

Minutes of the Board Meeting held on Friday 3 February 2023, 10:00-13:00
Board Room, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

Board:

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

Attendees:

ESS Team (Items 2-9 as noted):

Mark Roberts (MR), CEO
 Neil Langhorn (NL), Head of Strategy and Analysis
 Jamie McGrandles (JMcG), Head of Investigations, Standards and Compliance
 Rebecca Peppiette (RP), Head of Corporate Services and Communications
 Charlotte Lowe (CL), Business and Case Support Officer (Minutes)

Consumer Scotland (Observing at items 3-9 as noted):

David Wilson (DW), Chair of Consumer Scotland Board
 Sam Ghibaldan (SG), Chief Executive Officer

Glen Shuraig Consulting (Items 7-9 as noted)

Eleanor Ryan (ER), External Consultant

1.	Private session
2.	<p>Welcome</p> <p>The Chair welcomed the Board and the ESS team, and the Board agreed to take item 3 first on the agenda.</p> <p>There were no declarations of interest.</p> <p>The Board approved the minutes and matters arising of the previous meeting.</p>

3. Finance

MR introduced the paper on expenditure 2022/23, budget 2023/24 and an overview of the 2022/23 external audit, highlighting:

- current 2022/23 underspend due to delays progressing on certain areas of recruitment
- the draft budget for 2023/24 allows for flexibility in areas such as: recruitment; accommodation; and commissioned work to deliver against the Strategic Plan

The Board noted that the Audit and Risk Committee had already considered the proposed budget breakdown in January 2023, and in discussion:

- highlighted the importance of recognising potential for underspend as early as possible
- congratulated the team on progress towards securing more flexible accommodation
- approved the 2023/24 budget, whilst noting the limits of the scheme of delegation, which will be reviewed at the next meeting of the Audit and Risk Committee

On external audit, the Board discussed the timelines for the Audit and Risk Committee and Board to consider the annual report and accounts, and noted positive working relationships with ESS' external auditors at Deloitte LLP.

It was agreed that an additional Board and Audit and Risk Committee meeting would be arranged in October 2023 to consider the final draft Annual Report and Accounts.

4. CEO update

At this point DW and SG joined the meeting as observers.

The Chair welcomed Consumer Scotland's Chair, David Wilson, and Chief Executive, Sam Ghibaldan. The Board and attendees introduced themselves.

MR presented the Chief Executive's update, noting:

- preparation is underway for the Scottish Government's review on environmental governance
- progress on organising an event on keeping pace with the European Union
- the postponement of the in-person meeting between representatives from ESS, the Office for Environmental Protection and the Interim Environmental Protection Assessor for Wales

MR also introduced the high-level milestone planner, highlighting the addition of a category for relevant legislation and policy changes.

In discussion, the Board:

- noted that a Corporate Services recruitment plan will be brought to the next Board meeting
- considered ESS' position on responding to consultations and interacting with Parliament on legislation and policies, highlighting the importance of evidence underpinning ESS' contributions
- recommended that the ESS team prioritise delivery of the Strategic Plan and consider seeking additional resource or expert advice for work interacting with legislation and policy

5. Strategy and Analysis

NL introduced the update on analytical priorities, noting that six of the seven priority issues are progressing at various stages, including:

- a potential joint commission with the Office for Environmental Protection expediting the project on illegal disposal and management of waste
- further consideration being given to the marine environment brief due to the complexity of the subject matter

The Board discussed the outputs of the analytical projects, noting that reports will be published, where appropriate, with clear recommendations. These could include:

- potential action by the Investigations, Standards and Compliance team
- further work by the Strategy and Analysis team
- actions for relevant public authorities to address issues identified

In discussion, the Board:

- highlighted the synthesis potential of existing data as a measure to avoid the risk of scope creep
- recommended the analytical projects maintain a focus on long-term as well as short-term challenges

NL presented the paper on the provision of expert advice on international developments including keeping pace. The Board approved the proposals on the formation of an advisory group, recommending that the terms of reference are precise on the scope of the group and the opportunities and benefits it will provide to ESS and the delivery of the Strategic Plan.

6. Investigations and representations

JMcG updated the Board on representations, enquiries and ongoing casework since the previous meeting, highlighting that the Scottish Government has shared its draft improvement plan on air quality limits with ESS.

The Board discussed the approach to engagement with draft improvement plans, emphasising the importance of securing environmental improvement whilst maintaining ESS' independence throughout investigations.

The Board also noted an uptick in representations and enquiries received, and engagement with NGOs such as the Environmental Rights Centre for Scotland.

JMcG introduced the paper on ESS' whistleblowing policy, noting that ESS was listed as a prescribed person on 15 December 2022. The Board confirmed that it was assured by the content of the policies, subject to some minor changes to language and tone of the documents.

7. Governance

At this point ER joined the meeting.

ER presented a summary of the methodology and findings from the deep dive into establishing ESS during a pandemic, noting a clear message throughout that ESS appointed the right Board and staff members to manage the initial set-up phase. In discussion, the Board:

- noted the findings on staff workloads in the set-up phase and the Board's ongoing responsibility for staff wellbeing
- discussed challenges highlighted in the report relating to support from specific areas of the Scottish Government
- congratulated the Chair and ESS team on the success of the set-up phase
- agreed that the Audit and Risk Committee will approve the final report by correspondence before issuing to contributors and relevant stakeholders
- thanked ER for her work on the deep dive

The Board approved the minutes of the Audit and Risk Committee's 16 December 2022 meeting. It was noted that a paper will be brought to the next Board meeting to clarify the minute approval process in the Standing Orders to reflect the Committee's independence from the Board.

MF provided an update on the activity of the Audit and Risk Committee since the last meeting, including internal audit planning for the next financial year and reflections on the Committee's in-person meeting and development session in December 2022.

	<p>MR presented the risk register, highlighting an updated timeline for the implementation of Scottish Government’s new finance system and planning underway for testing of the business continuity plan over the coming months. MR also noted proposals for managing risk between the Board, Audit and Risk Committee and Executive team would be brought to the May Board meeting.</p> <p>RP presented the final draft of ESS’ Business Plan 2023/24. The Board approved the Plan subject to some minor amendments.</p>
<p>8.</p>	<p>Communications and stakeholder engagement</p> <p>RP updated the Board on communications and engagement, highlighting that ESS has started working with its new third-party communications provider, SMARTS. RP noted that many communications highlights are covered elsewhere on the agenda, so the format of these updates to the Board will change going forward to avoid repetition.</p> <p>MR presented the proposed programme of Board stakeholder engagement. In discussion, the Board:</p> <ul style="list-style-type: none"> • requested that the programme is developed to include engagement on an international level • recommended that stakeholders are assigned an individual member as a key, Board-level contact for ESS
<p>9.</p>	<p>AOB</p> <p>There was no other business for the Board to consider.</p>

Jim Martin
Chair, Environmental Standards Scotland
24 March 2023