

**Minutes of Board meeting held on 29 October 2021, 10:00 – 14:00
(Held on MSTeams)**

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:

Brendan Callaghan (BC)	Interim CEO
Neil Langhorn (NL)	Head of Strategy and Analysis
Jamie McGrandles (JMcG)	Head of Investigations
Rebecca Peppiette (RP)	Head of Secretariat
James Aldred (JA)	Business Manager (Minutes)

1.	Private session
2.	<p>Welcome and declaration of interests</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>RD additionally noted that he, on behalf of Friends of the Earth Scotland, had been invited to join a Scottish Government ministerial oversight group for the Cleaner Air For Scotland 2 air quality strategy. The group was yet to meet and discussions were underway as to how to approach potential conflicts of interest that may arise.</p> <p>The minutes from the September meeting were approved with one amendment for factual accuracy.</p> <p>The running list of matters arising was reviewed and approved.</p>
3.	<p>CEO update</p> <p>BC presented proposals and timings for the recruitment of the remaining ESS staff roles.</p> <p>The Board supported the proposed approach involving the phased recruitment of 19 posts over the next 6 months. The Board considered it important that all roles, including the senior specialist analytical roles, were advertised as widely as possible and asked for confirmation that these processes were open to candidates beyond the Civil Service. The Board advised that recruitment of the lawyer position may be challenging and requested this process be started earlier to take account of this.</p>

	<p>The Board agreed to review progress with recruitment after the ESS 2022/23 budget had been confirmed and there was clarity on the affordability of the proposed staffing structure. The Board asked if they could review ESS induction process for new staff at a future meeting.</p> <p><i>RP, NL, JMcG and JA joined the meeting</i></p> <p>BC reported meetings and discussions held over the previous month that may lead to new representations being made to ESS. These included aspects of climate change duties placed on public authorities. The Board noted the need to co-ordinate with other bodies and committees monitoring progress on climate change duties to assess the scope of this work and avoid duplication.</p> <p>BC noted that he had attended a Net Zero, Energy and Transport Committee evidence session, submitting a public briefing on ESS' role and likely points of engagement.</p> <p>BC shared progress with the implementation of corporate and support services, noting some challenges relating to the procurement of these services.</p> <p>The Board and transition team discussed the future programme of papers for the Board, including the Business Plan and Milestone Planner.</p>
<p>4.</p>	<p>Governance</p> <p>The Board reviewed and approved the August minutes of the Audit and Risk Committee.</p> <p>MF provided an update on the October meeting of the Committee including discussion on the budget, noting that it had been agreed to seek approval to publish ESS' first financial accounts at the end of the 2022/23 financial year. The Committee also reviewed the risk register and recommended updates. A revised version would be brought to the November meeting of the Committee, prior to submission to the December Board for approval.</p> <p>The Board reviewed the proposed Terms of Reference for the Committee and agreed that Committee members, and co-opted members, would be appointed for a four-year term, reconfirmed annually. Consideration was given for an overlap of co-opted members to allow for continuity. The Terms of Reference were approved on this basis. Recruitment processes for the co-opted member, with a focus on accounting experience, are on track.</p> <p>RP reported progress with the budget and that ESS' financial system go live over the weekend of 30-31 October 2021. Audit Scotland has now written to ESS to allocate a lead contact.</p> <p>On communications, RP reported that ESS' launch had been attended by 138 viewers and that positive feedback has been received. ESS' communications provider also</p>

	<p>reported that profile had been raised with Scottish journalists and that our remit is now clearly understood. The draft Communications Strategy was to be updated, taking into account learning at the launch, and brought back to a future Board meeting.</p> <p>An investigations section was due to be added to the ESS website, and Board members requested to be alerted to upcoming publicity regarding investigations for awareness and onward dissemination. Further work will be carried out with the ESS communications partner on analysis of website effectiveness and social media progress.</p> <p>NL shared information on ESS information sharing sessions that had been carried out in the last month.</p>
5.	Strategy and Analysis <p>NL reported that the final report of the SEFARI fellowship project was expected by 12 November 2021, covering: analysis of potential priorities for ESS' analytical function; recommendations on a data assurance framework; and recommendations on the staffing of the Monitoring and Analysis function.</p> <p>Board members noted the previous meeting's discussion on the SEFARI project and opportunities presented through a possible extension to this project. Through discussion, the Board requested a summary review of other public sector reports and an analysis of parallel environmental priorities be undertaken.</p> <p>A follow up paper for the December Board will outline the proposed setup of ESS' monitoring and analytical function, including recruitment priorities. On potential topics for analysis and investigation, the Board resolved to discuss priorities for the general work of ESS at its next meeting.</p> <p>NL presented a report on the Internal Market Act, noting its potential impact on the capacity of the Scottish Parliament to make new, and ensure compliance with existing, environmental law.</p> <p>In discussion, Board members noted the complexity of the legislation's potential impacts, including on the work of ESS. The Board felt that it was not ESS' role to interpret or apply the Internal Market Act, and that while the potential for regulatory chill was noted, it should not dissuade ESS from recommending improvements to environmental standards where appropriate.</p> <p>NL and JMcG presented a paper analysing options for ESS to secure external expert advice where necessary. The Board noted the need for sufficient internal expertise to be able to review and grade any external advice. BC noted the proposed internal scientific function would provide this expertise. JMcG undertook to discuss the possibility of accessing expertise via European topic centres with Board members.</p>

6.	Investigations and representations JMcG reported on new enquiries that had been received. <i>At this point RD left the meeting in accordance with his stated declarations of interest.</i> JMcG updated the Board on the preparations for the proposed air quality investigation, noting that initial contact had been made with key stakeholders. The Board approved the proposed investigation and the proposed communication approach.
7.	AOB The Board requested that an alternative date be found for the December meeting due to clashes. Other forward meeting dates were approved as noted.

James Martin
Chair, Environmental Standards Scotland
10 December 2021