



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Y Pwyllgor Cynaliadwyedd
The Sustainability Committee**

**Dydd Iau, 12 Chwefror 2009
Thursday, 12 February 2009**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Lorraine Barrett	Llafur Labour
Mick Bates	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Jane Davidson	Aelod Cynulliad, Llafur (y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai) Assembly Member, Labour (the Minister for Environment, Sustainability and Housing)
Dr Lyndsey Dodds	Y Gronfa Natur Fyd-eang World Wide Fund for Nature
Becky Favager	Asiantaeth yr Amgylchedd Environment Agency
Louise George	Uwch-swyddog Polisi Morol, Llywodraeth Cynulliad Cymru Marine Senior Policy Officer, Welsh Assembly Government
Dr Susan Gubbay	Cyngor Cefn Gwlad Cymru The Countryside Council for Wales
Dr Mary Lewis	Cyngor Cefn Gwlad Cymru The Countryside Council for Wales
Gerry Quarrell	Llywodraeth Cynulliad Cymru Welsh Assembly Government
Andy Schofield	Asiantaeth yr Amgylchedd Environment Agency
Annie Smith	Y Gymdeithas Frenhinol er Gwarchod Adar Royal Society for the Protection of Birds

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Dr Virginia Hawkins	Clerc Clerk
Meriel Singleton	Dirprwy Glerc Deputy Clerk
Kath Winnard	Cynghorydd Arbenigol Expert Adviser

Dechreuodd y cyfarfod am 1.12 p.m.
The meeting began at 1.12 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Mick Bates:** Good afternoon. Before we proceed, I have the normal housekeeping

announcements to make. In the event of the fire alarm, leave the room by the marked fire exits and follow the instructions of the ushers and staff. There is no test scheduled for today.

[2] Please make sure that all mobile phones, pagers and BlackBerrys have been switched off as otherwise they interfere with the broadcasting equipment. The National Assembly for Wales operates through the media of Welsh and English. Headsets have been provided, through which simultaneous translation may be received on channel 1 and amplification of verbatim proceedings on channel 0. Please do not touch the buttons on the microphones as that can disable the system, and please ensure that a red light comes on before you start speaking.

[3] I have received apologies from Lesley Griffiths; Alun Davies, whose father died earlier this week and to whom we send our deepest sympathies; Rhodri Glyn Thomas, who is in Brussels; and Karen Sinclair, who is ill.

[4] I thank all the committee members for their contributions in Plenary yesterday for what proved to be a groundbreaking debate and report from this committee on introducing a levy on plastic bags. I am certain that the committee's recommendations have, again, been good, solid and may lead to action that will raise the profile of many of the things that we are trying to achieve in sustainability terms in Wales.

1.14 p.m.

**Ymchwiliad i Oblygiadau'r Mesur Morol i Gymru: Tystiolaeth gan Asiantaeth
yr Amgylchedd a Chyngor Cefn Gwlad Cymru**
**Inquiry into the Implications of the Marine Bill for Wales: Evidence from the
Environment Agency and the Countryside Council for Wales**

[5] **Mick Bates:** Today, we will take evidence on the Marine and Coastal Access Bill from the Countryside Council for Wales, the Environment Agency, the Royal Society for the Protection of Birds, the World Wide Fund for Nature, and from the Minister for Environment, Sustainability and Housing.

[6] We had a preliminary look at the marine Bill and it is worth bearing in mind that it is there to try to integrate, simplify and clarify how we use marine resources, access them and get a better integrated management system.

[7] I know that we have made some progress in our understanding and I am grateful for the evidence that you have provided. I note that there is still a complex mix of devolved and non-devolved responsibilities that we have to clarify at some stage, and CCW is interested in cross-border working and how that will take place.

[8] So it is my great pleasure to welcome, from Environment Agency Wales, Andy Schofield and Becky Favager, and, from the Countryside Council for Wales, Dr Mary Lewis and Dr Susan Gubbay. I invite one of you from each organisation to make some brief opening remarks before we move to questions from Members. We will start with the Environment Agency.

[9] **Ms Favager:** Thank you very much. I am Becky Favager and I am the marine policy adviser for Environment Agency Wales. With me is Andy, who is the strategy and policy manager for fisheries, recreation, conservation and navigation for Environment Agency Wales. First, we want to thank you for giving us the opportunity to come along and share our views on the marine Bill. I will go through what our role is and why we think that this legislation is so important, before briefly highlighting the key issues that we have presented in

our written evidence.

[10] The Environment Agency has a major role to play in the sustainable management of estuaries and coastal waters around Wales and England, including controlling polluting discharges, managing flood risk and coastal erosion management activities, managing migratory fisheries and protecting and enhancing biodiversity. We are also the competent authority for the water framework directive. We recognise that our coasts and seas are vital to our economy and our health and wellbeing. While some aspects of coastal management have improved, such as the reduction in pollution from sewage, other impacts such as climate change, coastal erosion, and habitat loss are becoming an increasing threat to the marine environment and those that depend on it. Current management arrangements are complex, confusing and unco-ordinated.

[11] **Mick Bates:** I am pleased to hear you say that. [*Laughter.*]

[12] **Ms Favager:** As a result, the combined impacts of the different activities are not really known and damage is being done to the marine environment and its diverse wildlife. So, for those reasons, we welcome the introduction of the marine Bill and believe that it goes a long way towards establishing an effective framework for the future management of our seas.

[13] **Mick Bates:** Thank you very much. Countryside Council for Wales, would you like to make some opening remarks?

[14] **Dr Gubbay:** I am Susan Gubbay, and I am a council member for the Countryside Council for Wales and have a special interest in marine matters. I have Mary Lewis with me, who is our maritime policy officer. Thank you for inviting us to give evidence and to submit our paper, which covers the full range of issues that we would like to raise at some point, even if we cannot do so during today's meeting.

[15] It is important for me to say that we welcome the Bill. It has been said before that this is a once-in-a-generation opportunity; there is a lot to be done and it is a fantastic chance to take forward effective management measures in the marine environment, and we are pleased about that. Following its initial publication and the pre-legislative scrutiny, we are pleased to see that there have been some positive changes in some of the things that the committee was interested in, such as planning, nature conservation and framework powers for coastal access, and we look forward to advising on those.

[16] From our point of view, there are two key phrases: 'clarity'—we would like to see a bit more clarity in certain parts of the Bill—and 'stronger tools'. Our evidence has covered that and we will talk about it in this session. I would just like to mention planning because we are particularly interested in issues relating to duties to plan, and in collaborative mechanisms, which the Chair has already mentioned. On fisheries, we would like to see a clear duty on fisheries managers, and objectives, to ensure management delivery. On nature conservation, the network should have highly protected sites, there should be consultation with CCW, and there are some issues to do with powers to control what happens outside protected areas because, obviously, biodiversity conservation cannot just happen within sites. Those are some of the issues that we hope to explore with you as you wish.

[17] **Mick Bates:** Thank you very much and thank you for section 4 of your paper, which is a summary of the key recommended changes to the Bill, which is very useful. I will start the questioning and the first question is directed at the Environment Agency. What discussions have been held regarding the functions of the marine management organisation that the Environment Agency may carry out, particularly in Wales?

[18] **Ms Favager:** I know that the marine policy manager in England has been attending a number of workshops run by the Department for Environment, Food and Rural Affairs to discuss the marine management organisation. As far as I know, we have not gone into any kind of detail regarding how that will work in Wales and what our responsibilities will be. I can certainly take that back and get an answer for you.

1.20 p.m.

[19] **Mick Bates:** On a more general point, if the Environment Agency were to enter into an agreement with the MMO to carry out functions on its behalf, would that apply to England and Wales, or would separate agreements be made for England and for Wales?

[20] **Ms Favager:** I imagine that we would have a memorandum of understanding with the marine management organisation and an equivalent agreement with the Welsh Assembly Government on devolved issues.

[21] **Mick Bates:** You mentioned a memorandum of understanding. What is its legal basis? Is it a document that would give you a practical working arrangement?

[22] **Ms Favager:** We are used to working in co-operation with other organisations, and we use memoranda of understanding to provide us with clarity as to who is doing what, what our roles are and how we will work together. I do not think that it will have any legal standing, but it is our general way of working with other organisations.

[23] **Mick Bates:** So, it would help to ensure an understanding of operations, but it would not have a legal basis.

[24] **Ms Favager:** Yes.

[25] **Mick Bates:** Right. Just to return to my previous question, will any agreements apply to both England and Wales, or will there be separate agreements?

[26] **Ms Favager:** The MMO will have functions in Wales that relate to non-devolved issues, there may well be an agreement between the Environment Agency and the MMO to cover those issues. If there is a Welsh issue—that is, a devolved matter—I think that the agreement would be with the Welsh Assembly Government.

[27] **Mick Bates:** You said that you think that you would have such an agreement. Have there been discussions to clarify that at this stage?

[28] **Ms Favager:** No.

[29] **Mick Bates:** Okay. Finally, for this opening section, what discussions have been held and what agreements secured between the environment agency and the MMO on the sharing of data, and will the MMO and/or the EA charge for providing data to each other?

[30] **Ms Favager:** I would hope not. We work with Government departments, and we would share data on a reciprocal basis—we give them data and they give us data. However, again, I do not think that we have got to that level of discussion.

[31] **Mick Bates:** You have not discussed whether the MMO would charge you for data and vice versa?

[32] **Ms Favager:** No.

[33] **Mick Bates:** Did you want to come in on that point, Andy?

[34] **Mr Schofield:** Only to say that I am not aware of any such discussions taking place.

[35] **Mick Bates:** Okay. Thank you. It will be interesting to see how that develops, because there have been some discussions, and we will come on to the financing of this later. Brynle, I think that you wanted to continue the questioning.

[36] **Brynle Williams:** Do you support the creation of joint plans across administrative boundaries? If so, how do you see them working? In particular, how would national versus local issues be resolved?

[37] **Mick Bates:** This is a question for both organisations. I invite the CCW to deal with the cross-border issue first.

[38] **Dr Gubbay:** That is an important question, and it is one of our key points. We want to see joint planning in the Severn and the Dee. That is the only way that we will be able to deliver effectively from the national perspective as well as from the local. It is hard to have boundaries running up estuaries; it causes confusion for people on the ground with regard to their roles and responsibilities. As a principle, we want to see joint planning, and we would like to see that explicitly stated in the Bill—that is an opportunity that we should not miss, because it will set out the clarity that I talked about at the beginning and provide a framework for us to do the planning. We therefore absolutely support that.

[39] **Dr Lewis:** I would just add that it is our understanding of measures in the Bill as it stands that while neighbouring planning authorities can work together, and there is a duty on them to seek to ensure that their plans are compatible, there does not appear to be a mechanism to prepare a joint plan. We feel that it would be a useful addition to the Bill to be able to have that there for the future, so that administrations could prepare joint plans across borders, if they wish to.

[40] **Darren Millar:** Can I just pin you down on this point? Your advice to the Minister would be to include a duty to work up a joint plan on the face of the Bill.

[41] **Dr Lewis:** It is to have an enabling power in the Bill, so that a joint plan can be prepared if both administrations agree to do so.

[42] **Darren Millar:** However, rather than being an option, and an enabling power, should it not be a fundamental issue? Clearly, there will have to be some joint working if management issues with regard to the Dee and the Severn in particular are to be resolved properly, because two organisations will be working alongside each other, which means that they must have compatible plans. I see that those on the Environment Agency side are nodding.

[43] **Mr Schofield:** One of our biggest concerns, because we have responsibility for the sea fisheries committee in the Dee estuary at the moment, which is a cross-border estuary, is that there could be a situation in the future where there is one of the inshore fishery conservation associations on the English side of the border, the new sea fisheries organisation in the Assembly Government on the Welsh side, with us controlling some of the regulatory Orders that have been set up recently. It could end up being a confusing picture, and I do not think that that would be great for the management of the ecology of the estuary. A lot of the species that we manage there do not recognise the boundaries to which we work. It would also not be particularly helpful for the people who use the estuary, whether for recreational purposes or commercial fishing interests. So, it is essential that we have that sort of cross-border co-operation.

[44] **Darren Millar:** Do you think that it should be specified in the Bill as a duty upon Welsh Ministers to ensure that a joint approach and a joint plan exists for those cross-border areas, such as the Dee and Severn estuaries?

[45] **Mr Schofield:** Yes. I think that it is essential; it must work both ways.

[46] **Dr Gubbay:** To raise a related matter, namely the issue of a duty and a duty to plan, as you will see from our briefing, another issue that we have raised is the duty to have plans more generally, so that there is a level playing field for the marine planning system, instead of there being perhaps a plan here and a plan there with different timescales. It is important to have duties for marine planning generally, as well as a duty for joint planning.

[47] **Mick Bates:** Welsh marine plans must be agreed by the Secretary of State with regard to reserved matters. Do you still see a need for joint planning in that case?

[48] **Dr Gubbay:** Yes. It partly comes back to the question that was raised by another Member: there are national issues and there are local issues, and you want to reflect them all adequately in your planning system, whatever it may be. My understanding is that it is more of a legal requirement that that signing-off process is in place; it is set out as such in the Bill. It is the underlying issue that is important. There has to be a joint plan agreed for those areas, whatever the detailed process is.

[49] **Brynle Williams:** It will lead to more clarification on local issues. How do you envisage that existing plans will be integrated with the marine plan?

[50] **Ms Favager:** This is one of the issues that we are interested in. We are working on a project with CCW and other organisations that will be affected to try to work out how things such as shoreline management plans will integrate with the new marine plan. We are definitely aware of the issue, but we do not have the answers yet.

[51] **Brynle Williams:** How would you like to see shoreline management plans integrated with the statutory marine plan? Should they be revisited if the policies were to change status, from being non-statutory to statutory?

[52] **Ms Favager:** We play an active part in the coastal groups, but they are led by the maritime local authorities, rather than by us, so I do not think that I am in a position to say how I would want to see it done.

[53] **Mr Schofield:** I do not think that I can add to that either.

[54] **Dr Gubbay:** I can make a general comment. This raises the wider issue about nested plans, especially if there were to be a statutory duty to have marine plans, and of where all the other plans fit within it. There are several of them, there are some voluntary ones and there are things like the shoreline management plans.

1.30 p.m.

[1] As far as I know, sub-plans have not been discussed. I know that the Assembly is interested in integrated coastal zone management, and having more detailed plans for the coastal strip, where there is greater pressure. It may be that those would be nested inside these marine plans. I think that how that will work is totally open at present. In a way, it is up to us to suggest that and write it, if you like.

[2] **Dr Lewis:** I think that it is also an example of the fact that, because the powers in the

Bill are generally very broad enabling powers, to understand what the Bill will deliver requires secondary legislation, guidance, and all sorts of various agreements, which is why it is sometimes difficult to understand what the Bill will deliver. That is probably an example. There is a requirement for statements of public participation, for example, which might help, once they are produced, to understand how other coastal interests will be integrated into the marine planning process. Until we have those statements, however, it is hard to know exactly how that would work.

[3] **Brynle Williams:** Finally, how would the Environment Agency like to see the all-Wales coastal path take account of shoreline management plans?

[4] **Ms Favager:** I think that that is key. Any kind of coastal access needs to be done in consultation with us so that we can make sure that it does not compromise our flooding role. Obviously, we can make it safe for people that want to use the path.

[5] **Dr Lewis:** CCW is working with all of the local authorities and with the Assembly on implementing the coastal access improvement programme. That is being done in partnership with the local authorities, so the plans and other developments that they have would be taken into account. Local authorities are lead members in producing shoreline management plans, for example. Therefore, the fact that that is how the coastal access programme is being delivered means that those concerns have probably been fairly well integrated into how the coastal footpath is being planned.

[6] **Mick Bates:** That sounds very positive. Darren, I think that you have some questions to ask.

[7] **Darren Millar:** Yes. To go back to the issue of duties, the Countryside Council for Wales and others have pointed out in their evidence that there are very few duties on Welsh Ministers in respect of fisheries within the Bill. The Bill is very prescriptive about the duties to be placed on the inshore fisheries and conservation authorities in England, but similar duties are not placed on Welsh Ministers, certainly in ensuring that fish stocks are managed sustainably, and seeking to ensure that the conservation objectives of the marine conservation zones are furthered in managing fisheries. Would the Environment Agency, in particular, also support the view that there need to be some explicit duties placed on Welsh Ministers to ensure that they take conservation matters very seriously? Should those be included within the Bill or not?

[8] **Mr Schofield:** Obviously, we want it to be taken seriously. To go back to the issue that we discussed earlier about consistency across borders, if that is written into the Bill for the inshore fisheries and conservation authorities in England, we need to make sure that we have the same duties here in Wales, so that we do not have divergence in the future.

[9] **Darren Millar:** Therefore, do you support the view of the Countryside Council for Wales?

[10] **Mr Schofield:** Yes.

[11] **Darren Millar:** That is critical, is it not, to ensure that there is consistency in the outcomes that need to be achieved? While I appreciate that we might want to do things differently in Wales, in certain respects, and may have some different priorities, the fundamental priority here is the conservation and sustainable management of our marine environment. I was quite astonished that such duties were not within the Bill as it stands.

[12] Also, on any discussions that you might have had with the Assembly Government, clearly, there will be a need for some joint working, not just joint planning, in the delivery of

the outcomes that we need to see as a result of the marine Bill. What discussions have you had with the Welsh Assembly Government about sharing of resources for enforcement issues, for example?

[55] **Mr Schofield:** We work very closely with the stakeholder groups and associates on the production of the Welsh fisheries strategy, as we have done for several years. We are now participating with members of the project board and the stakeholder group being established to oversee the implementation of sea fisheries management in Wales. So, we are working closely on that.

[56] Going back to the previous point about the powers of the Minister, I wanted to make the point that the Welsh fisheries strategy has five key pillars, the first two of which are to do with having a healthy environment and, subsequently, healthy fish stocks. So, that is ultimately what we are working towards, and the exploitation of those will follow.

[57] **Darren Millar:** However, the duties are—*[Inaudible.]* That is the issue here. Can you touch on the issue of enforcement? What discussions have you had?

[58] **Mr Schofield:** That will form part of the discussions of both the stakeholder group, which will comprise the practitioners, and the project board. That is what is in the melting pot at the moment, and we have to sort out over the next few months who will do what. The agency has a role to play in enforcement, and we are glad that we are keeping our migratory fish responsibilities out to 6 miles, because we feel that that is important. We also submitted, as part of the regional consultation, that we would like to retain our existing powers within the estuaries, but perhaps extend them, where possible, because of their importance for recreational and conservation purposes and because that is where a lot of our enforcement effort is focused, particularly when protecting salmon and sea-travelling migratory fish species.

[59] Part of the wider discussion will be on what resources we have in staffing terms, and whether we can cross-warrant with the necessary warrants of other organisations. Some of that work has taken place in the past, but it has not been as consistent as it should have been, and so this is an opportunity to put that into place. There is little point in two organisations going out onto the sea and enforcing separately, although perhaps different bodies could enforce different pieces of legislation. However, there should be one body doing all that.

[60] **Mick Bates:** Are you happy with that, Darren?

[61] **Darren Millar:** Yes.

[62] **Lorraine Barrett:** I will concentrate on nature conservation. The Bill places a duty on the Countryside Council for Wales to notify Welsh Ministers when it intends to designate sites of special scientific interest and nature reserves below mean water level in the marine area. You want to remove that duty and retain the current situation, which enables you to declare sites as SSSIs and NRs wherever they are. If you were able to designate sites in the marine area and if Welsh Ministers were able to designate marine conservation zones, could there be confusion for stakeholders, and would that also undermine the importance of the marine conservation zone designation? I am getting a bit confused trying to picture this whole jigsaw, so could you flesh it out for us?

[63] **Dr Lewis:** We made that statement because the power currently rests with CCW to notify SSSIs and to change the regime for inter-tidal and sub-tidal SSSIs, compared with the terrestrial regime. We think that it could lead to a lot of confusion for stakeholders and interested parties. The SSSI designation is different from marine conservation zone designation, and the powers rest with different authorities. We would generally see the SSSI

as a terrestrial and inter-tidal tool, and the marine conservation tool very much as the marine designation. It is the process by which sites are designated that we would like to keep clear and straightforward. We would be working, as we have been, very closely with the Welsh Assembly in bringing forward any designated sites, so, hopefully, it would not lead to the confusion over different mechanisms that you might envisage.

[64] **Mick Bates:** Are you happy with that, Lorraine?

[65] **Lorraine Barrett:** I think that that answers the question.

[66] **Mick Bates:** The more that we deal with this issue, the better our understanding, and the same goes for all stakeholders. Many of your answers have pointed to the fact that, once the process gets started, people will get a better understanding.

[67] I now call on Leanne to continue on the theme of conservation.

[68] **Leanne Wood:** CCW has stated that it would like to see a duty to designate marine conservation zones within a specific time period. Do you think it necessary to include a deadline in the Bill of when the UK is required to designate an ecologically coherent network of marine protected areas under international agreements?

1.40 p.m.

[69] **Dr Lewis:** What we have said specifically is that we would like to see a timescale for the formal designation process, so that, once a site has been put forward as a marine conservation zone, the clock starts ticking, and it does not take a number of years before it is agreed. There is already a timetable for reporting on securing a network of marine protected areas, with the first report due in 2012. We see that as a positive tool in the Bill, encouraging sites to come forward more quickly rather than letting it take a long time. It is during that period between sites being proposed and then arriving at a decision that we are looking for a particular timetable in the Bill. That is just based on our previous experience with marine nature reserves, which can take a long time, and that is potentially unhelpful and can cause a lot of confusion for those involved.

[70] **Leanne Wood:** Moving on to coastal access, if an all-Wales coastal path is to be created, where will further work be needed, both geographically speaking and in tackling issues?

[71] **Dr Lewis:** At the moment, our emphasis is on using the existing coastal access improvement programme and the voluntary and partnership approach that is being taken forward with local authorities. We have previously advised the Welsh Assembly Government on how to improve access to the coast, and that has led to the point at which we have this programme in place. We are keen to use that, and then, if Welsh Ministers wish to look at using those new framework powers on coastal access in the Bill, we would be happy to advise on how they might be used. At the moment, our priority is the existing programme and getting that to work.

[72] **Leanne Wood:** What are the barriers to the creation of wider coastal access? I understand that, in England, there are moves to create coastal access recreational spaces. Can you tell us anything about that, and whether those same provisions might apply in Wales?

[73] **Dr Lewis:** We would have to take this back to some colleagues for more specific detail in answer to that, namely those who deal more specifically with coastal access. To reiterate, we are happy with the approach being taken, which appears to be delivering quite positive changes and improvements for the all-Wales coastal footpath. It seems that the tools

that we are using are working quite well.

[74] **Leanne Wood:** Finally, how are the effects of climate change, such as coastal erosion, dealt with in these plans?

[75] **Dr Lewis:** As regards coastal access, it is part of the process of working in partnership with local authorities and others involved to take account of any potential threats to stretches of coastal access. The coastal footpath and areas of improved access should be established in areas where, over time, they can be retained or managed, rather than creating access to high-risk areas. Again, perhaps we could take that back to colleagues to get some more detail.

[76] **Leanne Wood:** That would be helpful if you could. Generally, though, you are saying that that would be the responsibility of local plans rather than any wider planning regime, so it would be down to local authorities to plan for that.

[77] **Dr Lewis:** Yes, we would work with local authorities on that.

[78] **Dr Gubbay:** The shoreline management plans have 50-year and 100-year timescales, so they would paint a broader picture about what is happening with erosion and deposition in coastal areas. They are also important documents beyond the local authority. The shoreline management plans are important to the whole process.

[79] **Darren Millar:** I have a point on the creation of SSSIs and marine conservation zones. I was taken with CCW's evidence on the ability to designate an SSSI in a marine environment as it is currently able to do on land. The one thing about habitats on land is that everyone knows what they mean, do they not? Everyone knows what an SSSI is and what a nature reserve is. I just wonder whether you could give us a bit more information about similar designations in the marine environment, and whether they would help people to recognise zones that are very protected, others that are important but not quite so protected, and zones that might need particular attention paid to them? Can you give us a bit more information on that? It was a significant point in your written submission, and it is important that we as a committee have a grasp of this.

[80] **Dr Gubbay:** I think that you are right about the need to get an external understanding of it all, because there are so many acronyms. I am afraid that the marine scene has suffered from an awful lot of those. We try to use the phrase 'marine protected areas' as a grouping—

[81] **Darren Millar:** Your paper was one of the worst for that, actually. [*Laughter.*]

[82] **Dr Gubbay:** It is due to history, I think. 'Marine conservation zones' is the phrase that people now use and that will, presumably, be used in the Bill. As part of that, one element that we are looking at is the highly protected areas within marine conservation zones. We are hoping to get a lot of stakeholder involvement and participation in the whole site and process, so that people start to understand exactly what is meant by these phrases. That way, you do not end up with a site that you have to try to explain to everyone what it is about. So, we are doing the explanation as the whole thing with the Bill is building, and people are becoming a bit more familiar with the terminology. I agree that there have been an awful lot of words for these types of protected areas, and we have to get over past confusion. If we are clear and talk about marine conservation zones and have that phrase in the Bill, hopefully, we will build an understanding.

[83] **Darren Millar:** There is a parallel system for differentiating between these particular habitats and areas on land, and that is an important element that needs to feed into the Bill so that these designations are clearly recognised by members of the public. Otherwise, there will

be massive confusion when the first marine conservation zone, or whatever it might be, is suddenly announced. Do you think that that would be helpful?

[84] **Dr Gubbay:** Sites of special scientific interest on land are quite specific designations, and my understanding is that they are rather different from what is being envisaged as a marine conservation zone, so you could not really use the same phrase. As you said, marine conservation zones can have a range of protective mechanisms, so perhaps we should just try to stick with ‘marine conservation zone’ and explain what that is and that it has degrees of protection within it, some of which will be highly protected reserves. We just have to keep explaining it, and that is why the outreach side is very important. I do not think that we can take the terrestrial terminology and use it in the marine setting, unfortunately, because that would just create more confusion.

[85] **Darren Millar:** I understand that, but what I am suggesting is pretty straightforward: instead of ‘nature reserve’, you could have ‘marine nature reserve’, and instead of ‘SSSI’, you could have ‘marine SSSI’. Could we not have the same sort of titles, just to make it easier for people to understand? Should that be left to the Welsh Ministers, or should this terminology be put into the Bill?

[86] **Dr Gubbay:** [*Inaudible.*]—strongly about that. Ultimately, it is about what you are trying to deliver with those particular designations.

[87] **Dr Lewis:** As we go forward to look at designating sites, it will probably be useful to remember that those are tools and there is always a lot of technical language around that sort of thing, but what will be much more important is the wider public education on this, on the fact that we have a very valuable marine environment, which features are worth protecting, and why. Those messages are stronger and more important for achieving public awareness and understanding than the technical detail of the tools that you are using to protect the areas.

[88] **Mick Bates:** I would like to end this first session with an examination of the agreements between the marine management organisation and eligible bodies, which will carry out management functions on behalf of the MMO. Clause 16 lists the eligible bodies so far agreed, and they are the Environment Agency—and I asked the agency about its relationship with the MMO, but it seems that there is a lot of work to do on it—Natural England, any inshore fisheries and conservation authority such as a sea fisheries committees, and harbour authorities. The Countryside Council for Wales is not listed. Have you had any discussions to see whether CCW can become a body eligible to carry out some of the functions of the MMO in Wales?

[89] **Dr Lewis:** No, we have not had discussions about that directly, but most of the MMO functions that are relevant to CCW’s role in Wales would be delivered by the Welsh Assembly Government, so it is probably more relevant to our working relationships with the Welsh Assembly Government.

[90] **Mick Bates:** I see. So, you anticipate that those management functions that you currently have will be directed through the Minister.

1.50 p.m.

[91] **Dr Lewis:** I think that where the MMO is able to use, for example, Natural England as an eligible body, that would be specifically in relation to nature conversation delivery functions, such as enforcement functions. In Wales, CCW is the advisory body and is delivering some aspects of nature conservation. As a delegated function to the Welsh Assembly Government, it would be for us to agree with the Welsh Assembly Government whether we would take on extra roles. So, it is not so important that we are not on the list of

the eligible bodies for the MMO.

[92] **Mick Bates:** I see. So, in other words, there is no danger that Natural England, as an eligible body, could be directed to operate in Wales?

[93] **Dr Lewis:** None whatsoever. It has no remit to operate in Wales.

[94] **Mick Bates:** However, as an eligible body, let us say that it had management functions that pertained to some part of Wales, are you saying that it just would not happen?

[95] **Dr Lewis:** Natural England has no remit to operate in Wales. We are the equivalent body in Wales. So, that would not occur, I do not think.

[96] **Mick Bates:** You do not think.

[97] **Dr Lewis:** It would not. It has no remit in Wales. I do not think that we need to worry about that being a problem. Eligible bodies can be added to that list in the future. Because our relationship is with the Welsh Assembly Government, that is how that would be formulated.

[98] **Mick Bates:** The Secretary of State is the ultimate arbiter with regard to identifying eligible bodies. Leanne, do you wish to come in on this point?

[99] **Leanne Wood:** My point related to something else.

[100] **Mick Bates:** Sorry. Did you wish to come back at all on that point? The Environment Agency is an eligible body, so I assume that that might mean the Environment Agency Wales as well.

[101] **Ms Favager:** The Environment Agency Wales is part of the Environment Agency. So, we would be an eligible body. However, in the same way, we would need to ensure that the practicalities of anything happening in Wales were discussed with the Welsh Assembly Government as well as the MMO in England. So, we would not agree something with the MMO in England without involving the Welsh Assembly Government.

[102] **Mick Bates:** It is important, if you have the opportunity to clarify that, to put our minds at rest that you do not need, for example, in the case of CCW, to be on that list of eligible bodies. I am sure that we will ask the same question of the Minister later.

[103] **Leanne Wood:** I want to come back to the question of fisheries. The response that we have received from WWF expresses concerns that the duties on fisheries managers in England to protect, conserve and ensure sustainable supplies, are not conferred on Welsh Ministers. Do you have any concerns about that?

[104] **Mr Schofield:** This is the point that was raised earlier. Yes, we would like to see similar duties applied in Wales so that we have the same conservation protection.

[105] **Dr Gubbay:** I would like to add to that. We also mentioned extending the duties in our brief, and we mentioned a couple of clauses where it would be helpful to do that.

[106] **Mick Bates:** Thank you. I am certain that we are all learning. However, I would like clarification on the eligible bodies issue, please, before we go much further. You will be sent a copy of the transcript. If you wish to provide any further information in addition to that relating to the eligible bodies issue, please do so. I thank you for both your written evidence and your answers this afternoon. Thank you.

[107] For the next session, I call Dr Lyndsey Dodds of World Wide Fund for Nature and Annie Smith from the Royal Society for the Protection of Birds. Thank you for your written evidence. I welcome the way in which you have organised this information. You are a part of the Wales Environment Link's marine working group. I will give you a few minutes to introduce yourselves for the record and to make your main points. As you know, we will then ask questions. Lyndsey, would you like to start?

[108] **Dr Dodds:** I am the marine policy officer with WWF Cymru. First, I would like to echo earlier statements regarding how pleased we are to be at this stage: that the Marine and Coastal Access Bill is going through the UK Parliament. We also welcome this session and were grateful to receive an invitation to come along.

[109] WWF believes that the way to achieve the effective management of our seas is to have an ecosystem-based approach to management. That means managing it at a scale that makes sense for the environment rather than being restricted to political boundaries. We believe that there are three key areas in the Bill where we could strengthen this in order to deliver such an approach. First, and this has come up in an earlier session, there needs to be better collaboration between the Marine Management Organisation and Welsh Ministers. Secondly, there should be a duty to produce a jointly agreed marine policy statement for the UK and to produce plans for all of our waters. We would also like to see the ability in the Bill to create jointly agreed plans in areas where it would be suitable, such as estuaries or somewhere like the Irish sea. We are grateful that you are having this session and we hope for further engagement in the future. One area that we have raised in evidence is the potential for Welsh Ministers to have a duty to report to the Assembly on the delivery of this important bit of legislation.

[110] **Ms Smith:** If I could just pick up from there—

[111] **Mick Bates:** Could you please introduce yourself?

[112] **Ms Smith:** Of course. I am Annie Smith, marine policy officer for RSPB Cymru. As Lyndsey says, we welcome the Marine and Coastal Access Bill. It is a huge piece of legislation with enormous positive implications for the management of our seas. We are grateful for the committee's attention to it. The RSPB's evidence focused on inshore fisheries management and marine nature conservation. Our biggest concern relates to the new provisions in the Bill that were not seen in the draft Bill. So, there has not been any pre-legislative scrutiny for inshore fisheries in Wales. The key issue, which was discussed in a previous session, is the absence of any duties on Welsh Ministers with regard to sustainable management of inshore fisheries or, specifically, with regard to the protection of marine conservation zones in delivering fisheries functions, which we see as a potential shortcoming in Wales as compared with England.

[113] On marine conservation zones, we think that there have been positive improvements to that part of the Bill since the pre-legislative scrutiny was carried out. However, there are areas where we think that it could be strengthened further, in particular, by giving Ministers a clearer duty to designate sites in line with a strong objective, including a reference to the need for some highly protected sites within an ecologically coherent network. We feel that that would support the delivery of some of the Assembly Government's policies in that area.

[114] A key issue going forward relates to resourcing the delivery of this crucial legislation and putting arrangements in place for that delivery. This committee will have a crucial role to play in engaging with those arrangements as they develop and in ensuring that the resource needs are identified and delivered. Again, thank you for the invitation to come today.

[115] **Mick Bates:** Thank you. The WWF is strong on the idea that all administrations have

a joint plan. Do you have any suggestions as to the clauses or wording that would encourage that? It is easy to say that there is a duty to produce this, but can you refer to any specific clauses that might help us to put forward that suggestion when we respond to this Bill?

[116] **Dr Dodds:** The first would be the duty to produce plans in the first place, but specifically the power to produce joint plans. At the moment, the only thing in the Bill that relates to that is the Schedule on ensuring compatibility between adjoining plans. We think that there needs to be an extra power to deliver joint planning.

[117] **Mick Bates:** Are you suggesting that there should be one plan, in effect?

[118] **Dr Dodds:** No; we are saying that, where there is a better way of planning—for example, you might suggest that the Severn estuary would benefit from having a single plan—the administration should be able to create a joint plan, should they wish to do so.

[119] **Mick Bates:** In your opening remarks, you raised the role of the infrastructure committee. That is of an independent nature and you have various opinions in your paper on how that would operate. How do you see the relationship working between the one joint plan and the infrastructure planning committee? Would you say that the joint plan would be of national strategic importance and, therefore, in the hands of the IPC?

2.00 p.m.

[120] **Dr Dodds:** We would like, ideally, for the MMO or Welsh Ministers to be responsible for decision making in the marine environment, in order to be able to deliver sustainable development. If the IPC is to continue to have a role in that, we would like to see the marine policy statement being given equal status with the national policy statement. We believe that the Bill does not currently create that equal status, so the priority would be given to the national policy statement and the marine policy statement would obviously take a second seat. If we could get that balance right, so that the two were considered together, through the marine policy statement, a joint plan would have the backing needed and the IPC would have to consider what was in that plan.

[121] **Mick Bates:** Are there any comments from the RSPB on those issues?

[122] **Ms Smith:** No. I would simply like to endorse what Lyndsey said. If the IPC is going to have a role in the marine environment, the crucial thing is for the marine policy statement to be given the right status. At the moment, because of the way in which the Bill is drafted, the IPC has a less binding duty to take account of the appropriate marine policy documents than the duty that it has in the Planning Bill to take account of national policy statements. That is what ought to be amended, I think.

[123] **Mick Bates:** It is an interesting point. Lyndsey, you mentioned the Severn estuary, for example, on which there will be an increasing focus. How would you go about making sure that the marine plans are made part of the national strategy, given that you are a strong lobbying organisation that took part in early lobbying? Have you thought about this and how you would achieve parity between the marine plans?

[124] **Dr Dodds:** One thing that we brought up at the draft Bill stage, and that issue continues now, is that we were disappointed by the level of detail that there is for planning—it is very prescriptive. It does not really give an indication of how it will work in practice, so I think that it is very important to get to the stage where we have guidance about how planning can actually be delivered. One thing that has appeared now, in this stage, is the idea that the plans will need to be signed off by the Secretary of State. We think that this has highlighted a potentially very problematic situation, where you could have marine plans that are not agreed

and therefore they would become marine plans for only devolved issues and would not cover reserved matters. That is not a planning system; the point of marine planning is that it considers all activities in the area and how they interact with each other. We would see that as a very dangerous place to end up.

[125] **Darren Millar:** I want to explore the area around national policy statements. The IPC, as we know, will have to pay regard to national policy statements when it makes its decisions on large infrastructure projects; however, you have suggested in your evidence, and it seems to be clear now, that a marine policy statement produced by the Welsh Assembly Government or its Ministers would not have to be regarded in the same way as a national policy statement by the IPC. Therefore, the priorities of the people of Wales could be overridden by the IPC, because of a national policy statement that the Assembly does not even have to be consulted on, in terms of it being written, because there is no duty in the Bill at the moment for there to be joint working when drawing up marine policy statements. Can you confirm that that is the case and clarify the importance of this in protecting the marine environment? I am concerned that, if there is incompatibility between Wales's marine policy statement and the national policy statements that come from the UK Government, that could cause huge conflicts.

[126] **Dr Dodds:** We would like the marine policy statement to be a jointly agreed statement between all the administrations. As you say, at the moment, according to the Bill, decisions by the IPC must be made in accordance with the national policy statement whereas, for the marine policy statement, it must only have regard to it, so it is weaker, and we think that that would result in the national policy statement taking priority. We want the main policy statement to have greater priority because that is where we consider everything that happens in the marine environment—all the different activities and their cumulative impacts, as well as giving consideration to protecting biodiversity. We think that that is the place to pull together and get the policy that drives decision making and not necessarily through a national policy statement that relates to energy and so on.

[127] **Darren Millar:** So, somewhere in the Bill, it needs to be clear that the marine policy statement should be regarded as national policy statements are with regard to the Infrastructure Planning Commission.

[128] **Dr Dodds:** Yes. I think that we need a change in the Bill and a change to the Planning Act 2008 to make that point, so that the IPC would consider the main policy statement.

[129] **Mick Bates:** Thank you. Darren, I think that you want to move onto the subject of fisheries now.

[130] **Darren Millar:** Yes. We had this discussion a few moments ago with the Countryside Council for Wales and the Environment Agency, and you refer to it in your written evidence. Can you confirm for the record that you believe that there ought to be prescriptive duties on Welsh Ministers to ensure that the conservation issues are just as clear as they are for the inshore fisheries organisations in England, to ensure the same level of protection here in Wales?

[131] **Ms Smith:** Yes, that is right. The inshore fisheries and the conservation authorities are placed under a number of specific duties, and two key duties in particular. The first is to manage the exploitation of fisheries' resources sustainably, and the second is to seek to ensure that the conservation objectives of any marine conservation zone within their district are furthered. We think that those two duties should apply in Wales as well, because they are important for establishing the purpose of inshore fisheries management here, telling us all what we should expect it to deliver and allowing us, essentially, to hold Ministers to account

for their delivery against that.

[132] On the specific point about the second duty, that relates to marine conservation zones. The duty on inshore fisheries and conservation authorities clearly gives the conservation objectives within marine conservation zones precedence over fisheries' objectives. It is specific to a nature conservation area, and that duty is more explicit, direct and stronger than any duty in the Bill on Welsh Ministers with regard to marine conservation zones. That is why we think an equivalent duty should apply here as well.

[133] **Darren Millar:** Your evidence seems to suggest exactly the same.

[134] Playing devil's advocate for a moment, the Government of Wales Act 2006 places a clear duty on the National Assembly for Wales to manage Wales as a sustainable nation. Is that not sufficient? Why do you think we need these explicit, prescriptive duties on Welsh Ministers?

[135] **Ms Smith:** The duty to set out a scheme for sustainable development in the Government of Wales Act 2006 is important and welcome, but on specific areas of management, I feel that there is a clear benefit to having a duty that provides the remit in that area for the Ministers to act on. The Welsh Ministers actually do not have a duty to manage inshore fisheries in any way. They have a bunch of powers that they can use, but they can use them when they want. There is nothing that says what they have to use them for. The duties set out in the Bill are explicit not only about the fact that management should be sustainable, but about what that means and involves. From a stakeholder's point of view, that clarity is important.

[136] **Darren Millar:** Why is it not there at the moment? Is there any evidence of resistance from the Assembly Government? Surely it would subscribe to the outcomes that are in the duties for inshore fisheries and conservation authorities.

2.10 p.m.

[137] **Ms Smith:** I would guess that there is a difference of view between my organisation and the department as to whether it is appropriate to place such a prescriptive duty on Welsh Ministers. Our view is that the marine Bill, although it derives from Westminster, is also our legislation, as people who work and live in Wales, and it seems wrong that there should be gaps in the legislation in relation to Welsh Ministers when there is an opportunity to provide a clear and comprehensive remit and a clear structure for accountability and transparency in management. It seems wrong that that opportunity should not be taken.

[138] **Darren Millar:** Do you concur with that?

[139] **Dr Dodds:** Yes, I agree. I would reiterate that the benefit of the marine Bill, and what everyone wanted to see from a fisheries perspective is clarification of the mountains of fisheries legislation that have gone before and for everything to be pulled together in one area with clear duties and remits as regards how things would work. We will miss an opportunity if that does not happen.

[140] **Darren Millar:** I would like to touch briefly on the issue of reporting back to the National Assembly for Wales, which I think that the WWF paper suggested should be done on an annual basis. Why is that important? Do you not think that this committee can do the job of holding the Minister to account for her performance in that area?

[141] **Dr Dodds:** I am sure that the committee has lots of business to deal with throughout the year, so, having a clear duty in the Bill—there is a duty on the MMO to report to the

Secretary of State, who must then lay the report before Parliament—for the Assembly to be involved in the process in Wales seems only right.

[142] **Darren Millar:** If it is happening in Westminster, why not here?

[143] **Dr Dodds:** Yes.

[144] **Leanne Wood:** You said that you wanted to see the creation of joint plans across administrative boundaries. Can you tell us how you see that working, particularly how it would work if there were national-versus-local issues?

[145] **Dr Dodds:** First, we need the ability to create joint plans, and I would imagine that there would need to be clear guidance on how you get the different parties together, and the membership of any group that would then consider plans. However, as long as that was happening from the start of the process, so that everyone was involved throughout, including local stakeholders, and groups that work in the area that could co-ordinate stakeholder input, you could reach a point at which there would be an agreed plan that suited everyone in the area.

[146] **Leanne Wood:** Do you have anything to add to that?

[147] **Ms Smith:** No.

[148] **Leanne Wood:** Do you have any concerns regarding the improvement of public access to the coast?

[149] **Ms Smith:** Unfortunately, we are not the best people to ask about that. Lyndsey will tell me if I am wrong, but I do not believe that WWF engages directly on that issue. While the RSPB engages with the local authorities on coastal paths, I am not involved in that. We would be happy to supply information separately, if that would be helpful.

[150] **Dr Dodds:** It is not an issue that we focus upon.

[151] **Mick Bates:** To come back to issue of the Minister reporting to the Assembly, can you outline a timescale and whether it is necessary, in view of your earlier statements about joint working, for that to be an agreed report on what is happening in the totality of the marine environment surrounding the UK?

[152] **Dr Dodds:** For the Minister to report here?

[153] **Mick Bates:** Yes.

[154] **Dr Dodds:** There are certain areas where it would be useful, where you need co-ordination and consideration as regards what happens in Wales and how that affects areas beyond Wales and vice versa. There is also a possible role in relation to, for example, the creation of the jointly agreed marine policy statement. The intention seems to be for this to be a jointly agreed plan between the administrations, and there are various mechanisms to allow amendments to the policy statement should there be any issues arising that would prevent one administration from signing up. If there was a situation where the Minister considered not signing up to a marine policy statement or considered withdrawing from a previously agreed statement, we would like to see her stating her rationale to the Assembly. There should be some mechanism for the Assembly to consider that kind of situation.

[155] **Mick Bates:** What about other organisations that might withdraw from a policy? Do you think that the same should apply to them so that they give reasons for their withdrawal?

[156] **Dr Dodds:** Yes.

[157] **Mick Bates:** That is fine. Are there any further comments or questions from committee members? I see that there are none. In that case, I thank you very much for your written and oral evidence. A copy of the Record of Proceedings will be sent to you. If you feel that there is any other relevant information that you can provide in the meantime, please forward it to us. Thank you both very much.

2.16 p.m.

**Ymchwiliad i Oblygiadau'r Mesur Morol i Gymru: Tystiolaeth gan y Gweinidog
dros yr Amgylchedd, Cynaliadwyedd a Thai**
**Inquiry into the Implications of the Marine Bill for Wales: Evidence from the
Minister for Environment, Sustainability and Housing**

[158] **Mick Bates:** Good afternoon, Minister, and welcome to the final session of this afternoon's meeting of the Sustainability Committee, during which we will be looking, as you are aware, at the marine Bill. I thank you for your paper. I also welcome Louise George and Gerry Quarrell.

[159] We have already referred to yesterday's excitement and said what a wonderful day it was with our plastic bags and your announcement. We look forward to scrutinising that and looking at what happens with the consultation that you will be issuing in June. Would you like to make an opening statement on your paper on the marine Bill?

[160] **The Minister for Environment, Sustainability and Housing (Jane Davidson):** Thank you, Chair. As you know from the evidence that I gave to the committee in June 2008, Welsh Ministers have been fully supportive of the need to have this Marine and Coastal Access Bill. We had a good, co-operative, and almost daily working relationship with the Department for Environment, Food and Rural Affairs on ensuring that the proposals developed meet our needs in Wales, as well as those of other parts of the United Kingdom. It is critically important; the sea does not know the boundaries of Wales or any other part of the United Kingdom and therefore we have to be clear about having joined-up thinking. I am pleased with what the Bill aims to deliver for Wales and I hope that the committee will also be pleased. In complementing and adding value to the National Assembly's existing powers in the marine area, the Bill includes new marine planning functions for inshore and offshore waters, a new streamlined licensing regime, nature conservation provisions, the creation of a new Welsh zone for fisheries, as well as the new framework powers on coastal access.

[161] The Bill itself is therefore a big step forward in providing us with the tools to achieve the Assembly Government's key objectives for the marine environment, which are: for it to be valued, understood and respected for what it contains and provides; for our seas to support healthy and functioning ecosystems that are biologically diverse, productive and resilient; and for the marine environment and the vitally important resources that it contains to be sustainably and responsibly managed. I am working very closely with the Minister for Rural Affairs to ensure a co-ordinated approach to marine and fisheries management in Wales, and I know that you will be discussing the fisheries issues with her later this month.

[162] As you say, we have provided the committee with a paper covering the main content of the Bill and, in particular, highlighting key changes made since the committee's last main consideration. To put those in shorthand for you, key changes to the Bill's content since then relate to: marine planning, as Welsh Ministers are now the marine planning authority for Welsh inshore and offshore waters; marine licensing, and there is a duty on Welsh Ministers

to establish an appeals mechanism for the handling of appeals against licence decisions; and marine nature conservation and the duty on Welsh Ministers to exercise the designation power so that marine conservation zones, along with our European marine sites, form a network of marine protected areas. In fisheries, we had the creation of the Welsh zone for fisheries to give us fisheries competence beyond the territorial seas of Wales.

2.20 p.m.

[163] On enforcement, Welsh Ministers can appoint marine enforcement officers who will have access to common enforcement powers and will be able to enforce across borders in England and Wales. On coastal access, the National Assembly for Wales will have the legislative competence, in the form of framework powers, on coastal access. It is worth noting, and I hope that this has come out in previous evidence, that we are working very closely with the Countryside Council for Wales, the Environment Agency, the Royal Society for the Protection of Birds and the WWF on the Bill's content, and we will continue to do so until the Bill completes its passage through Parliament later this year. Those organisations will also be key partners for us in the subsequent implementation of this major, important and welcome piece of legislation.

[164] **Mick Bates:** Thank you, Minister, for that update on the additions since your last paper to the committee.

[165] One interesting point that has risen this afternoon is on the role of the marine policy plans, and whether they will be considered of national strategic importance when they are put together. How do policies become of national strategic importance?

[166] **Jane Davidson:** I think that you are looking particularly at national strategic importance in the context of the new arrangements under the Infrastructure Planning Commission. The only major area where there will be an impact on the Infrastructure Planning Commission is in relation to energy. Clearly, on plans related to energy, the commission will be looking to exercise its functions for developments above 100 MW, the marine management organisation will deal with 100 MW down to 1 MW, and we will exercise deal with those below 1 MW.

[167] **Mick Bates:** I come back to the original question: how does a policy become of national strategic importance?

[168] **Jane Davidson:** As I said, my understanding is that the phrase 'of national strategic importance' relates to the Infrastructure Planning Commission, and therefore to energy provision in the context of the Infrastructure Planning Commission. The Welsh Assembly Government and many others will be invited to participate in the consultation on what goes into the policy statements on energy, which are then agreed through Parliament and will be delivered in the context of national strategic importance. That is my understanding of the issue.

[169] **Mick Bates:** So, would it be possible that a marine policy could become of national strategic importance?

[170] **Jane Davidson:** In the context of the Infrastructure Planning Commission, what is of national strategic importance will be related to that legislation. I am sure that we can give you a legal answer from the Assembly Government's perspective on that issue.

[171] **Darren Millar:** Minister, evidence that we have received from other organisations suggests that marine policy statements will have less of a bearing on the decisions of the IPC than national policy statements. One recommendation is that marine policy statements should

be regarded as national policy statements by the IPC. Do you agree with that, and, if so, what actions are you taking to try to progress that with the UK Government in revising the Bill?

[172] **Jane Davidson:** In the context of the proposals about how the marine policy statement gets put together, we are talking about all parts of the UK contributing to a holistic statement that represents both devolved and non-devolved functions. So that will clearly be of national strategic importance, containing devolved and non-devolved functions.

[173] **Darren Millar:** With respect, that is not stated in the Bill. The Bill states that decisions must be made by the IPC in accordance with national policy statements, but must only have regard to marine policy statements. There is a big difference—I do not know what the difference is exactly, but I would appreciate some clarity on it [*Laughter.*]. However, there is clearly a distinction made about how the marine policy statements and the national policy statements are going to be treated.

[174] **Jane Davidson:** Unless Louse has anything to add, we would be happy to get legal clarification on that. My understanding, as I said in answer to the first question from the Chair, is that the national strategic importance is in the legislation around the Infrastructure Planning Commission and its functions. There must be a read-across with what we want to do in the marine Bill, so we will get a legal response for you on that.

[175] **Mr Quarrell:** I would like to raise a point here, if I may. It is also worth bearing in mind that the IPC will be taking decisions in accordance with the national policy statements, but, as the Minister pointed out, the IPC in Wales will only be looking at major infrastructure projects, such as those on the energy side. That is a fairly restricted field, when you compare the powers of the National Assembly for Wales with the marine policy statement. That will affect a much wider range of projects and decisions, so you need to appreciate the different scope of the two documents.

[176] **Darren Millar:** In the Bill as it stands, there is a difference in how the IPC is to approach the plans, and I am grateful for the clarification that you will provide on that.

[177] Another issue that has arisen from the evidence is the joint policy statement for the UK as a whole, and the fact that there is no duty on the four nations that form the UK to come together to produce a joint statement. That duty is not included in the Bill. Is that something that you would like to see, Minister, and, if so, what proposals have you put forward to the UK Government on that?

[178] **Jane Davidson:** This is an area where we have had a lot of discussion, because if you had a duty for all four administrations to come together, and there was disagreement between them on delivery, you would need a mechanism whereby the marine policy statements would still be made. There are a number of clauses within the Bill that reflect that, ideally, we will get this overarching holistic statement on behalf of all administrations in the UK. That is the emphasis of the Bill. As the Minister in Wales, however, I want to ensure that we have a statement that I can account for to the Assembly in terms of our role. There are a set of clauses that allow us to go all the way through from that holistic approach, with all the functions that are devolved and non-devolved together, and signed up to by all the Ministers, to a narrower function under our planning powers in the Bill. At the moment, we feel that the Bill serves that purpose well, ensuring that, whatever happens, there will be planning policy statements in place in every single part of the UK.

[179] **Darren Millar:** However, you would not object to a duty being introduced in the Bill for a UK-wide policy statement that all Ministers across the UK would subscribe to.

[180] **Jane Davidson:** I make the point again that, if one Minister chose not to agree to

that, that duty falls apart. That is the point. In a sense, we already have, within the Bill, a clear obligation on all Ministers to agree a statement across all four administrations, and we are all very keen to do that. However, there have to be mechanisms to deal with one part of the UK suddenly having a very different policy—for example, at the moment, as has been in the news, you have a different policy on climate change being effected by the Secretary of State for Northern Ireland. You could then get into difficult territory in trying to deliver that duty, and the danger is that you could end up without a plan in the country with the responsibility for delivery. My particular concern is to ensure that there is every incentive—and all four administrations have agreed this—for us all to sign up to this overarching policy statement, but that there should also be a fallback position whereby I can be required to make the plan in these waters for which we have responsibility. Do you want to add anything to that, Louise?

[181] **Ms George:** No—what you said is correct.

2.30 p.m.

[182] **Mick Bates:** It is an interesting issue, and I am sure that we will return to the point on national policy statements. I have just looked at the list of them, and at the moment, they are areas of energy and transport, basically—that is where national policy statements reside. In your introductory remarks, Minister, you talked about a new clause that establishes this Welsh zone. As I understand it, the Bill does not create a new Welsh zone. What assurances have you had that the Welsh zone will be created and what is the timescale for that? I believe that it would be done by an Order in Council.

[183] **Jane Davidson:** We have had all the political assurances about it and the extension of the planning powers are in relation to the designation of the zone. With regard to many aspects of the delivery of the zone, it would be more appropriate for you to talk to Elin Jones, especially with regard to the fisheries functions, but we have been given full assurances from Ministers about the creation of the Welsh zone. That was in the public statement delivered by the Department for Environment, Food and Rural Affairs on the launch of the Bill.

[184] **Mick Bates:** Is there a timetable?

[185] **Jane Davidson:** It will happen with the implementation of the Bill—with the commencement.

[186] **Mick Bates:** So, as the Bill goes through, an Order in Council will be written to establish this bit?

[187] **Ms George:** It will not necessarily be at the same time as the Bill becomes an Act of Parliament; it would be picked up afterwards.

[188] **Mick Bates:** Has any discussion taken place over what the timescale would be, and when it would be established?

[189] **Ms George:** The Minister for Rural Affairs will probably be able to provide you with that information, as it relates to a fisheries function.

[190] **Mick Bates:** So, it is more of a fisheries function. Okay. Thank you.

[191] Brynle, you wanted to talk about the marine management organisation and data.

[192] **Brynle Williams:** Yes. Good afternoon, Minister. Will the Assembly Government be charged for data provided by the MMO, and what discussions have there been regarding the sharing of relevant information and data between the Welsh Assembly Government and the

MMO?

[193] **Jane Davidson:** The MMO will be created on the back of the legislation. I would not anticipate that the Welsh Assembly Government would be charged by the MMO. The Bill has to give the MMO charging powers, because it has not been created yet and, since it has not been created, it has yet to become a charging authority. We already have charging powers for the Welsh Assembly Government, which are in the Government of Wales Act 2006. The MMO does not charge the Secretary of State, and I do not anticipate that the MMO would charge us—if it did, it would find that the Welsh Assembly Government might also charge it.

[194] **Brynle Williams:** You have answered my next question in part, Minister. The Welsh Assembly Government is part of the UK marine monitoring assessment strategy, the marine objectives working group, research and development budgets and what have you. If the MMO were to charge—although you have said that it probably would not—for information that it provided to Welsh Assembly Government, would the Welsh Assembly Government be able to charge the MMO for services, including the provision of data and information, reversing the flow, effectively?

[195] **Jane Davidson:** As I said, I have assumed so far that the clause in the Bill that establishes the MMO as a charging authority is purely to establish it as a charging authority and that it will then be made clear that it cannot charge the Government, which has established it as a charging authority. So, my assumption is that we would not be charged by the MMO, and I would certainly seek political assurances, as it were, on that basis and, if we were charged, I would also assume that where the Assembly Government wanted to exercise its charging functions, it could do so.

[196] **Mr Quarrell:** In terms of research and data provision in a marine environment, we are already part of the networks that you have just mentioned, Mr Williams, on a UK basis, and we share data and network on information provision, and we envisage the MMO becoming part of that network.

[197] **Jane Davidson:** That is the UK science and research network.

[198] **Mick Bates:** So, data pertaining to all the information requirements of the Marine and Coastal Access Bill will be shared between all administrations?

[199] **Jane Davidson:** Yes.

[200] **Mick Bates:** Thank you very much. Leanne, I think that you want to examine memoranda of understanding.

[201] **Leanne Wood:** Yes. It has been stated that there will be a series of memoranda of understanding with different organisations on working practices, but there is no requirement in the Bill for the MMO to develop such agreements. The Countryside Council for Wales has said that it would like to see a requirement for at least the MMO, the Infrastructure Planning Commission and the Welsh Assembly Government to establish joint working arrangements. Have you had any assurances that the MMO will develop memoranda of understanding on working practices with the Welsh Assembly Government and important Welsh organisations, such as CCW, Cadw, the Environment Agency and Welsh local authorities?

[202] **Jane Davidson:** Gerry, I understand that we have had confirmation at official level that an MoU will be set up.

[203] **Mr Quarrell:** Absolutely.

[204] **Leanne Wood:** Thank you. Can you tell us what assurances you have been given that the Secretary of State will consult with the Welsh Ministers when giving guidance to the MMO that might relate to functions or activities that it will carry out in Welsh territorial waters or the Welsh zone? There is no requirement for the Secretary of State to consult the Welsh Ministers on any direction or guidance that might relate to MMO activities carried out in Wales.

[205] **Jane Davidson:** There are ongoing discussions with the Department for Environment, Food and Rural Affairs about all aspects of implementation. It may be that this needs a Government amendment to ensure that it is included in the Bill, and a number of changes have been made as a result of the pre-legislative scrutiny. In fact, I think that another 200 amendments have been tabled since the Bill has been subject to scrutiny in the House of Lords. We are looking at this. Louise George, who is sat on my left, is the Bill manager, so she is keeping an eye on all these issues. However, for clarity, it may well be that Welsh Assembly Government Ministers would be consulted before any delegation of functions to an organisation that was answerable to Welsh Ministers. It is a matter of closing the loophole. I do not think that it is a problem in any way; it is just a matter of making sure that it is picked up.

[206] **Mick Bates:** Before we move on from the memoranda of understanding, could you tell us what their legal status is?

[207] **Ms George:** I am not sure. Perhaps we can come back to you on that.

[208] **Mr Quarrell:** They are working documents. They are working agreements between departments and organisations. If you were taken to court over them, they may not have a legal status in that context, but the Assembly Government and the public bodies that we work with are used to entering into memoranda of understanding to get work done on an agreed and coherent basis. So, they are very much a tool of government.

[209] **Mick Bates:** What is their practical implication, beyond being something to begin with? You may start with this understanding, but, if there was a disagreement, you could tear them up as they have no legal status.

[210] **Mr Quarrell:** The review mechanism and the life of the memorandum tend to be part of it. You build those things in.

[211] **Mick Bates:** Sorry, what do you build in?

[212] **Mr Quarrell:** You build in the opportunity to review the working arrangements, and how you would deal with any difficulty or dispute that arose between the bodies that were tied together, if you like, by that memorandum. That tends to be a part of the arrangements.

[213] **Mick Bates:** I see. Thank you. Leanne, would you like to raise the point about eligible bodies?

[214] **Leanne Wood:** Yes. Why is the MMO or the Secretary of State not required to consult the Welsh Ministers before the MMO may enter into agreements with eligible bodies to undertake functions in Welsh waters or the Welsh zone? Minister, have you been given any assurances that the Secretary of State will consult the Welsh Ministers?

2.40 p.m.

[215] **Jane Davidson:** That is the same answer, as it were. There will be a number of areas in which we need to make sure that the Bill closes the loophole on certain issues before it

becomes legislation. So, the requirement to consult the Welsh Ministers before any designation was made to a body that was accountable to the Welsh Ministers would be critical and would be welcomed by our colleagues in DEFRA. It is just a technical provision to ensure that the appropriate processes are followed. So, as a generic response, where there are such issues in the Bill, we would want to ensure that those loopholes are closed.

[216] **Mick Bates:** Further to that point, the CCW raised earlier that it is not currently one of the eligible bodies. Should it be named in the Bill as an eligible body? The Secretary of State could add it to that list in clause 16, but does CCW have to be named?

[217] **Mr Quarrell:** To clarify, do you mean as an eligible body that does work for the MMO?

[218] **Mick Bates:** For the MMO, if it were contracted or even for the Government.

[219] **Mr Quarrell:** That would be a slightly odd arrangement in that CCW reports to the Welsh Ministers. It is our agency, in a sense. So, to have it working for another organisation is legally difficult and politically even more difficult, probably.

[220] **Jane Davidson:** It is not in the list because it is accountable to the Welsh Ministers. Remember that we will deliver the functions of the MMO in Wales in all the devolved areas.

[221] **Mick Bates:** That clears that up. The confusion arose in my mind because Natural England is one of the five bodies noted in the Bill. So, clearly there is no need for CCW to be included in that list. Thank you for clarifying that. Leanne, have you finished?

[222] **Leanne Wood:** Yes.

[223] **Mick Bates:** Darren is next.

[224] **Darren Millar:** I must say that these memoranda of understanding sound a little like what my friend, William Graham, would regard to be a gentleman's agreement. [*Laughter.*]

[225] The Bill suggests that the Secretary of State will have to sign off the marine plans and he will, effectively, have the final say on whether a marine plan for Welsh waters is acceptable to the UK Government. However, there is no detail on the process that these plans would have to go through to be established and adopted by the Secretary of State. Perhaps you could give us a bit more information about how that might work in practice.

[226] **Jane Davidson:** The dialogue that we have had with DEFRA would suggest that the Secretary of State is to be involved at all stages of the process. That is critical, because this is not about putting a major plan on a Secretary of State's desk and asking him or her to sign it off, with it then being sent to officials and disappearing into the morass of civil service business; this is about having an agreement across the UK to look at taking a corporate approach to tackling important issues in our seas. So, it is critical that the Secretary of State be involved at all stages of the process. That is part of what gave me the confidence to deliver an outcome that could work across the whole of the UK.

[227] **Darren Millar:** Have timescales been agreed on how long the Secretary of State can take to form his opinion on the final draft that we present him with?

[228] **Jane Davidson:** That is a very good question.

[229] **Mr Quarrell:** Not on the face of the Bill. Putting that in place would form part of the working arrangements.

[230] **Darren Millar:** Would it not be helpful to include a statutory timescale in the Bill?

[231] **Jane Davidson:** Generally, you do not put such timescales on the face of the Bill. However, the MMO will report to Parliament for consideration, just as I will report to the Assembly on the processes for Assembly consideration. It is important to get a public and agreed commitment from the Secretary of State on the maximum time that will be allocated to that.

[232] **Darren Millar:** Okay. Another issue on which we could do with some clarity is the ability of the Secretary of State to withdraw a marine plan for Wales. What assurances have you had that there would have to be some consultation with the Welsh Ministers before that happened, and what would the process be if the Secretary of State decided to withdraw that plan?

[233] **Jane Davidson:** We have to remember that it is not just the Secretary of State who can withdraw; Ministers in other parts of the UK can withdraw as well. The withdrawal from the plan must be a last resort and must be seen as such. It would only be likely to happen if there was a fundamental change in policy by any of the administrations. It will probably be useful for you to know that we have been given assurances that there will be transitional arrangements leading to a withdrawal and so they will be considered. We will have more information on those in due course. However, I think that that will reassure people that a withdrawal cannot just happen overnight, as it were. There will have to be a proper mechanism, not least for disentangling different aspects of the plan, because there will be one plan for the devolved responsibilities of the Assembly Government in Welsh waters and the overarching holistic plan, which will include non-devolved and devolved functions.

[234] **Darren Millar:** A withdrawal overnight could cause horrific confusion.

[235] **Jane Davidson:** We have been given an absolute guarantee that that will not happen.

[236] **Mick Bates:** Do you think that it will be necessary for Ministers to publish the reasons why they would wish to withdraw?

[237] **Jane Davidson:** I think that that will absolutely be the case, and that is the kind of thing that I will be looking at in a transitional arrangement, not least because it may be that some of the issues could then be resolved.

[238] **Mick Bates:** Thank you, Minister. Darren, are you happy with that?

[239] **Darren Millar:** Yes, I think so.

[240] **Mick Bates:** Lorraine, you wanted to ask about consulting with stakeholders.

[241] **Lorraine Barrett:** Yes, this is getting very complicated. Minister, in developing the marine planning statement and the marine plans, a statement of public participation, or SPP, must be developed by the planning authority setting out how people can get involved with the development of the statement and the plans. How do you envisage interested coastal stakeholders being involved in the development of the statements and the plans, particularly local authorities, coastal partnerships, Wales spatial plan groups and the Wales Coastal and Maritime Partnership?

[242] **Jane Davidson:** If I remember rightly, we have to prepare that statement of public participation before the process starts. So, I anticipate that everybody would be consulted in the usual way under that statement of public participation, which would be agreed. It is

critical that we get every single organisation in the public sector, the third sector and the private sector that has an interest in this to have an input through that statement of public participation. I imagine that all the groups that you mentioned would have a great deal more input than just being involved in the consultation, because they will often be involved in elements of its delivery as well.

[243] **Lorraine Barrett:** Would that include all local authorities or only those that have a coastal interest?

[244] **Jane Davidson:** It would be those with a coast.

[245] **Lorraine Barrett:** I am just trying to picture Rhondda Cynon Taf—

[246] **Jane Davidson:** It would involve 18 of the 22 local authorities.

[247] **Mick Bates:** On these statements of public participation, an interesting point was raised by CCW. It would like to see all plans subject to an independent investigation if necessary. In which circumstances would you consider appointing an independent person to investigate proposals in the draft marine plan, and how would you go about appointing such a person?

[248] **Jane Davidson:** The power is in the Bill to do that, and I warmly welcome that. My thinking at the moment is that, if there were objections to the proposals, an independent expert who appointed through the public appointments procedure with an arbitration-type function would be a very good idea. However, if there were not any major objections to a proposal, I would not want to hold up the process. That is my thinking at the moment on that issue. Do you want to add anything, Gerry?

[249] **Mr Quarrell:** Only that I agree entirely with what you said, Minister. There is a parallel in the planning system, namely the examination in public and the appointment of a planning inspector to take that role on. However, that only happens when the issue is contentious, and I think that that is what the Minister is saying about the marine plan. If it turns out that a lot of objections or concerns are expressed during the consultation on the plan, this would be a good way of drawing out the concerns and responding to them.

2.50 p.m.

[250] **Mick Bates:** Almost along the lines of a planning inspectorate holding an inquiry.

[251] **Jane Davidson:** Yes.

[252] **Mick Bates:** You envisage the process looking like that.

[253] **Jane Davidson:** That is not a bad parallel. I fully accept why CCW would like to see that exercised. It is likely that that is exactly the mechanism that we would adopt.

[254] **Darren Millar:** Another issue that came across strongly in the evidence—we touched on this earlier—from all stakeholders is that of cross-border activity and the need for a co-ordinated approach, in the Dee and the Severn in particular. Also touched on was the fact that there is no duty on the face of the Bill for a joint plan or joint arrangements for the management of those areas. Do you think that it would be useful to have that in the Bill? Obviously, it makes sense to work together, and I am sure that, in practice, most people would do that, but there is no duty to do so in the Bill. Is that something that is lacking and which needs to be incorporated in the Bill?

[255] **Jane Davidson:** I think that the answer is the same as the one that I gave previously. In a sense, we all have a major aspiration to work together on this delivery. If there is a fundamental difference in policy between two adjacent nations, it might prove difficult to get an agreed outcome, and potentially you could have nothing operating on that stretch of water. We have, therefore, taken the view across the UK that it is better to have this aspiration for agreement—that is, for all to have agreed the process together. This would be agreed by administrations from different political backgrounds in Scotland, Northern Ireland, Wales and England. We would, however, exercise our own functions with due regard to the fact that a number of estuaries are in two countries.

[256] **Darren Millar:** Given the importance of these estuaries, particularly with regard to wildlife and unique habitats, should there not be a duty for joint working arrangements in those specific areas? Even if it were just narrowed down to those two examples, it would be a huge step forward in making sure that the sustainable management of those areas is taken seriously in the Bill.

[257] **Jane Davidson:** I would answer in exactly the same way. There is no difference between us in what we want to achieve. The only potential legal difficulty is, if one partner organisation does not exercise its responsibility under a duty, do you end up with a hiatus? As it is currently proposed, we would still be able to get on and deliver our planning function on the Welsh side of those waters. This is one area that will undoubtedly be debated as the Bill progresses. We have to ensure that we do not end up with an absence of planning as a result of imposing a duty from which one partner could withdraw.

[258] **Darren Millar:** Equally, is there not the potential for all sorts of problems if there is not a joint approach?

[259] **Jane Davidson:** No-one is arguing that there will not be a joint approach. That is the point. In a sense, the position that we have all reached is that we feel that the Bill gives us the opportunity to have the proper joint approach.

[260] **Darren Millar:** However, it does not place a duty on anybody, you see. Is it not crucial to have a duty written into the Bill to make sure that a joint approach is taken on these important parts of the marine environment?

[261] **Jane Davidson:** We are dealing with the same proposition for the third time, which I shall answer in the same way for the third time: that would only work if, in the case that one partner organisation does not exercise its duty, there were still a mechanism to ensure that appropriate planning happens. That is the concern.

[262] **Mr Quarrell:** I would add that there is not the clear duty that you seek, Mr Millar. However, as the Minister pointed out, there are a number of practical, policy and operational reasons why we would want to plan across the Severn and the Dee. Also, the Bill contains incentives in that area, if not a clear duty. The two main ones are that, before planning commences on a joint water area, a notice of intent to plan has to be given to the neighbouring planning authority, and once that is given, steps must be taken to ensure that plans on both sides of the Severn, for example, are compatible. So, safeguards and incentives are built into the Bill as it currently stands.

[263] **Darren Miller:** That means that there is potential for conflict in those important waters; that is the difficulty. However, I accept the answer that you have given.

[264] **Brynle Williams:** I know that you are not here this afternoon to discuss fisheries, Minister, but this is probably the only issue on which there would be cross-border contention, which, once again, would be to do with local planning or local fishing rules and regulations in

the estuaries. As you said in your statement at the beginning, *cydweithio* or co-operation is essential with planning. The only place where I can see any problems with that would be with fisheries, and, with all due respect, you will not be here when that will be taken up with the Minister in a fortnight.

[265] **Jane Davidson:** If you want to ask questions about fisheries, it is important to ask the relevant Minister. In looking at the Bill as it is now, we have agreed across the UK that, at this point, the Bill provides the best fit for ensuring a UK approach for delivering across national borders, but that it also ensures that devolved policy can be delivered in each devolved area.

[266] **Darren Millar:** I have one question, which relates to your portfolio, on fisheries. One other thing on which we have been asked to seek a duty for Welsh Ministers is to ensure that the fisheries are managed in such a way that the marine conservation zones are furthered and managed sustainably. What discussions have you had with the Minister for Rural Affairs on the imposition of those sorts of duties? Do you support the introduction of those duties?

[267] **Jane Davidson:** You need to address any question that is related to fisheries to my colleague Elin Jones. One provision that we welcome under the Bill is the designation of the marine conservation zones and also the highly protected marine areas.

[268] **Darren Millar:** However, you are not able to comment on whether you support a duty on Welsh Ministers in that area to ensure that the conservation objectives are managed properly, under whatever the fisheries arrangements are.

[269] **Jane Davidson:** The fisheries arrangements would lead to the duty. That is why I am saying that you must ask my colleague Elin Jones.

[270] **Darren Millar:** With respect, that will impinge upon your portfolio, in terms of the delivery of the objectives of the marine conservation zone, will it not?

[271] **Mr Quarrell:** The two departments—the department responsible for fisheries and the Minister’s department, which is responsible for conservation—are working closely together at official level on those matters to ensure that the joining up that is required by the Bill happens on Welsh waters.

[272] **Ms George:** As part of the site-selection process, fisheries colleagues and the fisheries sector will be closely involved in identifying sites and the potential management arrangements for those sites. So, we would expect fisheries provisions to be put in place to secure the sites.

[273] **Mick Bates:** Further to the MCZs, I know that many organisations that have given us evidence want to see a timetable and a deadline for their creation. What thought has the Minister given to announcing a timetable for their creation?

[274] **Jane Davidson:** We are keen to have the network in place by 2012.

[275] **Mick Bates:** So, it will be completed by 2012.

[276] **Jane Davidson:** That is our intention.

[277] **Mick Bates:** That is clear, thank you. Leanne, I know that you want to talk about finance.

[278] **Leanne Wood:** The costs and resources associated with the marine Bill are

considerable. What assessment has been made of the costs of the marine Bill in Wales since the impact assessment that was published in 2007?

3.00 p.m.

[279] **Jane Davidson:** As you said, a regulatory impact assessment went with the Bill to Parliament in the normal way. We are now, in a sense, looking at how we will deliver the obligations in Wales. Taking the resource issue, when I became Minister—your expert adviser would be able to confirm this—I think that there were two people looking after marine policy in the Assembly Government, but we are up to nine people now, within a year and a half. As with any piece of legislation, the Permanent Secretary will have a responsibility to work with Ministers in allocating budgetary and staff support in terms of delivery.

[280] **Leanne Wood:** Are you confident that there will be sufficient resources and expertise to develop and implement marine planning?

[281] **Jane Davidson:** I am confident that, with not only the resources of the Assembly Government but of those other organisations that I mentioned in my introduction, we will be able to deliver very strong support and delivery of marine planning. It is something that we all want to see happening.

[282] **Darren Millar:** May I just check, will any of those resources be coming from the UK Government on the back of this Bill, given that it will be costly to implement?

[283] **Jane Davidson:** I think that we are in ‘wait and see’ mode at present.

[284] **Darren Millar:** I assume that you are arguing for that.

[285] **Jane Davidson:** Yes; of course we are arguing for that. [*Laughter.*]

[286] **Mick Bates:** Equally, Minister, I think that 250 staff currently deal with marine issues and I believe that there is a plan for 40 more members of staff. I know that England has a policy of taking these offices out to other parts of the country. Is there any likelihood that we would get part of this organisation in Wales?

[287] **Jane Davidson:** I am sorry, you will have to elaborate.

[288] **Mick Bates:** I am sorry; I meant the MMO. The creation of the MMO will require 40 extra members of staff. Currently the 250 members of staff who deal with marine issues are based in London. I wonder whether they will be dispersed to other parts of England and Wales, and whether you have looked at bringing any MMO staff to Wales.

[289] **Jane Davidson:** There are two issues to be considered: first, the MMO could choose to designate its functions to the Welsh Assembly Government, or we would be looking to have some staff from the MMO in Wales. We would be very unhappy with the idea of functions being exercised by the MMO in relation to Wales without being in Wales.

[290] **Mick Bates:** Absolutely.

[291] **Jane Davidson:** In many ways, the most effective answer would be if the MMO was prepared to designate functions to the Welsh Assembly Government, as we could look at a cohesive response in Wales. That is an argument that I have already taken to Ministers.

[292] **Mick Bates:** Has finance already been dedicated to establishing whatever structure is required?

[293] **Jane Davidson:** If there is any additional finance we will, obviously, get our Barnett consequential. Therefore, we will be looking very hard at the financial mechanisms used to establish the MMO and the delivery of this Bill in England.

[294] **Mick Bates:** I am sure that that is something that we will return to at another time.

[295] Finally, Brynle has some questions on the appeals system.

[296] **Brynle Williams:** Could you provide us with further information regarding the appeals process that will be developed? Will the same process apply in England and Wales? To whom will people appeal if Welsh Ministers are granting the licence? If appeals are made to Welsh Ministers, how will fairness and impartiality be guaranteed? Finally, will third-party appeals be permitted?

[297] **Jane Davidson:** In terms of licensing appeals—I assume that that is what you are referring to—the appeals system will be set out in regulations, which we will be laying before the Assembly. It will be a matter for the Assembly to decide on the ultimate appeals systems. The details are still being worked out but there will be full consultation on the draft regulations beforehand. Obviously, they will be slightly different to those in England in the sense that they will be operating as appeals within the Welsh system according to regulations agreed by the National Assembly.

[298] **Brynle Williams:** Can you provide further information regarding the tribunal appeals process against monetary penalties, remediation and stop notices? I assume that this would come under the same arrangements.

[299] **Jane Davidson:** We have two options in terms of monetary appeals, but we have not reached a final decision at the moment. One option would be to use what I think are called first-tier tribunals, which operate on an England-and-Wales basis so that the tribunal could hear cases in the same way on both sides of the border. To some extent, it depends on whether or not we are likely to have many monetary appeals, because the second option would be for us to set up our own tribunal, which we could do. As I have said, we have not reached a decision on that yet, but, to some extent, that will be related to how many appeals are likely to be heard and the cost on the Assembly Government in setting up a mechanism in Wales that would only be used rarely.

[300] **Mick Bates:** Do Members have any other points that they wish to raise with the Minister? I see that there are none. In that case, I thank you, Minister, for your written evidence and for the oral evidence this afternoon. A copy of the Record of Proceedings will be sent to you. The only outstanding issue for clarification that I can think of is on the IPC and how national policies become national, and whether or not our marine policy statements could have a similar status.

[301] **Jane Davidson:** It would be useful to have legal clarification on that, because if we are not satisfied with the outcome, clearly it will be another area where we would seek a Government amendment, and I am sure that our colleagues in the Department for Environment, Food and Rural Affairs would do the same.

[302] **Mick Bates:** I thank you and your colleagues for your attendance this afternoon.

[303] The next meeting will be held on 26 February, when we will be taking further evidence on the marine Bill from the sea fisheries committees and the Minister for Rural Affairs, Elin Jones. There will also be a scrutiny session with the Minister on land use as part of our inquiry into carbon reduction in Wales.

[304] There is no further business, therefore I thank you for your attendance this afternoon.

Daeth y cyfarfod i ben am 3.07 p.m.
The meeting ended at 3.07 p.m.