

Board Meeting held on Friday 29 September 2023, 10:00 – 14:00

Boardroom, 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)
 Morag Sheppard (MS)
 Chris Spray (CS)

*via MS Teams

Attendees:

ESS Team (Items 2-7 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
 Ailie Clarkson (AC), Head of Data and Quantitative Analysis* **
 Ailsa Stroud (AiS), Principal Scientific Advisor* **
 Hannah Eamer (HE), Senior Policy Analyst**
 Susan Kenworthy (SK), Senior Investigations Officer***
 Charlotte Lowe (CL), Governance Lead (Minutes)

** present at item 4 only

*** present at item 5 only

	Item
1.	Private session
2.	<p>Welcome and declaration of interests</p> <p>The Chair welcomed Board members and attendees to the meeting.</p> <p>RD's and AS' declarations of interest related to air quality matters, and membership of the steering group that carried out the independent review of the Scottish Government's Cleaner Air for Scotland Strategy, remain current. These were originally listed in the publicly available Board minutes of May and June 2021.</p> <p>Minutes and matters arising</p> <p>The minutes of the previous meeting were approved, subject to a minor clarification that the Board would consider ESS' "future" role in monitoring</p>

	<p>and reporting. The Board requested that this be added to the matters arising for discussion at the 24 November 2023 Board meeting.</p>
3. CEO update	<p>MR provided an update on ESS' activities since the previous Board meeting, highlighting engagement across a range of stakeholders such as Scotland Europa, UKELA Scotland and NatureScot.</p> <p>MR also updated on the ongoing coordination of an international advisory panel and noted a progress meeting would take place in November.</p>
4. Strategy and Analysis	<p><i>At this point AC and AiS joined the meeting.</i></p> <p>AC introduced a draft executive summary for the sewage analytical project and provided an update on drafting progress following a period of fact checking and engagement with relevant bodies.</p> <p>In considering the draft report, the Board:</p> <ul style="list-style-type: none">• discussed the tone and structure of the executive summary and, subsequently the full report• discussed the challenges presented by data gaps and the monitoring of water quality in relation to sewage discharges• noted that further quality assurance and external review would be undertaken with a view to early publication <p>The Board agreed that PM and CS would consider the final draft of the report before submission to the Board for approval, and that a timescale for publication would be approved at the 24 November 2023 Board meeting.</p> <p><i>At this point AC left the meeting.</i></p>

AiS introduced the executive summary and analytical report into air quality in Scotland in relation to particulate matter. The Board considered the level of ambition regarding air quality in Europe and wider international targets.

The Board considered the tone and structure of the report and noted that further quality assurance and external review would be undertaken with a view to early publication. The Board agreed that PM and CS would consider the final draft of the report before submission to the Board for approval, and that a timescale for publication would be approved at the 24 November 2023 Board meeting.

At this point AiS left and HE joined the meeting.

MR introduced the draft consultation response to the Scottish Government's review of environmental governance arrangements in Scotland.

In discussion, the Board:

- noted the overly narrow scope of the review
- highlighted the review's failure to address in sufficient detail issues of access to justice, and that the review cannot therefore reach its conclusion that there is no strong argument for an environmental court in Scotland
- agreed that the lack of access to merits-based reviews leaves a clear governance gap, which could, in principle, be filled by a well-constituted environmental court, tribunal or other judicial measures

NL introduced the draft response to the Scottish Government's consultation on the Human Rights Bill. The Board discussed the contents of the human right to a healthy environment, particularly regarding rights to safe and sufficient water. The Board also expressed the need for the introduction of measures in a timely manner.

	<p>The Board agreed that the Chair and RD would approve the final responses to both consultations, by correspondence and on behalf of the Board, following editing to reflect this discussion.</p> <p><i>At this point HE left the meeting.</i></p>
5.	<p>Investigations and representations</p> <p><i>At this point SK joined the meeting.</i></p> <p>This section has been redacted as it relates to information recorded for the purposes of ESS' functions relating to investigations and compliance.</p> <p><i>At this point SK left the meeting.</i></p> <p>JMcG provided a verbal update on ongoing casework, highlighting that ESS is inviting a number of public authorities to informal resolution. These cases cover a range of areas including: the implementation of agricultural EIAs; rural landscape destruction; maintenance of public registers; habitat regulations appraisals; and wastewater treatment.</p> <p><i>At this point AS left the meeting.</i></p>
6.	<p>Governance</p> <p>MF provided a verbal update on activities of the Audit and Risk Committee, highlighting positive results from the ESS' annual audit and the Committee's self-assessment exercise, as well as giving an overview of the recent Audit Chairs Network meeting.</p> <p>RP presented updates to the budget and expenditure to date, including:</p> <ul style="list-style-type: none">• recruitment of a temporary post to support with HR, workforce planning and ESS' People Strategy• inclusion of the final pay awards recently agreed between the Scottish Government and relevant trade unions

	<ul style="list-style-type: none"> reinstatement of the original budget allocation for judicial review costs, noting that this may arise at any point and should not be revised down in-year <p>RP updated on progress in drafting the Annual Report and Accounts and next steps for Committee, then Board, approval and publication. The Board agreed to discuss the recommendation to consider holding public meetings of the Board at its 24 November 2023 meeting.</p> <p>CL presented the risk register and recommendations from the Audit and Risk Committee for the Board's approval, including the appointment of Board Champions in equality and diversity, and cyber security. The Board agreed the list of recommendations and appointed MF as Equality and Diversity Champion and MS as Cyber Security Champion.</p>
<p>7. Any other business</p>	<p>PM noted that he will be giving a presentation to the Better Regulation Interest Group at the EPA Network including information on the work of ESS.</p> <p>CS provided an update following his attendance at the Interim Environmental Protection Assessor for Wales's regular stakeholder meeting.</p>

Jim Martin
Environmental Standards Scotland, Chair
24 November 2023