

Dame Glenys Stacey: Westminster Policy Forum Speech

Introduction

It is my pleasure to speak with you today, as the chair designate of the Office for Environmental Protection. I am delighted to be here, ahead of taking up the role on 1 February, and ahead of the vesting of OEP later this year.

Many of you here today are eminent in your field. All parts of the UK and a wide spectrum of endeavour are represented here. Together, you make a positive difference to our environment. And many of you have taken a great interest in OEP: advocating for it in the first place, building support for it, championing it in debate, and then in working with Defra to get the concept of OEP as far as it has.

Thankyou. And I am just delighted to have the chance to meet you, even if it is on screen. I look forward to working with many of you, in the months and years ahead.

You will know that OEP's enabling legislation is set back, and still needs to be steered safely onto the statute book. A global pandemic has been diverting government's attention for some time, and continues to do so, as it must. But we have seen a great interest in OEP's statutory provisions – thank you again - and underlying that interest is a general concern about just how good a watchdog we will prove to be.

My aspirations for OEP

In the time we have together now, I want to give you some inkling of what OEP will be – my aspirations for it. It is time at last, to bring this long-awaited body to life.

Resource

There are many and diverse aspirations for OEP, held by so many, yet we cannot be all things to all. Instead we must focus and use all the levers we have in the most astute ways, to help government get it right, and to keep government on track in meeting its own stretching ambitions for the environment.

To do that, we will need resource. OEP does not need to be a big organisation, but instead to be resourced well enough to deliver as parliament intends. I give you my word that I will always do all in my gift to make sure that is the case. OEP will be

obliged by statute, incidentally, to state annually to parliament whether we have been sufficiently resourced. That is unusual, and potentially helpful.

Independence

Parliament intends OEP to be independent. The draft legislative provisions have waxed and waned here, but that aside, independence is all in the doing, rather than simply in statute. I always aim for responsible but absolutely steadfast independence.

OEP must advise and influence government while holding it to account in a confident and timely manner. To do that we must be credible, principled, expert and at the same time, highly politically astute.

As a facet of independence, OEP must hold its own, well-informed views. I'll come back to this but let me say now that this is especially difficult in the early days of a new body. We will need a little time, to become opinionated – in the best sense of that word.

We must develop our views and hold positions that are balanced, reasonable and evidence based. That means being thoughtful and strategic, focusing on material matters, selecting complaints and issues for progression with that in mind - and then deciding the best way to follow them through.

I will be pressing for us to work at pace, but also to work intelligently – focused on where we can make most difference and thinking creatively about how to do that.

Engagement and joint working

So yes, OEP must be independent, but not detached, or remote. From day one, we must engage, and we must really listen. In my view we will only be effective if we are open and transparent, and if we form strong relationships not just with those we hold to account, but also wider stakeholders.

And OEP needs to a large extent to ride in tandem with our counterparts across the UK, as they are created and develop. Just as I have found with fellow UK oversight bodies in other spheres, the issues we deal with do not generally stop at borders. Productive relationships and a joint stance can be extremely powerful.

And OEP must be grounded in its own territory, its own remit, rather than treading on others. To take one example, the OEP will strive to forge a close working relationship with the Climate Change Committee, so that each important aspect of the effort to tackle the climate emergency is led by the organisation best placed to deal with it.

And as an organisation, we must strike the right balance ourselves, most notably between enforcement, scrutiny and making a difference in other ways. And between working on the now and working on the future.

Having said that, there will be times when OEP will make life uncomfortable both for government and public sector bodies. It comes with the territory. Critically reviewing the government's annual reports on progress with its Environmental Improvement Plan; reporting on how environmental law is actually being implemented on the ground, and what is and is not working; and using our bespoke enforcement powers to deal with serious breaches of environmental law.

There has been much debate about our enforcement powers of course, so let me speak a little more fully about enforcement.

Enforcement

Our powers are focused on the legal duties (under environmental law) of government and public authorities.

We must be willing and able to enforce; to be credible enforcers. But we must act wisely, again – not litigating or being combative for the sake of it, but confident in areas where positive change is to be achieved by enforcement, often in matters that will settle.

At first sight our enforcement powers appear stately at best. What's more, OEP is – by statute - to consider enforcement only for those matters it regards as serious. But to assume this means we are likely to be ineffective perhaps misses the point.

In my experience as a regulator, when you are able to show that you can and will use your powers to the full, and with determination when necessary, then you usually find that something less - even raising an eyebrow - brings others to sit up and take notice – knowing that you do have a big stick in the cupboard.

Our enforcement provisions are designed to bring about solutions – if at all possible, without ending up in court.

The trick for OEP is to recognise what is serious, and then to act intelligently in response. That may not be enforcement in the traditional sense. It may instead be influence, or exposure, or a request to join others' proceedings, or whatever we judge is the best way to use our powers and position to make the best difference.

As to what is serious, at its simplest it must relate to damage to the natural environment or human health. And our meaning must capture low level but repeat, persistent behaviours that may cause serious damage or harm, immediately or over time.

But I want to hear your views. Please let me know what you think, when we get to questions.

Relationships with public bodies

Let me turn now to our relationships with other public bodies. I very much appreciated Sir James' kind words of welcome, earlier today. Thank you, James. In my view, OEP will need to develop sophisticated relationships with the Environment Agency and with Natural England as well as with other public bodies playing an important role in the environment¹.

These relationships will be multi-faceted, similar to those I have enjoyed in the past with exam boards and other awarding organisations, as a former Chief Regulator for qualifications and assessments.

In that role for example, I worked closely alongside exam boards to reform several hundred GCSEs and A levels, holding the ring, but at the same time, on occasions I authorised firm enforcement action against one or other of them.

It is important that OEP enjoys constructive, cooperative and purposeful relationships with the EA, Natural England and other public bodies, while also investigating and if appropriate commencing enforcement against any one of them, in a professional and objective manner.

OEP must understand and appreciate the strengths of the organisations it works alongside and holds to account, but also their weaknesses. For any serious failing, OEP must ask itself three questions - why, why and why – in order to get to the root and know the best way to make the difference it needs to make. And we must understand the pressures these organisations are under, yes, but not find ourselves too empathetic to those pressures, as that way lies capture, and with it the risk of failure.

Let me turn now to progress so far in setting up OEP – in bringing it to life.

Bringing OEP to life

Let's start with the OEP board, where recruitment is well underway. This will likely be a more hands-on board than in many public sector bodies. For example, enforcement decisions generally rest with the board, by statutory provision. I am hoping for a stellar board, with members each at the very top of their game. They will form part of the intellectual capital, the heft of the organisation. I want them to bring a good mix, a wealth of knowledge – about environmental issues and law, yes, but also about how things work, or not, on the ground. And I want a wise board.

Beneath the board we need expert, almost niche capabilities - enviable research and analytical capability, for example. We cannot hold opinions without being expert, and wise - without that heft I referred to just now. We need the best people. We have a

¹ HSE, MMO, local authorities, water companies

one-off opportunity to build a truly capable and committed organisation, and that is my absolute intent.

And that includes being able to access expertise outside the organisation – we cannot in any way hold within OEP all the knowledge and understanding we must call upon, to be wise in all respects.

Certain elements of the design of OEP are sorted or being sorted: we will have our own communications, media and public facing services, with our own website and branding; we will be located well away from Defra's London headquarters, and we are commissioning flexible, generic, proprietary IT systems that will allow us to develop and refine our ways of working.

But there are critical elements still to finalise. In my view the OEP should not be as hierarchical or concretised in design, when compared to our more traditional public sector bodies. And we must be a sufficiently cerebral organisation – able to think well, with foresight as well as clear sight, and with the right evidence to hand. It should not be a large organisation, but a smart organisation.

As you may sense, the necessary set up work is well underway, but with the transition period now passed, Defra is providing a secretariat to fill the gap, pending OEP vesting. I am on record that that would not be my preferred approach, but needs must, given the timing of things.

Under my leadership and direction, the secretariat will hold the fort for now. I am impressed with the competence and commitment of the secretariat staff, and their strong belief in OEP – it is so welcome.

But the secretariat will not step beyond the basic work agreed with me. It is not OEP. It will not shape OEP's strategy or ways of working – these are matters for OEP and its executive and board. We will wish to consult on strategy, and on our approach to enforcement and on the meaning we will attribute to the word 'serious' – but we must all be patient, wait for our vesting, our board, and our organisation, for that.

OEP will at last come into being, and in such an interesting year.

With important international climate and biodiversity conferences ahead, the Government has a major opportunity to drive international action on the twin issues of climate change and biodiversity loss. These events will set the tone for continued action under the UK G7 Presidency.

As the host of COP 26² the UK can show resolve and vision to be a world leader in protecting nature and the climate. And as host, I hope our government will promote OEP on the international stage as a distinctive example of progressive

² 26th Conference of the Parties to the UN Framework Convention on Climate Change, to be held in Glasgow, November 2021.

environmental governance. Establishing a body to hold government and the public sector to account where necessary is a sign of confident, not weak government.

The OEP itself has a national rather than international focus but of course we will work in the global context. And many of the UK's international commitments will find their way into domestic law and policy, and so within the OEP's remit. We have our part to play.

The government already has national commitments, of course, with ten 10 broad goals in the 25-year plan, and the target of net-zero greenhouse gas emissions by 2050.

And we each know that the Environment Bill will commit the government to set legally binding environmental targets across four specific areas. OEP has a desperately keen interest in those targets. They are for government to decide, of course, but I predict we will wish to see meaningful and stretching targets that go in number beyond the bare minimum needed by the bill provisions.

Then the recently enacted Agriculture Act paves the way for a new Environmental Land Management scheme. It will be so important to get this right, and it is likely to be a matter OEP will wish to advise on. Environmental Land Management and biodiversity net gain present crucial opportunities to rise to the challenge of reversing declines in biodiversity and habitat condition.

Conclusion

Our time is pressing.

To conclude, I know you do the work you do because like me, you love and cherish our environment. I hope that together—we can protect and restore our environment, so that the upcoming generation has a healthy environment – and a rich tapestry to enjoy and care for and, in turn, pass on to future generations. There is a lot to do.

As James kindly suggested this morning, I probably am one of the country's leading regulators but I do not hold myself out as an established expert on the environment – instead I want to be surrounded by those who are, and to learn what I can.

And for my part, I will do everything within my power to ensure the OEP sets its ambitions and goals at the highest levels and does everything in its power to deliver those ambitions.

We will be the watchdog, so much desired – not the lapdog so much feared, or the dog that barks repeatedly but to no effect.

I very much look forward to working with you all. Thank you. Thank you for listening.