne gave an overview of waste reforms currently in progress as well as those coming down the line, such as digital waste tracking.

- 4.9 The Board noted that waste reform is being run as a corporate change programme due to the change in ways of working for operational staff. They noted that extra resource will be needed to carry out this work and complete the required digital audits.

Evolving our plan to reduce offending

- 4.10 Jo Larmour introduced the paper 'The Evolution of Waste Crime, our control strategy' and gave an overview of the National Enforcement Service team's remit. The Board noted the challenge faced by the team to keep pace with the evolving nature of serious organised crime in the waste sector, and the intelligence analysis on the growing threat of organised crime. Jo noted the work being done to keep pace with these criminals and the control strategy in place to manage these greater risks.
- 4.11 The Board noted the role of the economic crime unit in enforcement, as well as that of the joint unit for waste crime who work to share intel across enforcement agencies on other illegal activities also undertaken by waste criminals.
- 4.12 The Board discussed the safety and wellbeing of Environment Agency staff working in this part of the business and what is being done to protect them. The Board also discussed whistleblowers and how far members of the public are being engaged and encouraged to report waste crime. The Board also considered communications and how successful waste prosecutions can be highlighted.
- 4.13 The Board discussed support for the agricultural community and queried what support was in place for recovering costs incurred by fly tipping on their land.
- 4.14 The Board discussed waste prosecutions and considered the funding risk associated with these. The Board noted that Georgina and her team were reviewing the funding model with Defra.
- 4.15 The Board thanked the team, commended them for their work so far and acknowledged that this gave them great confidence that the Environment Agency is focussed on tackling waste crime.
- 4.16 **Action:** The Executive Director of E&B to bring back an item to a future Board meeting exploring the risks described in the papers together with mitigation.

Item 5 Celebrating our successes: River pollution from abandoned metal mines – the WAMM Programme

- 5.1 The Board welcomed Hugh Potter to the meeting who provided an overview of work underway to deliver metal mine pollution and treatment schemes. The Board noted the significant progress made on metal pollution in rivers, in particular in the River Tyne.
- 5.2 The Board discussed the respective roles of the Environment Agency and the Coal Authority.
- 5.3 The Board commended Hugh for his and his team's achievements so far and thanked Hugh for sharing this success.

Item 6 Transformation of permitting

Sarah Chare's declaration of interest regarding EDF energy was noted by the group during this discussion.

- 6.1 The Board welcomed Faye Charlesworth and Malcolm Lythgo to the meeting. The Executive Director of Local Operations (Ops) set out the context for the session and noted that permitting was now hitting its targets. The Board noted that the team were now working with the No.10 Delivery Unit on permitting transformation as part of Environmental Permitting Regulations (EPR) reform.
- 6.2 Faye Charlesworth updated on the performance within the National Permitting Service (NPS) as well as the residual challenges in the complex regimes. Faye set out the Executive Director led transformation programme planned for the next 4 years which will improve permitting performance when dealing with particularly complex applications such as those relating to the delivery of government infrastructure projects.
- 6.3 Malcolm Lythgo spoke to the emphasis on customer experience going forward particularly with regard to adapting current processes to ensure they are suitable for the wide scope of customer needs.
- 6.4 The Board discussed the possibility of introducing an additional charge for a premium service, noting that this would primarily be used for novel, new and complex applications.
- 6.5 The Board discussed how technology and automated processes can be utilised to improve customer experience, for example, automated text messages. The Board also queried how the progress of permit applications are monitored and how the service will stay ahead of the curve in terms of emerging risks and technologies.

- 6.6 The Board discussed the risks around permit review and the permitting funding model and noted plans to transform and mitigate these risks.
- 6.7 The Board encouraged a culture shift focussing on increased customer satisfaction.
- 6.8 The Board congratulated the team on the progress made so far and acknowledged the work still to be done.
- 6.9 **Decision:** The Board endorsed the need for a permitting transformation programme. The Board asked to be kept abreast of its development including the potential for the creation of a premium service.
- 6.10 **Action:** Executive Director of Local Operations to provide an update on the progress of this work in 6 months' time.

Item 7 Corporate Scorecard and Balanced Scorecard proposals for 2024/25

Corporate Scorecard

- 7.1 The Board welcomed Lucy Ward to the meeting. The Director of Finance outlined the content of the paper and highlighted the early steer being sought from the Board as part of the shaping process to ensure a relevant and useful set of metrics for 2024/25. The Board noted that the Corporate and Balanced Scorecard measures currently aligned with the EA2025 programme and alignment to the Environmental Improvement Plan (EIP) would occur longer term as EA'X' is developed.
- 7.2 The Board discussed how certain new measures will be assessed, in particular those relating to innovative actions delivered in flood and coastal resilience, and agriculture outcomes. The Board felt that the FCRM innovation measure needed amending to be more easily measurable but if this wasn't achievable to retain this measure rather than remove.
- 7.3 The Board discussed the inclusion of the asset condition measure to show current direction of travel.
- 7.4 The Board questioned the measures around the hectares of habitat created and the percentage of permitted water company sewage treatment works brought into compliance and asked for these to be looked at again to ensure it is a meaningful and impactful measure.
- 7.5 The Board discussed the assessment of a 'good' measure and noted the importance of being aligned on what this looked like before proceeding.

- 7.6 The Board discussed the importance of EDT working collaboratively and all being accountable for all targets, and to be wary to avoid working in a siloed way on only the measures assigned to their directorate.
- 7.7 The Board noted that the serious crime measure was a one year only measure, and an improved measure and metric would be implemented as part of the 2025/26 Scorecard.
- 7.8 The Board discussed the HSW measure noting that they would like the target to be higher this year compared to the same measure last year. The Board noted that the time lost to staff injury measure wording needed amending to reflect the aim to minimise staff injury and prioritise staff HSW.
- 7.9 The Board asked for the measure relating to farm inspections to be amended as the simple number of inspections was the focus for the current financial year and would be too easy for next; and asked that a measure be added to the 2025/26 Scorecard on increasing the number of water company site inspections.
- Balanced Scorecard**
- 7.10 Lucy Ward provided an overview of the Balanced Scorecard and demonstrated the new interactive 'Qlik' system that would soon be in place. The Board noted that the Balanced Scorecard would come to the Board for approval at the March meeting, and thereafter would be reviewed quarterly.
- 7.11 The Board discussed the need to reflect a focus on the Environment Agency's own people through the Balanced Scorecard. They suggested that measures should be included that encourage healthy and engaged staff.
- 7.12 **Action:** The Board noted that the current numbering of the Corporate and Balanced Scorecards is unclear and asked Lucy Ward to look into simplifying the numbering system.

Item 8 Regular Finance Items

Finance Update

- 8.1 The Board welcomed Rowan Sunflower to the meeting. The Director of Finance gave an overview of the current financial position.
- 8.2 The Board noted the continued commitment of EDT to manage the current year's resource pressure.
- 8.3 The Board noted the request to His Majesty's Treasury (HMT) to reprofile the capital programme.

- 8.4 The Board discussed whether the switch from capital to resource would compromise programme delivery in 2024/25 and noted that the Executive Director of FCRM is looking at the business case to reset the programme.
- 8.5 The Board discussed concerns around material increases in approved budgets for major projects and the implications for the capital programme and its largest projects. The Board considered the risks around the FCRM resource budget for 2024/25.
- 8.6 The Board noted that there were corresponding decreases or projects that have stopped to ensure the programme remains on track for delivery.
- 8.7 **Action:** Executive Director of FCRM to provide a briefing for the Board on the impact of increased BCURs on the capital programme.
- 8.8 The Board noted that EDT recognised the need to improve budget and forecast management from 2024/25. They also noted that business planning has commenced and the aim to ensure funding decisions are assessed in the context of operating as one business.
- 8.9 The Board noted the commencement of the 2023/24 interim audit, and that there is an aspiration to lay Accounts before Parliament before the Parliamentary summer recess.
- 8.10 The Board noted that the National Audit Office's (NAO) audit plan had not yet been received.
- 8.11 **Action:** Director of Finance to share the NAO's audit plan when received with the Board.
- Financial Scheme of Delegation (FSoD)**
- 8.12 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.
- 8.13 The Board noted cost increases associated with new technical standards and increasing land costs for the Foss Barrier Recovery Scheme. They discussed opportunities to develop staff negotiating and commercial skills in order to achieve the best financial outcomes.

Item 9 Corporate Services Update

- 9.1 The Chief Operating Officer updated the Board on realised efficiency commitments for Defra and the resulting pressure on Defra Corporate Services. The Board considered the impact that further requested savings will have on the corporate services that Defra provides to the Environment Agency. The Board noted that the Chief Operating Officer and her teams were working closely with Defra to support and manage pressures.

- 9.2 The Board noted the update given on the corporate services action plan including work underway to secure estate improvements in a twin-tracked approach with Defra.
- 9.3 The Board noted that a full update on corporate services would be given at the March meeting.

Item 10 FCRM Approvals

FCRM Grant in Aid (GiA) Allocation

- 10.1 The Board welcomed John Russon to the meeting. The Executive Director of FCRM introduced the item and set out the governance for this approval including the endorsement of the Regional Flood and Coastal Committee (RFCC) Chairs to proceed with this programme. The Board noted that the proposal also had the support of the FCRM committee.
- 10.2 The Board noted the allocation principles and capital programme prioritisation criteria as well as the use of £150million reprofiled funding to support additional schemes reaching full business case.
- 10.3 The Board noted that discussions were ongoing with the Secretary of State (SoS) regarding the revised 200k homes better protected target and noted the risks should the SoS not approve the revised target.
- 10.4 The Board praised John and his team on their achievement regarding this being the first time the Environment Agency had ever allocated over £1billion of GiA funding across the capital programme.
- 10.5 **Decision: The Board approved** the FCRM grant in aid capital and asset maintenance resource allocations for 2024/25.

Flood and Coastal Levies and Precepts

- 10.6 The Board welcomed Gary Story to the meeting. Gary provided an overview of the paper and set out the approval being sought.
- 10.7 **Decision: The Board issued** the Flood and Coastal Local Levies.
- 10.8 **Decision: The Board made a resolution** authorising the Agency seal to be affixed to the General Drainage Charges for the year ending March 31 2025, as set out in Appendix 1 of the paper.
- 10.9 **Decision:** The Environment Agency Board being satisfied that such contributions are fair, **made a resolution** to impose Internal Drainage Board Precepts for 20245/25, as set out in Appendix 2 of the paper.
- 10.10 The Board reconstituted itself as the Internal Drainage Board in the River Arun Internal Drainage District.

- 10.11 **Decision:** Acting as the Internal Drainage Board in the River Arun Internal Drainage District in Solent and South Downs Area, **the Board approved** the drainage rates and issued the special levies given in Appendix 3 of the paper.

Item 11 Staff Engagement Reflections

- 11.1 The Board reflected that overall the engagement had been positive and were encouraged by the number of new and young members of staff that they spoke to.
- 11.2 Board members reported that staff did not feel the Board speak enough about climate change, and they felt there was a sense of unease as a result of recent leadership changes in the organisation.
- 11.3 The Board also reported that staff wished for procurement to be devolved to a local level, and that some of those they had spoken to had concerns regarding the future funding model.

Item 12 Conservation Covenants

- 12.1 The Board welcomed Katie Fullilove and D-J Gent to the meeting. The Executive Director of E&B introduced the item and D-J gave an overview of the benefits of the Environment Agency applying to be a responsible body for conservation covenants. Katie laid out the timeline associated with the application.
- 12.2 The Board discussed potential for liability but noted that agreements under this process are voluntary and could be terminated with agreement from both parties.
- 12.3 The Board discussed potential resourcing implications in the long term. The Board noted that during Phase 1 of implementation the team will seek to examine the most efficient delivery method for the full life cycle of conservation covenants and will use this learning to mitigate any financial and resource risk.
- 12.4 **Decision: The Board approved** the proposal for the Environment Agency to apply to be a responsible body for conservation covenants.

Item 13 Annual Board Review Discussion

- 13.1 The Board Governance Manager provided an overview of the findings and summary feedback from the recent Board evaluation.
- 13.2 The Board members discussed assurance of the capital programme and FCRM governance.

- 13.3 **Action:** Board Governance Team to reflect on how Board members who don't sit on certain committees can be sufficiently sighted on important issues and decisions.
- 13.4 The Board reflected that sufficient time is often not allowed for committee updates as these are often scheduled towards the end of the meeting.
- 13.5 The Board acknowledged that greater clarity was needed during Board discussion on what are actions for executives and what are academic challenges. The Board felt that spending time summarising at the end of each item would be beneficial for this.
- 13.6 The Board discussed the benefits of inviting a greater variety of voices to future meetings, and encouraged executives to continue to bring organisational challenges to the Board.
- 13.7 The Board discussed the operational versus strategic balance of topics discussed at the Board and asked for there to be a greater focus on overall Environment Agency strategy.
- 13.8 The executive felt that there was the correct balance of items being fed 'up' to the Board as items being fed 'down' and noted that they welcomed the Board's continued challenges on matters relating to HSW.
- 13.9 The Board noted that much of the input of Board members is in the setting of targets rather than transformation and encouraged more strategic discussion to focus on this going forward.
- 13.10 **Action:** Board Governance team to look at scheduling more engagement opportunities between Board members.

Item 14 Area Board Member and Committee Meeting Updates

Area Board Member Updates

- 14.1 Board members reported back on issues and notable updates from each of their areas. There were common themes across the country around residual pressure resulting from the named storms seen so far in the 2023/24 flood season. The Board discussed the support in place and raised concerns around resilience in the face of future periods of sustained flooding.

Committee Updates

- 14.2 The Board noted the topics of focus from each committee meeting as set out in the paper.
- 14.3 The Chair of the E&B committee fed back on recent discussions on retained EU law, air quality and proactive stakeholder management.

14.4 The Chair fed back on recent discussions at People and Pay Committee including those on talent and succession planning, and shaping culture via leadership development.

Pensions Committee Governance Approval

14.5 The Chair of the Pensions Committee set out the approval being sought from the Board.

14.6 **Decision: The Board approved** the amendments in Section 8.1 to the Environment Agency Pensions Fund Standing Orders and Terms of Reference agreed at Pensions Committee on 27 June 2023.

14.7 **Decision: The Board approved** the Pension Committee's recommendation for the tenure of Peter Smith and Hywel Tudor to be extended by one year from 14 May 2024.

Item 15 AOB, Date of Next Meeting and Review of Meeting

AOB

15.1 The Board noted that Nick Joicey, Defra Second Permanent Secretary, would be attending Environment Agency Board meetings going forward.

Date of Next Meeting

15.2 The Board noted the date of the next meeting as Wednesday 13 March.

Review of Meeting

15.3 The Board did not review the meeting.

The meeting closed at 16.38.