

Environment Standards Scotland (ESS) – Board Meeting Minutes of meeting on 20 January 2021 (Held on webex)

Present

Jim Martin (JM)	Chair
Richard Dixon (RD)	Member
Marie Fallon (MF)	Member
Paul McAleavey (PM)	Member
Annalisa Savaresi (AS)	Member

In attendance

Transition Team:

Neil Langhorn (NL)	Head of Interim Strategy
Jamie McGrandles (JMcG)	Head of Investigations
Rebecca Peppiette (RP)	Head of Secretariat

Scottish Government (SG) Team:

Katriona Carmichael (KC)	Deputy Director, Future Environment Division
Philippa Brosnan (PB)	Project Manager
Charles Stewart Roper (CSR)	Head of Environment Strategy and Governance Unit

Presentations:

Niall Campbell (NC)	Web Service contract manager – agenda item 6
Eleanor Ryan (ER)	Governance Consultant – agenda item 5

1	Board closed session
2	Introductions and standing orders
	<p>The Chair led a session on the standing orders, which will direct how the Board will conduct its business. Through discussion, it was agreed that updates would be made to oblige the Chair and Chief Executive to inform the Board where they determine questions of Board procedure, which have not been covered by the standing orders. In addition, reference to the Board, Board members and ESS Board would be standardised and clarified throughout. Conflict of interest wording will be updated to emphasise the personal responsibility which members and the Chair identify, and who they are identified to. It was approved that, with reference to the scheme of delegation, aspects of this can be delegated to the Executive Team by the Board.</p> <p>It was also agreed that in terms of administration, approved Board meeting minutes will be published on the ESS website, and liability insurance and an appropriate remuneration process and level will be established. Wording in the standing orders will be clear in indicating where Board members can take up free-lance work opportunities, which do not contravening the conflict of interest section. Decisions Reserved for ESS and the Scheme of Delegation will be further considered by the Board. The Board requested an early discussion on the recruitment strategy.</p>

3	<p>The Legislative Context</p>
	<p>KC and CSR presented to the Board the relevant provisions within the Continuity Bill and the powers and duties it sets out for ESS. ESS' function, as a new body, is to: ensure public authorities' compliance with environmental law, and, promote effectiveness of environmental law and its implementation. There is a distinction between 'compliance' and 'effectiveness'. To reinforce the duty on public authorities to co-operate, ESS has a range of powers. The Bill sets out definitions of 'public authorities' and 'environmental law' and the point of confidentiality. The Board offered reflections on wording in the Bill and agreed future discussion will be needed on how to interpret 'serious'. the Board also noted that in practice, with legislation, there is a grey area between individual and regulatory priorities.</p> <p>Schedule 2 includes detail on what ESS should include in its strategy, such as: how it will work through the phases of its investigations; how it will seek to reach resolution without resort to enforcement powers; and how enforcement powers will be applied should they prove necessary. Once ESS vests, it must lay its strategy before Parliament within 12 months. Prior to this it may publish an interim strategy setting at how it will operate between vesting and parliamentary approval of its strategy.</p> <p>The Board noted the importance of the strategy in setting the context and tone of the organisation. Scottish Ministers must commission a post-implementation review, to report on the efficacy of the new governance arrangements and make recommendations to Parliament. Before ESS vests, a Scotland Act order must be passed by the Westminster Parliament to make ESS part of the Scottish Administration. Scottish parliamentary approval is also required.</p>
4	<p>High-level project approach to establishing ESS</p>
	<p>KC outlined the high-level thinking required to put in place the infrastructure and operational capacity required for ESS on vesting including: the recruitment of five Board members; production of draft governance products and an initial website offering. In defining and commissioning the governance and website products, the intention was not to constrain the Board, more to provide a base for it to build on. Other minimum requirements included the recruitment of an executive team.</p> <p>The Board noted progress to date, highlighting additions they would like to see added to the transitional work including development of ESS culture and values and a communications strategy.</p>
5	<p>Draft Framework Document</p>
	<p>ER presented a draft framework document to the Board. The framework document draws on the frameworks of other organisations which occupy a similar space in the Scottish public sector landscape. It also draws on the legislation (Continuity Bill) and published good practice. It was agreed that in drafting a framework document, the balance between independence and the need for a working relationship with Ministers is an important consideration. The purpose of this document is to give the ESS Board a basis on which to negotiate with SG on a framework document which both organisations can agree on.</p>

	The framework will be further considered by the Board with regards to the description of the relationship between ESS and the Environment and Forestry Directorate, both in this transitional phase and once ESS is vested. In addition, the set-up of committees, the role of the Chief Executive, the financial and procurement set-up and opportunities for flexibility and shared services will require further discussion.
6	Communications
	NC presented the background to the development of the website. The aim was to enable ESS to have a website from an early stage, but not to constrain the Board in their aspirations for organisational branding and communication by procuring an expensive and highly-developed product. Going forward, the Board could choose to develop the current web offering further, or commission new provision. Final updates are required before the site can go live.
7	Induction Programme
	PB presented options for Board induction processes including: a session on the current context of the sector landscape and environmental debate; future site visits; and the SG Board opportunities available.
8	Any Other Business
	<p>The Chair confirmed that the next two Board meetings will be held on Friday 26 February and Friday 26 March. The February board will include a session on organisational culture and vision.</p> <p>AS noted that she will be attending the third roundtable on the human right to a healthy environment, organised by the National Taskforce on Human Rights Leadership, on 25 January and will report back to the Board on this.</p>
9	Board closed session

James Martin
Chair, Environmental Standards Scotland
 Approved 26 February 2021