

Minutes of the ESS Board Meeting held on Friday 5 July 2024, 9:30 – 14:00

Board Room, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HD

Board:

Richard Dixon (RD), Acting Chair
 Marie Fallon (MF)*
 Paul McAleavey (PM)
 Annalisa Savaresi (AS)
 Morag Sheppard (MS)
 Chris Spray (CS)

*via Microsoft Teams

**item 4 only

***item 6 only

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
 Lauren Queen (LQ), In-house Solicitor
 Megan Falloon (MeF), Community and Engagement Lead**
 Kirsty Macleod (KM), Marine Policy Analyst***
 Charlotte Lowe (CL), Governance Lead (Minutes)

1.	Private session
2.	<p>Welcome</p> <p>The Chair welcomed the Board and attendees to the meeting.</p> <p>CS' declaration of interest related to his former position as Chair of the UK SPA [Special Protection Areas] and Ramsar Scientific Working Group. This was originally listed in the publicly available Board minutes of April 2024.</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 Board minutes of May and June 2021.</p> <p>The Board approved the minutes and matters arising of the previous meeting.</p>

3. Chief Executive's update

MR provided an update on ESS' activity since the last Board meeting, highlighting:

- progress on engagement with several pieces of legislation, such as the Natural Environment Bill and Human Rights Bill
- the successful retrofit of the Thistle House office, with thanks extended to the Corporate Services and Communications team, the ESS-Consumer Scotland working group and the Scottish Legal Aid Board
- a revised schedule has been agreed for publication of reports that were postponed in line with pre-election guidance

On the milestone planner the Board noted that the draft People Strategy would be shared at the next Board meeting, and that the ESS team would return to the thematic review item at a later date, with data availability and accessibility being a potential topic for consideration.

Action: to share the People Strategy at September 2024 Board meeting.

MR presented the proposal for commissioned work on keeping pace with the European Union (EU) and international developments in environmental law. In discussion, the Board:

- considered timelines for the commissioned work in relation to Scottish and European parliamentary sessions and ongoing assessments of the European Green Deal
- noted the ambition of reviewing the impacts of realised divergence in addition to areas of potential divergence
- noted the expiration of the Scottish Government's 'keeping pace powers' under section 4 of the Continuity Act in 2026 and considered implications for future approaches to maintaining alignment with the EU and internationally

The Board noted the funding requirements, the process of approving this as part of future budget considerations and approved initiation of a scoping contract.

The Board considered potential items for discussion at the annual meeting between ESS, the Interim Environmental Protection Assessor for Wales and the Office for Environmental Protection, taking place in Cardiff in August 2024.

4. Investigations and representations

JMcG provided an update on ongoing casework, highlighting:

- ESS has received 10 representations since the previous Board meeting
- positive outcomes in closed cases which continue to be monitored, such as progress in SEPA's removal of weirs, and the reduction of Air Quality Management Areas (AQMAs) in relation to the air quality investigation
- potential opportunities to influence improvements in access to environmental justice following the laying of new court rules in the Scottish Parliament

In addition, the Board discussed trends in timeliness of responses to ESS' information requests and approaches to UK-wide environmental issues across the four nations.

[At this point MeF joined the meeting].

JMcG provided an update on progress of the Community Engagement Programme, reporting that the number of events taking place is increasing, resulting in positive feedback and generating new representations. JMcG also presented the results of feedback surveys issued to representers to ESS, highlighting improved satisfaction with ESS' service over time.

In discussion, the Board:

- noted that relevant opportunities for Board engagement with the programme would be circulated as they arise
- considered the value of benchmarking results of the representer survey against similar organisations
- thanked MeF and the Investigations Standards and Compliance team for their work on the engagement programme

Action: to circulate relevant community engagement opportunities to Board members.

[At this point MeF left the meeting].

5. Strategy and Analysis

[At this point KM joined the meeting].

KM presented the key findings and recommendations arising from the marine litter analytical project, highlighting the interaction between reserved and devolved duties and potential opportunities for joint working with the Office for Environmental Protection.

The Board thanked KM for her work and recommended:

- considering the number of recommendations and whether there is a need for prioritisation
- ensuring clarity on whether it is compliance with, or the effectiveness of, environmental law being addressed
- highlighting the state of understanding on marine litter-related human health pressures

The Board noted the publication timeline and agreed to delegate approval of the final report to PM, CS and MR.

[At this point KM left the meeting].

NL updated the Board on planning for the development of ESS' next Strategic Plan, highlighting the proposed process structure and proposals for internal and external engagement. In discussion, the Board:

- considered the format of, and period covered by, the next iteration of the Strategic Plan
- recommended ensuring clarity around the ask of stakeholders during engagement and providing feedback to them on how their input has informed drafting

- requested supporting documentation, such as options appraisals, to facilitate efficient discussions with the Board

Action: to provide supporting documentation, such as options appraisals, for planned Board engagement sessions on Strategic Plan development.

NL provided an update on the work of the Strategy and Analysis team, reporting:

- positive reception of ESS' first call for evidence regarding invasive non-native species
- progress against analytical projects on sewage discharge, marine litter and soils
- the outcome of the six-monthly review of ESS' analytical priorities

The Board considered opportunities to identify learning from the call for evidence process, and recommended reflecting on ESS' analytical work as a series, following the anticipated completion of work on several priorities by December 2024.

Action: to consider a review of ESS' analytical work as a series at the December 2024 Board meeting.

6. Governance

MF provided an update on the work of the Audit and Risk Committee, noting upcoming engagement with ESS' external auditors, and highlighting that a number of items on the agenda have already been subject to the Committee's scrutiny.

MS provided a verbal update as Cyber Champion at ESS, referencing the recent internal audit review which achieved reasonable assurance. MS noted that engagement is ongoing with the Scottish Government iTECS service to obtain assurances on its cyber arrangements. The Board thanked MS and Neil Oakley (co-opted Audit and Risk Committee member) for their work on this, and noted members' enthusiasm to engage with further cyber training.

RP presented the draft Annual Report and Accounts, alongside the Audit and Risk Committee's annual assurance report to the Board, noting:

- ESS received a substantial annual assurance opinion from internal audit for the financial year 2023/24
- pensions-related information is expected by end-August for inclusion in the final draft
- thanks to the Audit and Risk Committee, internal and external audit colleagues, and the ESS team for their work

The Board recommended emphasising the keeping pace with the European Union perspective throughout the Annual Report and Accounts and on the ESS website. The Board approved the draft for submission to external audit.

Action: to review references to keeping pace with the European Union in the Annual Report and Accounts and on the ESS website.

RP provided an update on in-year expenditure and presented the updated 2024/25 budget following a review to: remove in-built contingencies; update with known costs and in-year returns; include two new permanent posts to be recruited. The Board approved the updated budget.

[At this point PM left the meeting].

CL introduced the revised risk register and provided an update on recommendations made at the 24 June 2024 Audit and Risk Committee meeting. The Board approved the updated risk register.

LQ presented the draft Specific Scheme of Delegation, setting out operational delegation levels to complement the existing internal scheme. The Board noted the inclusion of updates recommended by the Audit and Risk Committee at its June 2024 meeting and approved the draft for implementation.

7. Any other business

There was no other business to consider.

Dr Richard Dixon

Acting Chair, Environmental Standards Scotland

13 September 2024