

Petitions Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date:

3 June 2014

Meeting time:

09.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

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Agenda

1 Introduction, apologies and substitutions (9.00)

2 New petitions (9.00 – 9.10)

2.1 P-04-557 Valuation Tribunal Service (Page 1)

3 Updates to previous petitions (9.10 – 11.00)

3.1 P-04-526 Please make Senedd TV accessible to deaf people (Pages 2 – 5)

Economy, Science and Transport

3.2 P-04-319 Newtown traffic petition (Pages 6 – 7)

3.3 P-03-315 New Dyfi River Crossing Petition (Pages 8 – 12)

Housing and Regeneration

- 3.4 P-04-487 A Welsh Government deposit loan scheme for first time Welsh home buyers (Pages 13 – 19)
- 3.5 P-04-536 Stop Factory Dairy Farming in Wales (Pages 20 – 22)

Culture and Sport

- 3.6 P-04-447 Campaign for Statue of Henry VII in Pembroke (Pages 23 – 27)
- 3.7 P-04-539 Save Cardiff Coal Exchange (Pages 28 – 68)

Finance

- 3.8 P-04-436 Government Expenditure and Revenue Wales (Pages 69 – 72)

Education

The following two items will be considered together

- 3.9 P-04-437 Opposing compulsory registration for home educating children (Page 73)
- 3.10 P-04-517 Stop the Welsh Assembly Government from bringing in the monitoring of electively home educated children under the guise (Pages 74 – 76)

Health

- 3.11 P-04-448 Improve Sexual health services for Western Vale (Pages 77 – 78)
- 3.12 P-04-449 Bridgend Princess Of Wales – Save Our Services – Stop the Downgrade! (Pages 79 – 80)
- 3.13 P-04-456 Dementia – This Could Happen to you (Pages 81 – 90)
- 3.14 P-04-502 Wellbeing Centre for Wales (Pages 91 – 96)
- 3.15 P-04-530 Bilingual Labeling (Pages 97 – 98)

Natural Resources and Food

3.16 P-04-500 Call For Regulation of Animal Welfare Establishments in Wales
(Pages 99 - 140)

Agenda Item 2.1

P-04-557 Valuation Tribunal Service

Petition wording:

We, the undersigned, call on the National Assembly for Wales to urge Welsh Government to undertake a full review of the procedures, management and administration of the Valuation Tribunal Service for Wales and to produce an effective, transparent and accountable service for the people of Wales.

Petition raised by: Mr David Grant

Date Petition first considered by Committee: 3 June 2014

Number of signatures: 8 online signatures and a paper petition gathered an additional 5 signatures.

Agenda Item 3.1

P-04-526 Please make Senedd TV accessible to deaf people

Petition wording:

We call upon the National Assembly for Wales to provide subtitling and signed language access to televised debates and proceedings, to enable the 300,000 with hearing loss and deafness in Wales to follow the democratic processes hearing people already enjoy.

Petition raised by: Mervyn James

Date Petition first considered by Committee: 21 January 2014

Number of signatures: 25

William Powell AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Your ref: P-04-526
Our ref: PO743/RB/HP

20 May 2014

Dear William

Petition 04-526 – Please Make Senedd TV Accessible to Deaf People

Thank you for your letter of 30 April which seeks clarification about the work undertaken with S4C to pilot the provision of British Sign Language interpretation of First Minister's Questions, and the future of the service.

As I outlined in my letter to you of 21 February, the service was welcomed by members of the Deaf community who were in contact with Assembly staff but there was some concern about the accuracy of the interpretation due to the pace and complexity of the subject matter of plenary proceedings. The speed of the proceedings and the need for interpreters to qualify large figures or finger spell acronyms to contextualise the discussions for Deaf users meant that sometimes the efficacy of the interpretation could be compromised.

The interpreters themselves were also concerned about the accuracy and quality of their provision due to the speed of proceedings and, as a result, they did not feel comfortable in having their work archived. This meant that there was no lasting record of First Ministers Questions with BSL subtitles. More significantly, because of these concerns, it had proved to be difficult to secure interpreters to continue this service and, regretfully, in conjunction with S4C, we decided to place the pilot on hold.

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh



Llywydd
Presiding Officer

However, we have recently restarted discussions with S4C and the Wales Council for Deaf People on reintroducing the service, discussing how it can be improved based on the findings of the pilot and using interpreters that are comfortable with the requirements of the task. These discussions are at an early stage, and we will of course provide you with updates in due course. Members of the Deaf community will be consulted on the development of the service.

Also, we are working on a new Senedd TV service, which will have enhanced accessibility functions such as the ability to view transcripts of plenary meetings alongside archived videos, and captions identifying who is speaking in Plenary meetings.

As it stands, we feel our subtitled videos of First Minister's Questions, which are usually available within 24 hours, offer an accurate interpretation of proceedings.

I hope this provides the clarification you seek.

A handwritten signature in cursive script, reading "Rosemary".

Dame Rosemary Butler AM
Presiding Officer

**P-04-526 Please make Senedd TV accessible to deaf people -
Correspondence from the Petitioner to the Committee, 28.05.14**

Hi

The recent response sent to me seems directed to someone else ? My petition is **not** about BSL access to the Senned TV, I never asked for that, just captions preferably in English, because the deaf cultural community in wales cannot put up any statistic to show they follow welsh, when they say 'bi-lingual' they mean English-sign language, not, English-welsh. I hope this clarifies the petition which doesn't support signed access to the assembly. I think the assembly is confusing deaf of the cultural variety and persuasion and sign-dependent, with the majority of deaf who do not. There is no viable demand from 3-400,000 welsh with hearing loss, for signed access. There is however an overwhelming need for captioned or subtitled access, especially at the Senedd and particularly, at the Cross-party Committee that is dedicated to our sectors, who so far haven't supported access to own proceedings for some reason, this is not a very democratic approach via the Assembly at all. I Understand 'BBC' output the assembly suggests it has no voice or control over, even if I disagree with that. We also are awaiting the Asembly website response to reviewing how it lists the deaf and other people with hearing loss with more clarity, to drop the sensory loss blanket approach. It is clear the petition committee itself is in some confusion if it is sending me info about BSL charities and deaf culture, in response to a subtitled English petition, that is a via different sector altogether.. I've not asked for BSL or a welsh access form.

M James

Agenda Item 3.2

P-04-319 Newtown Traffic Petition

Petition wording

We call upon the National Assembly for Wales to urge the Welsh Government to:

1. Install a roundabout at the Kerry road junction and, if flow improves, reinstate a permanent roundabout.
2. Issue an early start date for construction of a Newtown Bypass and for works to be fast-tracked through to completion.

Petition raised by: Paul Pavia

Petition first considered by Committee: June 2011

Number of signatures: 10 (an additional petition collected approximately 5,000 signatures)



Eich cyf/Your ref P-04-319
Ein cvf/Our ref EH/04323/13
William Powell AM
Chair
Petitions Committee

committeebusiness@Wales.g
si.gov.uk

14 May 2014

Dear William,

Further to my letter to you of 6 January 2014 regarding traffic in Newtown, I am writing to provide you with an update.

I have provided Powys County Council with funding to complete two minor improvements adjacent to the A483 in Newtown, with the aim of improving the traffic flow prior to the construction of the bypass.

The improvement at the junction between Park Street and New Road has been completed, and the traffic signals at the Pool Road/Kerry Road junction have been upgraded to introduce a left turn filter exiting Cambrian Way. However, the works to extend the length of the left turn lane on the approach to the junction have been delayed until Powys County Council have completed the purchase of the land necessary to permit the works to be undertaken.

A handwritten signature in black ink, appearing to read 'Edwina Hart'.

Agenda Item 3.3

P-03-315 New Dyfi River Crossing

Petition wording

We, the undersigned, are in favour of and support, any proposition to create a new crossing of the Dyfi River (or the re-routing of the A487) linking South Meirionnydd with Powys, Dyfed and Ceredigion, to accommodate and suite the demands of modern day traffic and urge prioritisation of funding and action. We call on the National Assembly for Wales to urge the Welsh Government to create this crossing as a matter of priority.

Petition raised by: South Meirionnydd Older People's Forum

Petition first considered by Committee: February 2011

Number of signatures: 3204



Eich cyf/Your ref P-03-315
Ein cyf/Our ref EH/04319/13

William Powell AM
Chair
Petitions Committee

committeebusiness@wales.gsi.gov.uk

31 March 2014

Dear William

In my letter of 6 January I committed to provide the Petitions Committee with quarterly progress updates regarding improvements at Dyfi Bridge.

Please find enclosed an updated Appendix 1 showing progress on the improvement actions.

I will write again with a further update at the end of June.

A handwritten signature in black ink, appearing to read 'Edwina Hart', written in a cursive style.

Appendix 1: Dyfi Bridge Actions

Short Term			
	Activity	Progress Report	Date Complete
1	Inspect drainage on the A487 in and around Machynlleth.	Inspection completed and trunk road drainage was found to be relatively clean and fully operative	December 2013
2	Availability of CCTV:	A fault causing the lack of cameras has been identified. Cameras now operational	January 2014
3	The short term study will consider the anecdotal evidence that the River Dyfi used to be dredged and this might be an option for the future	Investigations have found references to the dredging of small estuarine channels downstream of Dyfi bridge. Further investigations will continue.	July 2014
4	Steel barriers at Dyfi Bridge	Historically during closures some road users have chosen to remove signing/coning and to cross the bridge at their own risk. Welsh Government provided a physical closure system to protect road users and workforce.	December 2013
5	Strategic diversions and the use of Variable Message Sign (VMS) at Cross Foxes.	Planning to install VMS in 2014/15.	Winter 2014
6	Network Rail Bridge condition.	The bridge is owned and maintained by Network Rail. Officials confirm that they are unaware of any concerns pertaining to the trunk road.	January 2014
7	Remove from the current scope the investigation into benefits of raising the existing road between the Eco Park	This short term measure does not address the issue of the bridge. See longer term options below.	December 2013

	and Dyfi Bridge.		
8	Temporary pump/storage drainage system for the low spot beneath the rail bridge.	Work has been undertaken to assess the drainage in the area of the rail bridge and the outfalls. The results of those works will inform future pump / storage solution.	Existing works complete. Complete options report by end of May 2014
Longer term			
9	New bridge option	Following a recent site visit and a review of previous options, funding will be provided to progress work to develop options for a new crossing upstream of the existing bridge. This will not include a bypass of Machynlleth.	Upstream option to be investigated.
10	Observations during flooding events.	My officials will contact the Town Council to discuss their concerns and observations during flooding events	

P-03-315 New Dyfi River crossing – Correspondence from the petitioner to the Committee, 27.05.14

South Meirionnydd Older People's Forum DYFI BRIDGE PETITION

On behalf of our community, I would like you to take into consideration the difficulty that would arise, if the alleged planned route was adopted.

We, who live in South Meirionnydd are dependent on health care provided by Bronglais Hospital in Aberystwyth and with the closure of the existing bridge, when flooded and damaged by large vehicles, we are forced to travel a further 12 mile trip via a small narrow road, which has very few passing places and is also subject to flooding.

I understand that it is hoped to build the new bridge near to the new foot bridge which is acceptable but surely not to come out onto the Newtown road, sending the traffic back into Machynlleth causing one almighty bottleneck as the traffic hit's the original route at the town clock, especially on market days. Long lorries would face the difficulty as before, as they endeavour to turn left to Aberystwyth.

With respect to the Machynlleth Community, they rarely experience difficulty travelling to Bronglais hospital for emergency care, so we in South Meirionnydd feel once again forgotten and not taken into consideration . Our lives are at risk.

Unless further plans to bypass the town on an easterly route, rejoining the A487 south of the Plas/Leisure Centre, providing the fastest road to Bronglais Hospital, we in South Meirionnydded will always feel as we are being treated as second class citizens.

Nevertheless we are delighted that the funding has been allocated and thank the Minister, Edwina Hart, for her positive input, bringing about this much needed road improvement for both lives and livelihoods.

Gwen Stevens
Chairman

P-04-487 A Welsh Government deposit loan scheme for first time Welsh home buyers

Petition wording:

We call on the Welsh Assembly to urge the Welsh Government to offer an annual deposit loan scheme for first time Welsh house buyers and/or renters.

It is proposed that Welsh mortgage companies would also need to take part in this scheme and agree to ask for no more than 5% of a deposit on any suitable property (as well as offer a low interest own what you pay for mortgage). This for example would all mean that up to 15,000 Welsh first time house buyers (first time buyers whose earnings are below a certain threshold and have lived or worked in Wales continuously for at least 10 years, or have full time business links to Wales) could be helped annually with a deposit loan of around £7,500 each for an averaged priced house, with the loan back payments deferred for at least one year. Once sellers and buyers agree to the scheme, the property in question would keep its eligible occupancy clause, as happens with similar schemes in the Peak District and North York Moors National parks.

Supporting information:

Although the Welsh Government can't interfere with private properties, owners including second homeowners could be encouraged to consider selling through the scheme if they decide to sell their property. First time renovators of derelict properties/farmhouses should also be eligible for the scheme. It's proposed that Welsh estate agents and the house sellers would be paid a monthly fee (paid for by the interest on the deposit loans) for taking part in the voluntary scheme by agreeing to only advertise, sell or rent within Wales and to eligible Welsh citizens for the first 6 months of a property being put on the market – after which time it would be open to anyone.

This scheme would help to give families and individuals a chance to live and work within their own areas and not be priced out of the market by

unreasonable average wage to property price ratios, whilst also ensuring more money stays within local economies, boosting a more sustainable and productive Welsh economy in general.

Petition raised by: Sovereign Wales

Date petition first considered by Committee: 18 June 2013

Number of signatures: 17

Carl Sargeant AC / AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref P-04-487
Ein cyf/Our ref CS/00522/14

William Powell AM
Chair Petitions committee

committeebusiness@Wales.gsi.gov.uk

21 April 2014

Dear William

Thank you for your letter of March regarding A Welsh Government deposit loan scheme for first time Welsh home buyers.

I passed your petitioner's policy suggestion to my officials to look at in more detail, and they have raised a couple of issues that could make the initiative difficult to implement.

Under your petitioner's proposal the Welsh Government would be providing loans to households to replace traditional deposits. The risk is that buyers under the scheme would not have any of their own monies invested in the property and, therefore, be at far greater risk of default and repossession with the Welsh Government being exposed to any losses.

In addition, the scheme requires lender participation. This would likely prove difficult to achieve as lenders would also be exposed to the increased default and repossession risk mentioned above. This was one of the factors we encountered when designing the Help to Buy – Wales scheme, and why we elected to have a 5% deposit stipulation.

As such, in its current format, I think this proposal would be difficult to pursue. However, if your petitioner has further suggestions on how to mitigate for these risks I'd be happy to consider them.

Carl Sargeant AC / AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence: Carl.Sargeant@wales.gsi.gov.uk

P-04-487 A Welsh Government deposit loan scheme for first time Welsh home buyers – Correspondence from the Petitioner to the Committee, 25.05.14.

Annwyl Mr Sargeant,

Thank you for your latest response to the Sovereign Wales petition asking for a deposit scheme for first time Welsh home buyers. With approximately 15,000 new home buyers in Wales annually according to a 2005 report, it is thought that around half of those would be likely to take advantage of the proposed deposit offer. This would mean that, annually as an example, 7,500 lower earners could receive a 5% deposit of £7,500 for a new home at an average home price of £150,000, amounting to a total annual loan fund figure of £56 million a year. In essence this would be a 'Finance Wales for houses' fund. However, interest rates could obviously be less business orientated than Finance Wales, with a small admin fee for the first couple of years before the gradual repayment process started with a proposed minimal interest that is just over the base rate.

This annual capped fund by the Welsh Government could therefore be of enormous help to first time home buyers in Wales whose earnings are below a certain threshold, as long as they were properly means tested of course, and also fell within the local residency test or worked / had a business within the area. Even a less ambitious fund of half this figure again at £28 million a year would provide a deposit for an impressive 3,750 lower income new home buyers a year. I can see no reason why renters needing deposits couldn't also be eligible for this scheme provided they are means and eligibility tested in the same way.

The fund would therefore target those who need it the most; people who are working but need that first leg up the housing ladder. It would also help these citizens to not be priced out of their localities by disproportionate house prices and deposit demands. I believe such a scheme is especially necessary in many parts of Wales as the cost of a basic home and deposit is often above the means of many working people. House prices have rocketed whilst average wages in Wales remain relatively low. As mentioned, provided that the home buyers in question were properly means tested and the mortgage lenders agree to take part and accept the 5% deposit as has happened elsewhere, there is no reason why the scheme would

not be a success. There is also the possibility that the Welsh Government could deal directly with the mortgage lenders when administering the loan.

Mr Sargeant mentions the risks of defaulting and repossession, and the Welsh Government being exposed to losses. However the Help to Buy Scheme that the Welsh Government is offering also has equivalent if not more risks involved and fails to address one of the main problems facing new home buyers on lower incomes – being able to afford the initial deposit for a home. Mr Sargeant also mentions the risks of defaulting involved when buyers have none of their own monies invested in a property. This may or may not be the case but could be overcome by offering that the first time home buyer puts in between 1% – 1.5% towards the deposit – a far more achievable and realistic sum for low earners for homes up to the value of £150,000 in my view. Any percentage sum considerably higher than this would defeat the object of the fund although it would also mean that the proposed Welsh Government fund could be reduced.

The Welsh Government (through Help to Buy (Wales) Ltd) is offering a shared equity loan of up to 20% of the purchase price of a new home which will mean offering on average a £40,000 per home shared equity loan using tax payers money (on a £200,000 home) – £32,500 more risk by the Welsh Government per home buyer than what the Sovereign Wales deposit petition proposes. There is a potential for an even riskier £60,000 shared equity loan if a maximum full £300,000 loan is given under the Help to Buy Scheme.

The dangers of the Help to Buy Schemes have been outlined at great lengths in the British press and elsewhere. One area of concern is that the potential of falling house prices and another housing bubble could mean Welsh citizens taking part in the Help to Buy Scheme could make a considerable loss on their homes. Another concern is that these schemes are essentially large scale guarantees using tax payers money. Many are also worried about the uncomfortable relationship between government and house builders who have less incentive to be competitive if effectively subsidised by government.

I'm sure there are areas of this deposit fund proposition that could be bettered and improved and I also can't see a reason why in theory both these schemes couldn't work alongside and complement each other. But I believe that the deposit fund

could answer a more immediate and bigger need in Wales, especially at this point in time. I'll try to sum up what I believe are the main advantages of the proposed First Time Home Buyer Deposit Scheme as opposed to a Help to Buy Scheme below:

Proposed Deposit Fund for first time buyers advantages

A deposit fund for first time home buyers will help people on to the housing ladder and to overcome the main first hurdle of finding a deposit.

This deposit fund would only be on offer to first time buyers in Wales rather than first time buyers **and** movers as offered by the Help to Buy Scheme, therefore specifically helping those facing the initial biggest hurdle in buying a first home in Wales

The proposed deposit scheme would cover homes valued up to around £150,000 which is a more realistic price for those starting out on the property ladder in Wales at this point (as opposed to the Help to Buy Scheme which is for new-build homes worth up to £300,000 which, along with the necessary deposit, is out of reach for most buyers in Wales)

The Welsh Government would not only be offering a deposit loan fund, they would also be investing in the future of sustainable local communities and economies by helping local first time buyers stay living and working in those communities.

The deposit fund could apply to both existing homes and new development homes.

Help to Buy Scheme disadvantages

There are obvious dangers if a house slump occurs and the value of the house drops. Help to Buy is also stacked in favour of the better off who can afford a bigger deposit as there is a stipulation that a 5% deposit has to come from the buyer first.

The Help to Buy Scheme is only valid for new build developments and only with house builders registered with the scheme. Existing homes and buildings are not covered. This also raises concerns about over familiarity and cosiness between the Government and the registered house builders which could lead to a lack of

competitiveness in this area and a generally unhealthy situation.

If dealing with the total £170 million available in the pot up to the year 2016 as set out by the Welsh Government, this Help to Buy scheme would only help a total of approximately 4250 buyers in Wales if using an average £40,000 shared equity loan per buyer. In contrast, an equivalent 15,000 first time home buyers in Wales could be helped in the same period via this proposed deposit fund. If the scheme carried on indefinitely, at least 7500 buyers could be helped annually in Wales.

The Wales Help to Buy Scheme is available to those wishing to purchase new-build homes worth up to £300,000 which, along with the necessary deposit, is out of reach for most buyers in Wales.

As mentioned, the Welsh Government (through Help to Buy (Wales) Ltd) is offering a shared equity loan of up to 20% of the purchase price of a new home which will mean offering on average a £40,000 per home shared equity loan using tax payers money – £32,500 more risk by the Welsh Government per home buyer than what the Sovereign Wales deposit petition proposes. The dangers of the Help to Buy Schemes have been outlined at great lengths in the British press and elsewhere. One area of concern is that the potential of falling house prices and another housing bubble could mean Welsh citizens taking part in the Help to Buy Scheme could make a considerable loss on their homes. Another concern is that these schemes are essentially large scale guarantees using tax payers money. Many are also worried about the uncomfortable relationship between government and house builders who have less incentive to be competitive if effectively subsidised by government.

I appreciate everyone's time and diligence in considering these proposals once again and hope that the proposals and suggestions are found to be constructive and of interest in general,

Sincerely,

G.Meredith"

Agenda Item 3.5

P-04-536 Stop Factory Dairy Farming in Wales

Petition wording:

We call upon the National Assembly for Wales to urge the Welsh Government to update Planning Policy Wales and other relevant planning documents such as Technical Advice Note 6: Planning for Sustainable Rural Communities, to ensure that large scale indoor factory dairy farms are not created in the pursuit of short-term economic gain and to the possible detriment of many small-scale run farms. The recent approval of the farm in Welshpool, Powys cited paragraph 7.2.2 of Planning Policy Wales specifically in saying that it "...recognise(d) that there will be occasions when the economic benefits will outweigh social and environmental considerations." and we believe this must be urgently reviewed since the possible creation of a small number of new jobs should not outweigh the long term economic benefits afforded by the plentiful, efficient and sustainable asset of grazing which many Welsh dairy farmers fully recognise.

Large scale indoor factory dairy farms are designed to keep cows indoors rather than out on pasture, and have been shown to increase environmental damage, impoverish local communities, can severely compromise good animal welfare and become a financial drain on their surroundings. We believe that following the Welsh Government's decision to approve the farm in Welshpool, a review of planning legislation is of critical importance to ensure Wales fulfils its aspiration to become a truly sustainable country.

Petition raised by: World Society for the Protection of Animals

Date Petition first considered by Committee: 18 February 2014

Number of signatures: 9246

Carl Sargeant AC / AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref P-04-536
Ein cyf/Our ref CS/00518/14

William Powell AM
Chair Petitions committee
Ty Hywel
Cardiff Bay
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April 2014

Dear William Powell AM

Thank you for your letter of 7 April concerning the petition submitted by the World Society for the Protection of Animals (WSPA) about large scale dairy farming in Wales.

My decision to allow the planning appeal against refusal of planning permission for the expansion of Lower Leighton Farm is presently the subject of a High Court challenge. As a consequence it is not appropriate for me, other Welsh Ministers, or Welsh Government officials to discuss the case or any issues arising from it.

The Welsh Government is seeking to stimulate the investment and innovation needed to create the conditions to support long-term economic growth in rural Wales. It will use the next Rural Development Programme (RDP) to increase sustainability, resilience and diversity, and manage our natural resources efficiently in order to create a more prosperous future for Wales. It will also seek to put in place conditions to allow farm businesses to grow, become more efficient and economically viable with less public financial support. The Welsh Government does not have a policy on the scale of a farming enterprise and will continue to support farms of all sizes.

In terms of animal welfare, the UK continues to achieve and put in place the highest animal welfare provisions, and is among the highest in achieving standards in a very competitive and retail driven market. The UK's Governments have been at the forefront of implementing higher standards domestically but are active both on a European and international level in trying to improve standards.

In Wales and the UK, the Animal Welfare Act 2006 protects the welfare of animals on-farm and makes it an offence to cause suffering to any animal. The Act also contains a "duty of care to animals" - this means that anyone responsible for an animal must take reasonable steps to ensure the animal's welfare needs are met. A person must look after an animal's welfare as well as ensure that it does not suffer. In addition, the Welfare of Farmed Animals (Wales) Regulations 2007 specify in detail the welfare conditions under which livestock and animals used in producing food, must be kept.

The health and welfare requirements of farmed animals are no different in a herd or flock of 10 animals to that of 1000 animals. The infrastructure, husbandry and management practices will vary and differ in scale, but the need to provide the same minimum level of care remains - the legal minimum health and welfare requirements apply to both.

In terms of national planning guidance, Planning Policy Wales (PPW) and Technical Advice Note (TAN) 6 Planning for Sustainable Rural Communities provide planning guidance about rural and agricultural development; neither makes specific reference to dairy farming. However, it is considered that existing planning policy and advice provides sufficient flexibility to allow the issues raised by dairy farms (or other types of farm), both large and small, to be properly assessed and determined on their planning merits.

PPW states that planning policies, decisions and proposals should support initiative and innovation, and avoid placing unnecessary burdens on enterprises so as to enhance economic success of both urban and rural areas, helping businesses to maximise their competitiveness.

Local planning authorities are required to ensure that the economic benefits associated with a proposed development are understood, and that these are given equal consideration with social and environmental issues. PPW indicates that planning policies for economic development must provide developers and others with scope to make choices to secure the efficient and effective use of resources and land. The expansion of existing businesses located in the open countryside should be supported provided there are no unacceptable impacts on local amenity.

Technical Advice Note 6 states that strong rural economies are essential to support sustainable and vibrant rural economies. A strong rural economy can help to promote social inclusion and provide the financial resources necessary to support local services and maintain attractive and diverse natural environments and landscapes.

Planning Policy Wales Chapter 7 Economic Development was revised in November 2012, and TAN 6 was revised in July 2010. I do not feel it is necessary to review or make changes to PPW or TAN 6 at this point in time, and have not been provided with specific evidence to suggest otherwise.



Carl Sargeant AC / AM

Y Gweinidog Tai ac Adfywio

Minister for Housing and Regeneration

Agenda Item 3.6

P-04-447 : Campaign for Statue of Henry VII in Pembroke

Petition wording:

We call on the National Assembly for Wales to urge the Welsh Government to fund a statue of Henry VII in Pembroke, town of his birth and birthplace of the Tudor Dynasty. There is no statue or memorial in the town of this man. A statue could improve the economy of the town as a Tudor must-visit place.

Petition raised by: Nathen Amin

Date petition first considered by Committee: 15 January 2013

Number of signatures: 144

Document is Restricted

Agenda Item 3.7

P-04-539 Save Cardiff Coal Exchange

Petition wording:

This petition seeks a commitment from the Welsh Government to set up a public enquiry into the events surrounding the Coal Exchange and to support public opinion which seeks to protect and conserve the building.

The Coal Exchange is one of Cardiff's most important buildings and one of the finest buildings in Wales. It's where the world's first million pound deal was struck during the city's industrial heyday (equivalent to over £100m today). Yet far from cherishing this building, Cardiff council proposes to demolish the main body of the building, keeping only the facades.

If this happens, then the magnificent interior with its immense historical significance will be lost forever. This grade 2* listed building deserves better, and the views of the public need to be heard.

The Council have been claiming for the past year that it is on the point of collapse. No works have been done, yet there is no apparent evidence that the building is about to collapse. It is questioned if Cardiff Council were able to use section 78 powers under the building act to progress their plans, and this needs to be investigated openly.

So much of Cardiff Bay's social and built heritage has already been destroyed; it seems inconceivable that more can be cast aside with cynical abandon.

It's unclear why the council refuses to see the value of restoring the Coal Exchange to protect this iconic building for the use and enjoyment of future generations.

The issues are of the highest level of public interest, and it is considered essential that an open public consultation occurs to review matters.

Petition raised by: Jon Avent

Date Petition first considered by Committee: 11 March 2014

Number of signatures: TBC

**SWYDDFA'R ARWEINYDD
LEADER'S OFFICE**



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Cardiff,
CF10 4UW
Tel: (029) 2087 2000

Neuadd y Sir
Caerdydd,
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Fy Nghyf / My Ref: CM27433

Eich Cyf / Your Ref: P-04-539

Dyddiad / Date: 7th May 2014

William Powell AM
National Assembly For Wales
Cardiff Bay
Cardiff
CF99 1NA

Annwyl / Dear

Thank you for your letter dated 25th March 2014 regarding the petition received from Jon Avent.

It is important to first of all outline that the City of Cardiff Council does not own the Coal Exchange building. However, given the importance of the building, the decades of underinvestment, and the absence of any other party willing to undertake any meaningful actions to secure the future of the building, the Council has sought to work with partners and stakeholders to halt the years of neglect that has left the building in its current state.

The Council's actions relating to the use of Section 78 powers were undertaken in the interests of public safety and in the absence of any other body able to take responsibility for securing the safety and future of the building. The Cabinet Report 'Saving the Coal Exchange' of 29th January 2014 sets out the reasons for the use of Section 78 powers. The City of Cardiff Council remains committed to securing a sustainable future for the building, and will continue to work with all relevant stakeholders to deliver this outcome.

Previously the building was granted planning permission for a scheme that involved partial demolition of the building to enable a mixed use development, a decision that was referred to the National Assembly for Wales. Subsequently, a report by the Planning Inspectorate for Wales recommended that listed building consent be granted, subject to conditions outlined within the Inspector's report. Following this, the then Minister for Environment Sustainability and Housing accepted the recommendations, and granted listed building consent for the partial demolition and restoration of the [Coal Exchange] building to accommodate a mixed use

ATEBWCH I / PLEASE REPLY TO:

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Leader's Office, Room 525, County Hall, Cardiff CF10 4UW
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development, subject to the conditions outlined. I have attached a copy of the correspondence that details the conditions and background to the case.

Following the outcome of the National Assembly for Wales' findings, and the granting of planning permission, it is my understanding that the property market crash in 2009 meant that the proposed scheme was no longer considered viable by the developer. As a result no further major investment in the building took place. However, given the building is clearly of significant interest to Cardiff and Wales, and the concerns (such as those raised in the Inspector's report) relating to prolonged lack of investment in the Coal Exchange Building, the City of Cardiff Council has been active in seeking to develop a sustainable use for the building working within the parameters set out within the Inspector's report that will maximise the amount of the building that can be retained. This work included the development of a vision document for the Coal Exchange titled 'Time for Change'.

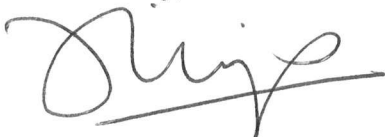
I am aware that some public opposition has been raised in relation to concepts that have been released to the public, which I understand relates to exercises that have been undertaken to explore viable options for the future of the Coal Exchange. The City of Cardiff Council anticipates that the cost of refurbishing to the building in line with the Inspectors Report will be in excess of £30m, and therefore a range of services have been explored to determine the extent of development required to realise the necessary development value. Rest assured however, that it is not the intention of the City of Cardiff Council to participate in a scheme that does not respect the building's heritage, and we would expect any scheme to adhere to the conditions set out in the previous Inspector's report. It is worth noting that the planning permission for the building has lapsed, and therefore new planning permission would be required for any new development.

It is important that we find a sustainable future for the building, and it is clear that a lack of action cannot persist if the building is to be saved. In particular, the City of Cardiff Council Cabinet Report 'Saving the Coal Exchange' of 29th January 2014 outlined the key issues that need to be addressed, namely:

- Whilst the short-term safety concerns have been addressed, concerns relating to the structure of the Coal Exchange building remain, and the building remains at significant risk without enabling assistance.
- As a result of the current state of the Coal Exchange building, the local community and economy derive little benefit from the building.

I will be more than happy to ask officers to arrange for a visit to the Coal Exchange building for the Petitioners, and I will ask officers to contact your Committee Clerk directly to arrange. I have also attached a copy of a letter on behalf of the Minister for Environment Sustainability and Housing outlining the response to the Inspector's Report, as well as the Cabinet Report of January 2014. Please contact me if you require any further detail.

Yn gywir,
Yours sincerely,

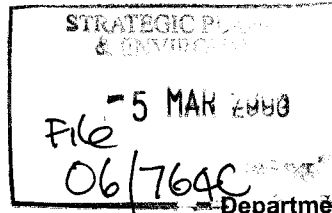


**CYNGHORYDD / COUNCILLOR PHIL BALE
ARWEINYDD, CYNGOR DINAS CAERDYDD
LEADER OF THE CITY OF CARDIFF COUNCIL**



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Mr D Kerfoot
Messrs Eversheds
1, Callaghan Square
Cardiff
CF10 5BT



Adran yr Amgylchedd, Cynaliadwyedd a Thai
Department for Environment, Sustainability and Housing

Eich cyf . Your ref: KERFOOD/156027-000002
Ein cyf . Our ref: A-PP171-98-018
Dyddiad . Date: 4 March 2008

Dear Mr Kerfoot

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 –
SECTIONS 12 AND 16
APPLICATION FOR LISTED BUILDING CONSENT MADE BY MACOB
EXCHANGE LIMITED FOR PROPOSED PARTIAL DEMOLITION AND MIXED USE
DEVELOPMENT COMPRISING RESIDENTIAL, COMMERCIAL OFFICE, RETAIL
AND CAFÉ/RESTAURANT SPACE, AND RESTORATION WORKS, INCLUDING
THE RETENTION OF THE EXCHANGE HALL FOR PUBLIC ACCESS AT THE
COAL EXCHANGE, MOUNT STUART SQUARE, BUTETOWN, CARDIFF**

1. Consideration has been given to the report of the Inspector, Clive Cochrane DipArch RegArch MSc MRTPI, who reported on your client's application for listed building consent for the above proposal. The application was heard at a public local inquiry.

2. On 9 November 2006 the National Assembly for Wales directed, under Section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) that the application be referred to it rather than be determined by the local planning authority. Under the transitional provisions of the Government of Wales Act 2006 the power to determine applications called in under Section 12 of the 1990 Act has been transferred to the Welsh Ministers and this function has been allocated to the Minister for Environment, Sustainability and Housing (the Minister).

Parc Cathays
Caerdydd
CF10 3NQ

Cathays Park
Cardiff
CF10 3NQ



BUDDSODDWR MEWN POBL
INVESTOR IN PEOPLE

3. The Inspector's conclusions are set out at paragraphs 106 - 143 of his report, a copy of which is enclosed, and are reproduced as Annex A to this letter. The Inspector recommended that listed building consent be granted, subject to the conditions indicated at Annex A to his report.

4. The Inspector's overall conclusions on the application were as follows:

"The proposed works for the conversion of this listed building to a mixed use scheme are extensive and go well beyond the minimal intervention advocated in Circular 61/96. However, it is clear to me in this case that there are inherent problems with this large building which demand a fairly radical approach to its conversion. The poor structural condition of much of the building, its rigid cellular layout of offices and the manner in which the interior has been badly compromised by later alterations, lead me to the conclusion that its internal reconstruction to form residential apartments around a larger courtyard would not destroy any notable architectural or historic features.

The original layout of the building has largely been lost, due to recent alteration of the circulation areas, corridors and partitions, so that the planned layout and interconnectivity that existed between the trading floor and galleries of the Exchange Hall and the ranks of offices etc has long gone. The significant interest of the building is in my view limited to the ground floor public rooms; the foyer, Hall and ante-rooms, and the main façades of the architectural envelope of the building, including the roof features.

The effect of the proposed demolition and reconstruction of the interior, west wing and roof has to be weighed against the significant benefits of the proposed conversion, and a balanced view must be taken of the scheme as a whole. The special architectural and historic elements, particularly the Exchange Hall, the ante-rooms and the southern entrance and foyer would all be restored in a way that would recapture the grandeur of its original form and the building would once again be open to public use. The cleaning, repairing and restoring of the north, east and south elevations, and the creation of a new public urban piazza would improve the setting of the building and vitality of the Mount Stuart Square Conservation Area. Both the building and the conservation area would remain alive and prosperous, and the historic building would be preserved as an important resource for future generations."

5. The Minister agrees those conclusions and the reasoning employed by the Inspector in reaching them. Consequently she accepts his recommendation that the listed building consent be granted. She also agrees that the consent should be subject to the conditions indicated by the Inspector.

6. For the reasons given above the Minister for Environment, Sustainability and Housing hereby grants listed building consent for the partial demolition and restoration of the building to accommodate a mixed use development at the Coal Exchange, Mount Stuart Square, Butetown, Cardiff, in accordance with the terms of application reference 06/764/C, dated 31 March 2006, subject to the conditions set out in Annex B to this letter.

7. This letter, a copy of which has been sent to the Chief Officer of Strategic Planning and Environment, Cardiff County Council, does not convey any approval or consent which may be required under any enactment, bye law, order or regulation

other than section 7 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Yours faithfully

T. M. Davies

Teresa Davies
Decisions Branch
Planning Division

Signed under authority of the Minister for
Environment, Sustainability and Housing,
one of the Welsh Ministers

Encs: Leaflets 'HC(LBCA)' and 'H'



Adroddiad

Ymchwiliad a gynhaliwyd ar 04-06 September 2007
Ymweliad â safle a wnaed ar 06/09/07

Report

Inquiry held on 04-06 September 2007
Site visit made on 06/09/07

gan/by **Clive I Cochrane** Dip Arch Reg Arch MSc MRTPI

Arolygydd benodwyd y Gweinidog dros yr **an Inspector appointed by the Minister for
Amgylchedd, Gynaliadwyedd a Thai, un o Environment, Sustainability and
Weinidogion Cymru Housing, one of the Welsh Ministers**

Dyddiad/Date 25/10/07

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990:

SECTION 12 CALL-IN

Cardiff County Council

Application for Listed Building Consent

by

Macob Exchange Ltd

Cyf ffeil/File ref: APP/Z6815/X/06/514904

File Ref: APP/Z6815/X/06/514904

Site address: The Coal Exchange, Mount Stuart Square, Butetown, Cardiff CF10 5EB

- The application was called in for decision by **the Minister for Environment, Planning and Countryside, one of the Welsh Ministers**, by a direction, made under section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990, on 09/11/06.
- The application is made by Macob Exchange Ltd to Cardiff County Council.
- The application Ref: 06/764/C is dated 31/03/06.
- The development proposed is partial demolition and mixed use development, comprising residential, commercial office, retail and café/restaurant space and restoration works, retaining the Exchange Hall for public access.
- The reason given for making the direction was that the proposals raise issues of exceptional significance or controversy, which may be in conflict with national planning policy.
- On the information available at the time of making the direction the following matters were considered relevant to the Minister's consideration of the application: -
 - i. The statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
 - ii. Relevant national and development plan policies, including Welsh Office Circular 61/96 "Planning and the Historic Environment: Historic Buildings and Conservation Areas".
 - iii. Regard to the desirability of enhancing or preserving the character or appearance of the Mount Stuart Square Conservation Area.

Summary of Recommendation: That listed building consent be granted subject to conditions.

Procedural Matters

1. The Coal Exchange is listed as being of special architectural or historic interest Grade II*, and it is situated in the centre of the Mount Stuart Square Conservation Area, designated in July 1980. In determining this application sections 16(2) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special regard should be paid to the desirability of preserving the listed building, its setting and any features of special architectural interest that it possesses, and of preserving or enhancing the character or appearance of the conservation area.
2. The inquiry only considered the application for listed building consent. The Council resolved to grant planning permission for the proposed development (Ref: 06/0760C) in July 2006, with planning permission being granted in March 2007 following the completion of a section 106 planning agreement. The Council also resolved to grant listed building consent for the proposed works in July 2006, subject to there being no objections from Cadw.
3. This report contains a description of the listed building and surrounding area, a description of the proposed works, the cases for each party, and my conclusions and recommendations. Lists of those attending the inquiry and documents presented at the inquiry are appended. The Welsh Assembly Government call-in letter identified 3 areas for consideration in determining this application and I have dealt with the evidence from the parties on each of these matters, before reaching conclusions and making recommendations at the end of the report.

Site and Surroundings

4. The application site of the Coal Exchange building and its forecourt to the south covers an area of some 0.4ha and forms the centrepiece of Mount Stuart Square. It is located approximately 1.5km south of the city centre, linked to the centre by the railway to the old Bute Road Station, Bute Street and the recently constructed Lloyd George Avenue.
5. The site lies within the Butetown area, and forms part of its older 19th century development on the west side, comprising historic port-related businesses around Mount Stuart Square, with some original housing and workshops. Nearby lies the Inner Harbour to the south-east with remnants of docklands along the waters edge which are now converted to leisure uses with the new development of Mermaid Quay. This area has been recently transformed by the creation of the Cardiff Bay Barrage with new road links to the M4 and the Peripheral Distributor Road. Cardiff Bay has become a major civic area, home to the Welsh Assembly Offices and Senedd, the Wales Millennium Centre, Mermaid Quay restaurant quarter, Atlantic Wharf Leisure Village, hotels and other visitor attractions.
6. The Coal Exchange building forms a single mass that fills the centre of Mount Stuart Square. Its footprint is not square and the main elevations are not straight. The west elevation has a slight convex curve and the south elevation is built in a U-shape enclosing the original grand main entrance to the Exchange floor. There are additional entrances to the Exchange Hall from the north and east elevations.
7. The building is largely three storeys with attic accommodation, apart from the north elevation which has 4 full-height storeys and the west wing in part has only 2 storeys with dormer windows. It is built in an ornate French Renaissance style of Bath stone on the north, east and south elevations on a Pennant stone plinth. The later west elevation is built in yellow/buff brickwork with Bath stone dressings and corner sections. The ground floor level of the south front is dominated by a 1970s concrete semi-basement car park development. The ornate style of the original building has a complicated series of pitched, pyramidal and turreted slate roofs.
8. When fully in use, the Coal Exchange building provided some 9,755 sq m (105,000 sq ft) of offices, mainly in small rooms of about 20 sq m along corridors. These were occupied by importers, brokers, ship owners, agents and professionals associated with the coal and shipping trades. At the centre of the building, the floor of the Coal Exchange Hall and ante-rooms provided a stock exchange for the shipping trade of South Wales, of immense importance in the national economic and industrial history for over 20 years. These rooms are used today for occasional TV recordings, media events and concerts. The ground floor of the north-east corner of the building has been occupied by Barclays Bank since the building opened. There is a caretaker's flat on the top floor.
9. Commissioned in order to meet a growing need for local business trading facilities in the Docks, the Coal Exchange was designed by Edwin Seward of Seward & Thomas Architects. The first phase at the south end of the building was opened in 1886. This comprised the south wing with the main front entrance, grand entrance stairs and courtyard, which led to the main foyer, Exchange Hall and ante-rooms, together with the east wing of offices, which also provided a second entrance to the Hall and staircase to the upper floors from a narrow entrance hall.
10. The Exchange Hall comprises an oak panelled room 15m x 29.5m with 2 tiers of balconies above the trading floor. It had a glazed roof at the full 17.5m height of the Hall, supported on

iron trusses. The ante-rooms were also finished in panelling with stained glass windows and fittings in the architectural style of the day.

11. The first phase of the building was extended in 1893 by the addition of offices in the south-west wing. The north wing was added between 1894 and 1897 with an additional storey and a third entrance. This was followed by the north-eastern corner and finally the west wing was added in brick. These additions departed from Seward's original plans as a piecemeal development of the site. Instead of a fairly symmetrical 3-storey building, the additions were of four storeys at the north end and 2 storeys on the west side, which was constructed in buff brick with stone dressings. On the roof, domed corner roof turrets were omitted from the north-west and south-west corners of the building and the incremental nature of the development resulted in a complicated roof design, a maze of pitched roofs, valleys, flat roofs, domes, cupolas, gulleys and parapets.
12. Some unsympathetic alterations of the listed building have been carried out during the 20th century, including the insertion of a false acoustic ceiling in the Exchange Hall in the 1970s, which hides the upper level gallery and the roof trusses. The ante-rooms to the Hall, the ground floor bars and offices have been altered, some with suspended ceilings, walls removed and partitions added. Much of the office space and corridors in the north and west wings was revamped in the 1970s in an attempt to revitalise the building.
13. When the building was proposed as the new home for the Welsh Assembly in 1976, a blast-proof concrete bunker and car park was added to the south front. In September 1984 a fire gutted the east wing, destroying the main staircase to the upper floors, leaving this part of the building an empty and derelict shell.
14. The building has effectively been vacant since it ceased trading in 1961. Internally and externally, the building is currently in poor condition. The applicants' Structural Appraisal by Borroughs Consulting Engineers (2006) (Doc 4) provides details of extensive damage wrought to the building by water penetration and structural failure. These are: -
 - (a) Water ingress through the roof;
 - (b) Failure of internal timber joists and lintels due to water ingress;
 - (c) External cracking of stone window heads due to failed internal timbers;
 - (d) Wet rot in non-structural timber, e.g. window frames;
 - (e) Wet rot and collapse of floors due to water penetration;
 - (f) Damage to support walls from collapse;
 - (g) Collapse of lath and plaster ceilings;
 - (h) Extensive dry rot;
 - (i) Extensive fire damage to southern part of east wing, destruction of main staircase and internal fabric;
 - (j) Settlement in north-west corner of building;
 - (k) Loss of decorative features and non-structural elements.

As it stands today, the southern part of the east wing of the building is a burned out shell, partially supported by scaffolding, and Barclays Bank has recently vacated the ground floor of the northern end of this wing largely due to the poor state of the rest of the block. The north wing and the upper level of the west wing have suffered badly from water penetration and wet rot throughout the ceilings, walls, floors and windows. Despite the efforts of the owners to make the building weatherproof, in several of the upper floor rooms rainwater

leaking through the roof is channelled into makeshift polythene tanks on the floor below where it is collected and piped to the outside of the building.

15. Although the building is semi-derelict and vacant in part, it still contains some commercial office uses. It retains its impressive elevational presence in the Square even though its condition has deteriorated, and the decorative stone facades preserve a great deal of its former grandeur. The southern aspect of the building and the main entrance has been seriously disfigured by the addition of the concrete car park and raised forecourt, but the Exchange Hall, ante-rooms and foyer remain as the central feature of the Coal and Shipping Exchange building.
16. The Coal Exchange Building is the focal point of the Mount Stuart Square Conservation Area (plan in Doc 8, A11), which comprises the historic commercial and financial hub of Butetown, including Mount Stuart Square, Bute Street, West Bute Street, the north side of James Street and Bute Place. The special architectural and historic interest of the area derives from its place in the history of the commercial growth of Cardiff and the 19th century character and detailing in many of its buildings.
17. This is an area of import/export offices and banks that evolved during the massive increase in shipping trade during the latter half of the 19th century. The names of the original buildings evoke the historic character of the area; such as Baltic House, Empire House, Imperial Hotel, Cambrian Buildings, The Mercantile Marine Office and the Custom House. Many of the buildings and structures in the conservation area are listed, including 24 within Mount Stuart Square. Several of the original important buildings have declined and have been demolished in the conservation area. The Coal Exchange Building, Empire House, Bute Road Station and the National Westminster Bank are listed Grade II* and the remainder are in Grade II (see Doc 8, A14).

Planning Policy

18. The Council refers to policies B1, B2, B3, EV2, MV12, MV13, H1, H5 and MV11 of the South Glamorgan (Cardiff Area) Replacement Structure Plan 1991-2011, policies 03, 11, 19, 20, 17, 18, 24, 31, 34, 36 and 39 of the City of Cardiff Local Plan (1996), Supplementary Planning Guidance in the City Centre Strategy 2003-2006 and Consultation Draft 2007-2010, and policies 2.51, 2.53, 2.20, 2.21, 2.23, 2.24, 2.26, 2.31, 2.55 and 2.57 of the Deposit Cardiff Unitary Development Plan 2003 (see Document 9). All of these policies have been given due consideration by the Council in granting planning permission.
19. Whilst some of these policies deal with listed buildings and conservation areas and are therefore material considerations, they are mostly relevant to planning applications for development. As Planning Policy Wales 2002 (PPW) points out, there is no statutory duty under section 38(6) of the 2004 Act to have regard to development plan policies when determining listed building consent applications. Instead, there has to be clear regard to sections 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and government guidance in Planning Policy Wales and Welsh Office Circular 61/96 regarding historic buildings.

The Proposals

20. The proposed scheme sets out to balance the exceptional costs associated with giving the Coal Exchange Building a new life with the benefits of an economically sound scheme. This involves the provision of additional floorspace, mainly in the form of residential units, to

provide a viable development. In order to achieve this, it is proposed to redevelop the west wing whilst respecting the architectural and historical qualities of the remaining listed fabric.

21. The proposed development aims to arrest the decay of the listed building and to secure its long term future use; to utilise the site to its full potential; to achieve a sustainable development through its change of use; to revitalise the building; and to enhance its urban environment. The development would provide a mixed-use redevelopment comprising 116 residential units of 1, 2 and 3-bedroom apartments, the refurbishment of the Exchange Hall as a venue for public use, the reintroduction of café/restaurant units at the lower ground floor level of the south entrance forecourt, commercial office space and retail units at ground level, and basement car parking and cycle parking, accessed by a ramped entrance from the north.
22. The Exchange Hall, the main ground floor foyer and ante-rooms and the Bath stone elevations of the south, east and north wings would be retained, restored and refurbished. This would include the removal of modern partitions and ceilings to allow the restoration of these spaces to their former grandeur. Most of the interior of the east and north wings and virtually the entire west wing would be demolished. This would allow for the reconstruction of the upper levels of accommodation around a larger internal courtyard, with a completely new design for the main section of the west wing.
23. The building would be completely re-roofed so as to reintroduce aspects of the original design of the building. It would provide a balanced symmetrical composition with corner turrets and central cupola on the east and south elevations. The additional floors of duplex loft apartments above the north and west façades would have modern metal-clad roofs, set back from the street, behind parapets.
24. The south forecourt proposals would provide a feature stone staircase up to a new balcony terrace in front of the main entrance to the foyer and Exchange Hall, with additional entrances to the residential units in the south wing. Below the ground floor terrace there would be a modern glazed façade to café/bar/restaurant facilities in the sub-ground floor level. The removal of the concrete bunker car park would allow the forecourt and street between the Coal Exchange entrance and Baltic House to be levelled and paved with tree planting to form a new urban space.

Case for the Applicants – Macob Exchange Ltd

The material points are: -

25. The applicants acquired the building in 2000 through a project presentation and shortlist selection from the Cardiff Bay Development Company (CBDC), who had failed to secure a viable scheme for the regeneration of the Coal Exchange building as part of their strategy for Cardiff Bay. The bid was accepted on the basis of the current proposed development scheme. The proposals presented to CBDC were similar, in terms of the amount of demolition required, to the media scheme that CBDC had already promoted and would have implemented had they secured grant aid.

Condition of the Listed Building

26. The Exchange buildings are only partly lettable due to fire damage and structural failures caused by damp, wet rot and water ingress. Their use is currently restricted to the main Exchange Hall and ancillary rooms, which are let for functions including TV shows, a small amount of B1 office space and, until recently, Barclays Bank. The useable floor area amounts to approximately 15% of the building. There is insufficient car parking space and

the accommodation lacks the ability to provide modern offices with facilities such as ITC cabling and comfort cooling.

27. The structural appraisal (Doc 4) shows the failing condition of the building fabric due to the poor quality of the roofs of the various phases of building and the extensions, which have seriously compromised the water tightness of the building. It is concluded that the prime cause for concern is associated with the long term effects of water penetration through the complex, aggregated roof form.
28. Since March 2006, temporary works have been installed to the external walls of the south-east elevations to prevent masonry falling from the structure. This part of the building has suffered recently from progressive failure of all its internal clinker covered wooden floors after the structural collapse of the top floor joist ends, leaving the external walls without lateral support over their full height. The roof over this area is inaccessible, and the walls have therefore been shored to prevent the roof and cupola from collapsing. Further collapses have recently occurred in the north-east corner of the building and supports have been inserted under window heads as internal timber lintels have failed, causing stress and cracking to external stone heads. More than £3/4m has been spent on repairs and maintenance of the building since its acquisition in 2000, including some £100,000 spent on essential maintenance and temporary works since the grant of planning permission in March 2007.

Justification for Demolition

29. The proposed partial demolition of the building is seen as a result of its overall condition and the costs of repairing and maintaining it in relation to its importance and the value to be derived from its current use. The Coal Exchange has suffered over many years through indecision about its future use since trading ceased in 1961. No new initiatives were forthcoming until 1976, when the building was considered as accommodation for the Welsh Assembly and the heavily reinforced concrete car park was built across the forecourt. The Devolution Referendum the following year was unsuccessful and the Coal Exchange was again redundant.
30. Following the designation of the Mount Stuart Conservation Area in 1981, two adjacent historic buildings collapsed in the bad winter of 1982. The Exchange was considered as a possible conference and exhibition centre in 1984, but a fire gutted the majority of the east wing in September of that year. In 1987 a proposal to convert the building into a 300 bed hotel came to nothing and throughout the period up to the present day, the fabric of the Exchange Building has slowly deteriorated, particularly due to water ingress as well as fire damage and vandalism.
31. Despite attempts by the current owners to secure commercial uses in the building, it still lacks a cohesive viable future and there remains an urgent need to address the years of neglect and decay. Various proposals have failed through lack of viability and this radical approach is now required in order to secure a viable future for the building.
32. Currently, the Coal Exchange building is a complete build out of the whole site, which finished with the construction of the west wing. In order to remove and rebuild the dilapidated parts of the building, the only effective and realistic method would be to undo the poor quality extensions so as to gain access from the west side. The west elevation also relates to the part of the conservation area and setting of the listed building that has been compromised by new residential developments nearby. This so-called "coal-face" approach

would be the only Health & Safety compliant method for the installation of temporary support and for the demolition elements of the proposed scheme.

33. The general approach would be to unify the reconstruction of Seward's missing elements to produce one building, as opposed to the piecemeal construction throughout the early 1900s. This approach would avoid the current pitfalls and problems affecting the lifespan of the building. It is intended to remove the cellular office space layout of much of the building and its small-span structure and to replace this with a wider span framed structure. There would be a 50:50 split between retained structure and new framed structure in the finished development. The new roof structure would reflect the form intended in Seward's original design, which would be rationalised to overcome the weather-proofing problems of the past.

Economic Viability

34. The proposals seek to achieve a balance between refurbishment and reconstruction. Costings show that it would not be economically or commercially viable to carry out a totally refurbished building (Doc 17, App 2), and the finished building would be technically flawed in terms of roof design. The preferred scheme would incorporate new-build, framed elements whilst retaining the quality stone facades. The alternative refurbished scheme indicates a loss of about £9m and a viable scheme would need to show an initial margin of about £3m. There is no possibility of grants being available to make up this shortfall in the mid to long term.
35. The consultations on the scheme make it clear that all the responses, apart from Cadw, can see the benefits in the £25m investment proposal in delivering a viable and successful development, whilst not only maintaining and enhancing the important and significant features of the Coal Exchange, but also improving and regenerating public interest in the building.

Conservation & Restoration

36. The existing main access to the Hall would be reinstated as an integral part of the new southern piazza, with a new stone staircase and terrace above the lower courtyard. Both this main entrance and the north access would lead to the public accommodation on the ground floor, giving flexibility of use for the Hall and the north and south ante-rooms for separate functions. These rooms and the Hall retain most of the building's internal original features, which the proposal would retain, restore and refurbish. The suspended ceiling would be removed from the interior of the Hall to allow the full restoration of the galleries, iron trusses, oak panelling and top light glazing.
37. The Bath stone French Renaissance style elevations on the south, east and north sides of the building would be repaired and restored. The chimneys, corner domes and cupolas on the roof of the south and east wings would also be fully restored. With regard to the west wing, this would be completely demolished and replaced by French Renaissance style north-west and south-west corners of the building in the same materials as the south and north elevations so as to match Seward's original intended design. The central section of the west elevation would be rebuilt in a contemporary architectural style.
38. Internally the layout of the original building has been subjected to substantial modernisation and alteration of the offices, partitions, doors and ceilings from the late 1950s to the 1970s. The introduction of fire regulation compartmentalisation of the offices and corridors altered their relationship to the Exchange Hall so that there are no direct links from the corridors to the galleries, and the Hall itself has been severed horizontally by the introduction of the suspended ceiling above the first floor gallery.

New Building Works

39. The new construction would include additional roof level accommodation in the form of 2 added storeys on the east wing with new windows inserted in a mansard roof; additional roof level duplexes on the north elevation in a new roof form; additional roof duplexes in a new roof form on the new west wing; and the addition of 2 storeys of accommodation at roof level and the insertion of new windows in the mansard roof of the south elevation.
40. The new roof design would be rationalised, whilst still reintroducing aspects of the original intended design for a formal, axial approach to the roofscape with domes, corner cupolas and turret features. The new design would overcome technical problems of waterproofing, accessibility for maintenance and drainage provision. The more modern central roofs to the north and west wings would be folded and faceted to recede from view when seen from street level, whilst providing an articulated skyline. Raised seam zinc roofing is proposed for the new elements, to reflect some of the details of lead roofs with a muted metallic colour.
41. The proposed west wing elevation would be constructed with vertical and horizontal Bath stone elements, a Pennant stone plinth and white glazed screen panels with glazed areas. It is intended that its design would contrast with the original style of the building in a way that would be innovative, but in harmony with the principles of Seward's design. The new elevation is intended to be a modern interpretation of the architectural compositional principles of the south, east and north facades of the Coal Exchange. It would be a symmetrical façade with a vertical emphasis to emulate the effect of pilasters and bays of the Victorian building. The windows would have vertical, rectangular shaped groups and the horizontal divisions would reflect the positions of cornices, the raised ground floor plinth and parapets of the original building.
42. The modern façade insertion would be set between the reinstated north and south corners in the French Renaissance style of Seward, with cupola roof details. Visually, the north and south façades would turn the corner onto the west elevation and stop at the projecting modern insertion, which would have a raised parapet to provide emphasis to the centre of the façade.
43. Overall, the proposals would stem the further deterioration of the listed building and provide the funding to fully repair and restore the historic parts so as to provide a sustainable future for the building. The proposed scheme would also regenerate and revitalise Mount Stuart Square with an appropriate new mix of uses. It would improve the public areas around the building by removing the 1970s car park structure and creating a new pedestrian piazza to the south between the Coal Exchange and Baltic House.
44. Internally, the 2 existing small light-wells would be replaced by a single large light-well to form an internal courtyard for the apartments facing the repaired north side of the Exchange Hall. The original small light-wells were designed to provide light and air to the internal offices, but are not considered adequate to provide the necessary daylight and privacy for the proposed habitable rooms of apartments.
45. The proposals are supported by the Design Commission for Wales and the Pierhead and Mount Stuart Square Conservation Group. All the statutory consultees on the application, including the Victorian Society and the Ancient Monuments Society, have welcomed and accepted the need for a radical approach to the conservation and re-use of the building, which includes the demolition of the west wing and its rebuild in a contemporary style. Cadw alone, despite their earlier support in 2000, have now raised objections to the design and detail of the scheme, and to the principles behind the development.

Impact on the Listed Building

46. The proposals would meet the criteria set out in Welsh Office Circular 61/96, as the scheme acknowledges the importance of the building in terms of its intrinsic architectural and historic interest and rarity, particularly through the restoration of its features and the regeneration of the site. The architectural features and plan form are to be incorporated into the proposals. Elements of the original design, plan and materials would be reinstated and restored in an enhanced location through the removal of the concrete car park and the restoration of its setting in the street scene.
47. The mixed use scheme would bring new life to the building with a viable and sustainable future. With regard to the need to justify the amount of demolition involved in the proposed scheme, as set out in paragraphs 91 and 92 of the Circular, the failure during the last 50 years to deliver a meaningful future for the Exchange Building demonstrates that all reasonable efforts have been made to sustain existing uses or to find viable alternative uses, and these efforts have failed. The partial demolition proposed would be essential to deliver a mixed use scheme that would breathe new life into the listed building and to deliver substantial benefits for the community.
48. The proposed works take into account the guidance set out at paragraphs 93-99 of the Circular regarding alterations and extensions to listed buildings. In particular, a balance has been struck between the effect of the changes on the special interest of the building and the viability of the proposed uses, or any alternative less-damaging uses. This is a listed building that has already sustained a great many changes and alterations over the years. The proposed alterations are based on specialist expertise and the current proposals would have a positive effect on the building and arise from a committed long-term ownership.
49. The original Seward design for the whole building was severely compromised by changes to the north and west wings and the roofscape. Cadw's view that the evolution of the building as we see it today is important is not accepted. The proposed scheme should be judged as a completed work of architecture rather than as archaeological reconstruction. The north-west corner of the building is a meeting point of two facades with different architectural treatment, such that the materials and fenestration change, and the west façade is demeaned further by the lack of a roofscape to match the rest of the building. The west elevation does not follow the style or composition of the template set by the richly ornamented and symmetrical east façade.
50. Contrary to Cadw's views, it is argued that the west wing is architecturally the weakest part of the building, and it provides an opportunity for new development to evolve from the historical fabric of the whole building to replace this wing through to roof level. The modern central section of the elevation would be flanked by new "bookends" in the French Renaissance style where the south and north elevations would turn the corners onto the west elevation. This is described by Cadw as inappropriate replication of the original design in the form of "pastiche". It is not accepted that this derisory term applies to this proposed copy of the earlier style rooted in the Classical idiom. It would be the genuine restoration of Seward's intended building to give solidity to these important corners, complete with cupolas.
51. Having criticised this replication of the original design for the corners as pastiche, Cadw also criticises the proposed non-pastiche, contemporary approach taken with regard to the design of the central section of the west elevation. Cadw's objections to this part of the design fail to take account of the fundamentally flawed roofscape and inherent failing of the original design

to provide a secure and sustainable future for the Exchange Building, and the new roof design reinstatement of the unexecuted elements of Seward's design, notably the replacement of 2 bland modern dormers and the completion of the façade and roofscape of the original design.

52. Although Cadw has criticised the proposed removal of the 2 existing small light-wells, the creation of a larger open light-well is considered essential to secure the future residential use of the Exchange Building. This is the only way to provide acceptable standards of natural light and ventilation, whilst also providing privacy for the new units. It has the added advantage of allowing the opening up of original windows in the Exchange Hall itself onto the northern galleries above the original trading floor.
53. Replacement car parking would be introduced into the basement and lower ground floor levels to the rear of the listed building. This would have a ramped access from the north of Mount Stuart Square through a former service access. The spaces would serve the new residential units and also provide service access and staff spaces for the other uses in the building.
54. Examples of schemes where a similar approach to the restoration, refurbishment, extension and rejuvenation of listed buildings through a change of use is given from the Architect's portfolio. These are: St Andrew's the Great, Cambridge; Prince of Wales Road, Norwich; George Street/Castle Street, Edinburgh; The Lanesborough Hotel, Hyde Park Corner, London; The Royal Exchange, London; Crowne Plaza, Blackfriars, London; The Grove, Chandlers Cross, Hertfordshire; and David Morgan Department Store, Cardiff.

Effect on the Conservation Area

55. The regeneration and enhancement of the building and its immediate setting would bring new life to this central part of the conservation area. The removal of the disfigurement of the main entrance courtyard caused by the 1970s concrete car park bunker and the reintroduction of retail and restaurant/bar frontages with community involvement in a landscaped outdoor piazza would enhance considerably the public realm.
56. The building would be reinstated as the focal heart of the Mount Stuart Conservation Area. The mixed use of residential and food/drink/retail uses and the restoration of the Exchange Building as the centrepiece of a communal open space would allow this commercial and residential area to remain alive and prosperous. The restoration of the historic façades and the Exchange Hall rooms would enhance the area's special architectural and historic qualities.

Case for the Local Planning Authority – Cardiff County Council

The material points are: -

57. Following extensive consultations and discussions with the applicants from 2000 to March 2006, and negotiation for certain changes to the proposals, the Council finally granted planning permission for a revised scheme on 19/07/06 (Ref: 06.0760C). A section 106 agreement was also submitted for the provision of a sum of £100,000 for an off-site affordable housing contribution and public open space and improvements to the public areas.
58. In determining the listed building consent application the Council has followed the guidance set out in Welsh Office Circular 61/96 "Planning and the Historic Environment: Historic Buildings and Conservation Areas", particularly paragraphs 70, 91 and 92. Although paragraph 91 advises that the demolition of a Grade II* listed building requires the strongest justification, paragraph 6.5.10 states that "there will very occasionally be cases where

demolition is unavoidable". With regard to paragraph 92 of the Circular the Council has had regard to the condition of the building, the cost of repairing it and maintaining it in relation to its importance and to the value to be derived from its continued use; the adequacy of efforts made to retain the building in use; and the merits of alternative proposals for the site.

Condition of the Listed Building

59. The Exchange Building has deteriorated to a poor condition over the last 40 years due to water ingress, infestation, subsidence, fire damage and vandalism. The fire damage in the east wing has resulted in large areas of dereliction, and the current problems include extensive wet rot and dry rot, structural timber failure, collapse of floors and ceilings, damage to supporting walls, settlement and cracks in window heads. The integrity of the listed building has also been damaged over decades by intrusive building works and alterations, particularly the concrete bunker in the south forecourt and the suspended ceiling in the Exchange Hall. The applicants have carried out extensive maintenance of the building over the last 7 years.
60. The applicants submitted a Structural Appraisal (Doc 4) which concludes that whilst the foundations of the building are sound, a radical solution is needed that would provide a watertight covering whilst respecting the façades and setting of the building. A 'do nothing' approach is not an option for this building as it would inevitably lead to further dereliction and possible loss of the listed building. All parties, including Cadw, agreed in 2005 to advise the owners that the building should not go through one more winter in its present state, and it was placed on the Council's register of 'Listed Buildings at Risk'.
61. The approach adopted for the development has been informed by the current condition of the building. The strategy for the submitted scheme is to demolish much of the interior of the building and the west wing. There is a fundamental need to rationalise the roof to overcome water penetration problems, which would be achieved by a replacement roof structure. The internal structure of the fire-damaged east wing would be demolished and rebuilt.
62. The Council accepts that the cost of repairs and restoration alone would be in the region of £6m, and that the current proposals for the Exchange Building would invest some £25m into the building and its surrounds.
63. It is accepted that a refurbished existing building would be unlikely to be viable for reuse for office space. The cellular layout of the original small offices, access and floor to ceiling heights fail to meet today's expectations for office accommodation. The present day lack of demand for cellular office space, compared to the large availability of new hi-tech offices in Cardiff Bay, make a return to refurbished offices untenable. Therefore new uses for the building had to be explored.
64. In the light of this, the Council concludes that the current scheme is justified in the terms set out in the Circular. It is accepted that substantial demolition of existing fabric would be justified and necessary to arrive at a viable scheme that would restore as much of the existing character of the building as possible and to ensure the long term preservation of the building.
65. Having considered the desirability of preserving the listed building, its setting and its features, and the removal of the frontage concrete bunker, the Council finds the level of demolition of the west wing and part of the internal structure would be justified by the retention, repair, restoration and refurbishment of the grandeur of the French Renaissance architecture of the Exchange Building, the Hall itself and the rooms associated with it on the ground floor.

66. The applicants have shown that significant intervention would be necessary, and that the amount of demolition involved would be justified. Following the lack of a viable comprehensive proposal for the use of the building for over 40 years, its current condition means that substantial demolition is now unavoidable.

Impact on Setting and Conservation Area

67. With regard to the effect of the proposals on the setting of the Exchange Building and the character of the conservation area, the poor condition of the exterior of the building is compounded by its mass and scale in the centre of the square. The surrounding footways, highway and street furniture are unattractive and dated, and the south front is disfigured by the concrete car park bunker. The proposed works to remove the ugly additions, clean and restore the stone elevations and to create a re-landscaped entrance forecourt would make a major contribution to the character of the conservation area.
68. The listed building schedule description refers to the main architectural features of the Exchange Hall. This concentrates on the ornate Classical style of the main elevations and the grand internal rooms and the Exchange Hall. The proposed scheme includes the restoration and reinstatement of the main features, the Exchange Hall and associated rooms, the three stone façades and the south entrance and entrance foyer.
69. The scheme would transform the south elevation by recreating the original open paved approach, with flights of stairs to the entrance terrace and down to the restaurant and bars from the new piazza. The combined restoration and reinstatement of architectural features and new works in this area would result in a functional reinstatement of the building and the visual enhancement of its architectural features. The proposals would restore the Hall to its former splendour, uplift the French Renaissance architecture of the stone façades and it would reinstate the formal grandeur of the main entrance, thus reconnecting the Exchange Building with the public realm.
70. The proposed new mix of uses would increase the vitality of the Square and the whole conservation area through the introduction of Class A3 uses on the ground and lower ground floor levels. The proposed cafés and restaurants would recreate the original A3 uses in these locations and the use of the outdoor space for café tables would provide a meeting place and bring additional activity and vitality into the conservation area.

Demolition

71. The list description refers to the west elevation as a "less ambitious treatment in yellow brick with bathstone dressings, three storeys, but bays behind wing of entrance front two storeys with dormers in attic", and Cadw considers this elevational treatment to be subordinate but not inferior to the other three stone elevations. The Victorian Society describes the west elevation as "lower down in the hierarchical treatment of the facades", but has some concern about the loss of this elevation whilst accepting that its demolition may be crucial to the viability of the project. The Ancient Monuments Society expresses concern about the loss of the west elevation, and their view is that "the language of the west wing is very much in sympathy with the general Italianate of the remainder and the fact that it is in brick with stone dressings, rather than wholly in stone, is merely a sign that it is meant to be subordinate".
72. The west elevation is considered to be of historic interest in terms of the evolution of the Exchange, but it is subordinate architecturally to the highly ornamented stone elevations. Its redevelopment received the support of the Design Commission for Wales and the Pierhead and Mount Stuart Square Conservation Group. The removal of this west wall of less

architectural significance would facilitate a viable scheme for the restoration of the more significant elements of the building.

73. None of the national amenity bodies has objected to the removal of the 2 small light-wells and parts of the internal structure. A significant amount of internal demolition is proposed, but it is accepted that its removal would facilitate a viable scheme. Efforts to find users for the existing office space have failed over many years and the cellular office structure is inappropriate for modern office accommodation. The loss of the internal spaces has to be weighed against the need to attract investment in the building as a whole and to protect against its further deterioration.
74. The Council concludes that, given the length of time that the building has remained vacant and the efforts made to attract new uses, a radical approach to its refurbishment is justified. A significant amount of demolition would be necessary to achieve a comprehensive scheme. In terms of their relative importance and architectural interest, the Exchange Hall and central rooms and the stone façades would be preserved in the scheme, whilst the removal of the internal structure and the west elevation would be the most appropriate way of delivering a considered and viable development. The proposed scheme would ensure that the most important architectural and historical features of the building would be preserved and its group value in the Square maintained and enhanced.

Scheme Benefits

75. The proposed scheme would restore the Coal and Shipping Exchange Hall, the most important part of the building. The false ceiling inserted to accommodate 20th century events has reduced the Hall to a panelled room of 2 storeys, rather than the original grand void of 4 storeys. Above the ceiling, the Hall has a glazed roof supported by arched iron trusses, reaching to a height of 17.5m. This height and 2 tiers of balconies, and the ornamentation added by Seward in 1911, created a dramatic space, befitting the purpose of the building. The proposals would allow for public use of the Hall and access to it, whereas the building is not currently open to the public and the Exchange Hall is not generally accessible. The proposed development would provide an exceptional venue with public access, thus allowing public appreciation of the building's architecture and history.
76. The external façades of Seward's French Renaissance design would be restored for public appreciation and the renovation of the south front to expose the lower floors and reintroduce the grandeur of the main approach to the building would benefit the public aspect of the building. The access and approach to the building would be improved by reinstatement of the front entrance and foyer.

Consultations

77. The Council consulted the statutory amenity bodies on the application for listed building consent (see Document 11): -
 - The Ancient Monuments Society did not object to the principle of a radical approach but had concerns about the loss of the west elevation rather than the loss of the wing itself and about the design of the new west elevation. It was suggested that the new elevation should not project forward and its design should be more contextual in its rhythm and architectural language. Also expressed concerns about the new roof design, which should be quieter and more polite. The Society supported the replica corner sections in the French Renaissance style, and welcomed the restoration of the Exchange Hall.

- The Victorian Society also supported the need for radical intervention and expressed concern at the proposed loss of the west elevation. The replacement design of the west elevation should be calmer, and objections were made about the new French Renaissance style corners. There was support for the restoration of the Exchange Hall and the removal of the concrete bunker car park, but an objection was raised to the new roof form.
 - The Royal Commission on the Ancient and Historic Monuments of Wales only commented on the historical significance of the structure and the adequacy of the record. The proposal and restoration works were supported in principle.
 - The Pierhead and Mount Stuart Square Conservation Group support the approach and welcomed the scheme for the restoration of the building. There was no objection to the roof form or the new west elevation, and the new Victorian style corner blocks were welcomed. There was also support for the removal of the car park subject to the design of the lower ground floor of the south elevation.
 - The Design Commission for Wales supports the radical approach and proposals. There are no objections to the demolition of the west elevation although some concerns were expressed about the design of the new elevation. The new replica corner buildings were considered to be acceptable and proposals for the removal of the bunker car park and creation of a new piazza were welcomed.
78. In response to these comments the scheme was revised by amendments to the design of the west elevation and its relationship to the corner sections. The new roof of the north and west wings was softened by flattening the outer sections and the fenestration to the south and east elevation amended. On the south front, the lower ground floor elevation was revised to give more solidity and parking in the new piazza was removed. The amended drawings were submitted on 15/06/06 and new perspective drawings on 22/06/06. These were considered to address the concerns of the amenity bodies, the advice given by the local planning authority and the pre-application advice given by Cadw.
79. Amendments have been made to the scheme to meet the pre-application comments of Cadw, who it is felt have not given sufficient weight to the poor condition of the building and the high costs of essential repairs and restoration work. Similarly, Cadw does not appear to have taken a balanced view of the length of time the building has been without a proper use and the financial viability of the proposed scheme. Nor have the benefits of the scheme for the restoration of the building and the Hall been taken properly into account. The Council concludes that Cadw's objections do not warrant refusal of the application. Consequently, the application for listed building consent was reported to the Planning Committee with recommendation for approval on 19/07/06 (Doc 11, D68).

Conditions

80. In the event that listed building consent is granted for the proposed scheme, the Council suggests the use of 10 conditions, some of which require the approval of details of the new build sections of the development, the restoration of the façades and the Exchange Hall and careful controls over demolition works (Doc 6, section F).

Case for Cadw

The material points are: -

81. It is pointed out that the initial phase of the Seward & Thomas design for the Coal Exchange was executed between 1884 and 1886. The south-west wing was added in 1893 and further additions to the north and west were undertaken between 1894 and 1897. That it is an important and significant building for the City of Cardiff and for the Welsh nation is reflected in the Grade II* listing and its list description as "*one of the most historically important commercial buildings in Wales, illustrating the region's immense commercial power in the late 19th and early 20th centuries*".
82. It is recognised that the building is in poor condition, having suffered from fire damage and vandalism during the latter part of the 20th century. A major concern is that the building has been allowed to fall into a state of disrepair with no planned maintenance or repair programme for many years. Cadw has not surveyed the structural and other defects in the building, and no estimates have been made about how much historic fabric remains internally following the 1950s-1970s alterations.
83. The main areas for proposed intervention in the building are the demolition of the west wing and rebuilding of new accommodation, the removal of internal structural fabric and roofscape alterations. Whilst the repair and re-use of the building is considered a laudable objective, Cadw objects to the loss of so much historic fabric and the introduction of additional accommodation at roof level and within the west wing.
84. The parts of the building which are proposed to be demolished are not unimportant or insignificant. The evolution of the design of the building is important and later works undertaken about a decade later than the initial phase of construction are no less important historically or architecturally. This view is supported by paragraph 71 of Circular 61/96 "Planning and the Historic Environment: Historic Buildings and Conservation Areas".
85. It is accepted that the current owners have spent a total sum of about £3/4m on repairs and maintenance of the building since 2000. The purchase price of £1/2m should have reflected the state of repair of the building, and the cost of the necessary repair and refurbishment works could not have been a surprise for the owners. Cadw suggested in an earlier meeting that the owners should make a grant-aid application for the repair of the building. This would be part of a total budget for all listed buildings in Wales, which is in the region of £1.5m to £2m and some 50 grants are taken up each year. Such grant-aid could have rendered the whole roof watertight and alleviated current defects, in advance of the commencement of a viable use for the building.

Demolition of the West Wing

86. The proposed demolition of the west wing and its replacement with a modern elevation is a major concern for Cadw. The west wing was constructed approximately 10 years after the south front of the building. Its architectural language accords with the details and style of the original design, but the west elevation was built of yellow brick with dressed stone. It is well detailed and constructed, particularly with regard to the fenestration, window heads, pilasters and chimneys. It is not clear why there was a change in material to brick from the Bath stone of the original façades. It could have been due to a lack of availability of materials, or to identify the west elevation as a later phase of the development. The choice and use of materials suggests that it was designed to appear subordinate to the earlier phases, and not

inferior, as the applicants have suggested. There is no suggestion in the structural survey that the wing is beyond repair or that repair would be a major undertaking.

87. The forward projection of the new elevation insertion would exaggerate it as a dominant element compared to Seward's building line, and the modern elevation could visually dominate the listed building. The design lacks "contextualism" and appreciation of the horizontal and vertical composition of the original façade. The end parts of the new elevation intend to replicate the original design on each side of the contemporary façade insertion. Contrary to Circular advice, this would introduce a pastiche approach, with the proposals not being distinguishable from the original design.

Internal Demolition

88. A great deal of internal structural historic fabric would be removed around the two original light-wells, with the creation of a large void near the centre of the building. This would sacrifice the conservation principle of minimal intervention and the building would undergo major changes due to the proposed change of use. In contrast, one of the principles of listed building legislation and government guidelines is to provide redundant historic buildings with new uses that should be adapted to fit the historic building. The approach taken in this application does not attempt to recognise the restraints of the existing structure, which is to be removed wherever it does not suit the new design. There is no clear indication by the appellants as to the precise extent of the proposed internal demolition.

Proposed Roof Alterations

89. The existing roofscape would be dramatically altered to provide additional floors and accommodation. The existing balanced composition would be compromised by alien modern additions. The result would be an unresolved combination of contemporary roof design in some places and a replica of the original concept in others. The result would be unsympathetic to the original building, and the scale of the extended building would dominate its surrounding built environment. The alien and inappropriate top-heavy building would affect its overall character.

Details of Design

90. There are many unresolved areas in the design and application drawings, which require approval of numerous items by conditions. In particular, the Council's suggested condition No. 3 requires: -
- Full design details of the contemporary section of the west elevation;
 - Full details of the north-west and south replica corners to the west elevation;
 - A scheme for the main front entrance (south elevation) and entrances to the north and east elevations;
 - Details of the south-facing terrace, balcony, stairs, lift and lower ground floor glazed frontage;
 - Details of the car park entrance (north elevation);
 - A scheme for the inner residential courtyard;
 - A fully detailed scheme for the new and replacement roofs and extensions plus restoration works to original roofs including rainwater goods.

This represents a significant number of alterations or changes that may be detrimental to the character of the listed building. These matters should be considered before a fully informed decision can be made on the application for listed building consent.

91. It is concluded that the proposals would be detrimental to the special character of the listed building. The argument put forward in support of the partial removal of so many elements of the historic fabric lacks justification. Cadw has requested, but has not seen, drawings of a rationalised scheme within the existing structure that would retain more of the historic fabric currently proposed for demolition.

Case for Interested Persons

The material points are: -

92. On behalf of the **Central Area/Mount Stuart Square & Pierhead Conservation Group, Mr S Evans** (Doc 19) expressed the view that the proposals are a competent and sensitive design, based on a well-researched assessment of the architectural quality of the Grade II* listed building and the history of its construction. The proposals would fulfil the need to create new functional spaces in order to fund the restoration of the fabric. The proposed elevational treatment would introduce a modern intervention without devaluing the architectural integrity of the existing building.
93. The removal of the unfortunate alterations and the proposed treatment of the main (south) façade and entrance would be a major improvement. Internally the spaces have been reorganised or newly created to ensure that the scheme would be a workable and marketable residential and commercial building. Although this would require the removal or adaptation of some of the original structural elements, in particular the loss of the 2 internal light-wells, it is accepted that the degree of alteration would be consistent with the need to reorganise the interiors.
94. Public access to the restored Exchange Hall, which would be retained for public use, would be an improvement. This is considered to be one of the most iconic elements in the whole building as it symbolises the maritime and industrial heritage of Cardiff.
95. The "part-demolition" of the brick west elevation is considered to be justifiable in view of its present condition and appearance which is poor in comparison to the remainder of the building constructed largely in Bath stone. The new elevation is considered to be acceptable in that, although it is modern it would be well-mannered and carefully inserted with a considered vertical junction detail between the old and new.
96. Although the proposed intervention at roof level would be most dramatic in its form, due to the narrow angle of views from the street level surrounding the building and the interface with the new west elevation, it would not appear incongruous if detailed properly and linked to the retained roof structures.

Written Representations

97. **The Ancient Monuments Society** (Doc 11) expressed concern at the proposals for the west wing and the external elevation. Although the existing building lacks coherence due to its stages of construction, the existing west elevation is regarded as being in sympathy with the general 'Italianate' style of the rest of the building. The use of brick with stone dressings is considered a sign that it was merely subordinate, not downgraded from the original. The new elevation design lacks 'contextualism' and although the new domed features are welcomed, the proposed rhythm and language of the new elevation would be at odds with Seward's design.
98. The proposed new roofscape and the forward projection of the west elevation are considered unacceptable. The new roof on the west side would be composed of substantial, but rather

misshapen lumps that would break through onto the south elevation. This is considered to be ugly and alien, competing with, rather than complementing the existing composition. The projection of the contemporary façade would exaggerate its role in slicing into the existing elevation. If the principle of redevelopment of this side is accepted, the new elevation should be more 'polite', with a quieter roof line, and pushed back to be flush with the existing building.

99. It should be clarified which elements of the building would be salvaged, with particular concern about the stairs in the fire damaged east wing. The proposed retention of the Exchange Hall and removal of the suspended ceiling is applauded. Following the modified plans the Society still considers the new roof shape to be alien and therefore sustains the objection.
100. Due to the poor condition of the building, **the Victorian Society** accepts the need for considerable intervention to safeguard its future. The proposals are considered reasonable in that the proposed internal demolition would be offset by the restoration of the Hall and the removal of the concrete parking bunker from the south front.
101. There are three concerns about the proposals. Firstly, the west elevation, although later than the others and despite its unfinished roofline, has a design rationale and quality of detailing, particularly to the window heads, pilasters and chimneys. If its demolition is crucial to the viability of the project, it should be replaced with a design more in sympathy with the building. Secondly, the insertion of replica stone façades at each end of the elevation, although based on Seward's original drawings, is contrary to Circular advice. Thirdly, the Society's greatest concern is reserved for the proposed roof form, extending above the retained façades, which would be a significant, unwelcome change from the original design.
102. **The Design Commission for Wales** supports the principle of the refurbishment as a mixed use scheme, combining respect for the original building with the new elements. It is considered an acceptable solution to the brief and the requirements of the site, in particular:
 - It is accepted that the current west façade is redundant and should be replaced with a new design of elevation and roof form;
 - The design of the west elevation should be developed further by lowering and staggering if possible;
 - The proposed demolition of the concrete car park and terraces and the opening up of the lower ground floor for sociable uses is greatly welcomed;
 - The attempt to re-animate the square, provide active frontages and extend pedestrian use is supported;
 - The new public forecourt should be treated as an urban open space with minimal shading, and the treatment of the stairs and entrance balcony need careful detailing;
 - The disabled access needs to be relocated and details of the front entrance and forecourt façades faithfully reproduced.

Conditions

103. In resolving to grant listed building consent for the works, the Council drew up a list of 10 conditions, including the statutory 5 year time limit for the commencement of the works (Doc 20). The Council also requests an additional condition regarding the chimney stacks, requiring the submission of details of those to be retained and removed, those to be replaced, and details of their replacement.

104. Cadw consider it necessary to attach further conditions requiring an approved landscaping scheme for the paved forecourt, and details of the vertical and horizontal service runs to be provided as part of the mixed use scheme (water, electricity, mechanical, lifts, and gas) and their intervention in the building before the works commence. However, the applicants consider it unnecessary to require landscape details, as this is already required by the planning permission for the development and the paved areas lie outside the listed building.
105. As the proposals include the removal of much historic fabric, the Council suggest a condition requiring the submission of a schedule of all the features and areas of the building to be retained and protected during demolition works. The applicants would be content to abide by an appropriately worded condition.

Conclusions¹

106. The starting point in the consideration of this application for listed building consent is the statutory duties set out under sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. These require that special regard should be had to the desirability of preserving the listed building, its setting and any features of special architectural interest that it possesses, and to the desirability of preserving or enhancing the character or appearance of the Mount Stuart Square Conservation Area. These duties are enlarged upon through the advice and guidance set out in Welsh Office Circular 61/96 "Planning and the Historic Environment: Historic Buildings and Conservation Areas" (the Circular).
107. The proposed works to the listed building for the creation of the mixed use development would involve substantial alteration of the structural fabric of the building. This would involve a significant amount of demolition of the existing office accommodation and the reconstruction of large parts of the interior and the west wing to produce a largely residential scheme. Externally, there would be significant changes to the south façade, west elevation and north, in terms of the new roof and other changes to the form and composition of the roofscape. Landscape improvements are planned for the southern courtyard, with the creation of a new paved piazza across the street.
108. Although it is proposed to retain the Exchange Hall and ante-rooms internally, and the south, east and north elevations intact, this is clearly a scheme that involves substantial demolition of the listed building. Government guidance for dealing with proposals for this scale of intervention with a listed building is set out in paragraphs 91 and 92 of the Circular. This states that "*the demolition of any Grade I or II* building should be wholly exceptional and require the strongest justification*", and that the Secretary of State (Welsh Minister) "*would not expect consent to be given for the total or substantial demolition of any listed building without convincing evidence that all reasonable efforts have been made to sustain existing uses or find viable new uses, and these efforts have failed*".
109. In order to assess the merits of the proposals, paragraph 92 of the Circular requires the following matters to be considered:
- (i) *The condition of the building, the costs of repairing and maintaining it in relation to its importance and to the value derived from its continued use. In those case where it is clear that a building has been deliberately neglected, less weight should be given to the costs of repair;*
 - (ii) *The adequacy of efforts made to retain the building in use. This should include the offer of the unrestricted freehold of the building on the open market at a price reflecting the building's condition;*
 - (iii) *The merits of alternative proposals for the site.*

Condition of the Building

110. As described and photographed in the 2006 Structural Appraisal^{14, Doc.4}, the building is in poor condition. Structurally, the main areas of concern are the southern half of the east wing, which is a fire-gutted shell, supported by scaffolding; the lower ground floor of the south section which has suffered progressive collapse and dereliction; parts of the north

¹ The superscript numbers etc refer earlier paragraphs and documents which are the sources for factual statements.

wing badly affected by wet rot and structural failure; and the upper level of the west wing where rainwater ingress has badly affected the roof and floor structures. Many of the timber roof and floor members and window lintels have failed or are on the point of failure in these areas.

111. Of over-arching importance with regard to the condition of the building, the whole of its roof structure, which appears to be a complicated maze of pitched and turreted forms with hidden gutters and flat roof areas, has failed in numerous locations. Apart from the 1984 fire, the roof is a major contributory cause of the poor structural condition of the building, with outbreaks of wet rot and dry rot throughout the unoccupied parts. As a result, approximately 85% of the building is unlettable and empty.
112. It is accepted by the Council⁵⁹ and Cadw⁸⁵ that some 40 years of neglect took place before the applicant company took over the building in the year 2000, when it was already in very poor condition. It is also acknowledged that the applicants have already spent a considerable sum on maintenance in the latter period²⁸. It is clear on any inspection however, that these maintenance works have not, and will not halt the steady decline in the state of the building. Such problems are on a huge scale in this vast building, and parts of the structure already represent health and safety hazards.

The importance of the building

113. The architectural value of the building lies in the grandeur of its external envelope comprising the Bath stone elevations in the French Renaissance style and, to a slightly lesser extent, the brickwork western elevation; the domed and turreted slate roofscape; and the major internal spaces of the Exchange Hall, the foyer entrance rooms and the ante-rooms on the north side. Apart from these architectural features, it has to be said that the rest of the interior is disappointing, due to the extensive modern alterations carried out over the years.
114. It is a building of enormous historic interest in the economic and commercial development of Cardiff and South Wales, worthy of every effort being made to preserve it as an important part of the Butetown area. It has to be accepted however, that the use it was designed to accommodate has gone forever, and that the cellular layout of the offices and corridors does not lend itself to adaptation for modern office suites. The original Seward layout was centred on the Exchange Hall as the hub of activity with corridors and offices linked directly off the upper galleries and the trading floor. However, the connectivity and physical relationship between the offices and the Exchange Hall was irrevocably altered in the late 1950s and 1970s when fire partitioning was introduced within and around the Hall and corridor escape routes. This effectively closed the upper galleries off from the rest of the offices, and later alterations and re-modelling in the 1970s appear to have removed much of the original fabric from the interior.
115. From my inspection of the interior, there appears to be very little of the original fabric left above ground floor level, particularly in the wings most affected by the current proposals. Although paragraph 98 of the Circular advises that "*the preservation of façades alone, and the gutting and reconstruction of interiors, is not normally an acceptable approach to the reuse of listed buildings; it can destroy much of the building's special interest and create problems for the long-term stability of the structure*", in this instance much of the interior is either gutted by fire or destroyed by water penetration, and the existing west and north wings contain a large proportion of modern and bland partitioning and staircases. The current condition of the building and the necessity to renew sections of the interior presents an opportunity to remodel the accommodation so as to achieve the best return from the floor space, through residential and office uses compatible with the exterior of the building.

Costs of Repair and Refurbishment

116. The applicants' figures indicate that it would not be an economically viable proposition to carry out a total refurbishment of the building in its current form^{34, Doc.17}, and the resultant building would be likely to be technically flawed without a redesign of the roof form. The refurbishment option would be some £9m short of being a viable scheme and it would not provide the required initial profit margin of £3m.
117. The proposed scheme includes approximately £6m of repairs and refurbishment of the retained parts of the historic building, and these figures, based on the proposed scheme costing £25m, are not disputed by the Council or Cadw^{35, 62}. Although Cadw suggests the possibility of grant-aid for the repair/restoration option⁸⁵, it is clear from the current national budget even a maximum level of grant would not sufficiently offset the £9m shortfall to make the refurbishment scheme viable. Even then the final scheme would not produce a profit.
118. On a building of this scale, it is clear to me that pursuance of a non-viable, unprofitable scheme would be likely to store up future maintenance and repair problems for the future, just as it has in the past. Although Cadw suggest that the purchase price in 2000 ought to have taken into account the costs of repair of the Grade II* building, which implies that the new owners should have been able to proceed with the refurbishment of the building to a standard that would allow its full use, the evidence shows that expenditure so far is well in excess of the purchase price, and it has not secured a viable use. In fact, the use of the building has declined rapidly in recent years, and the recent loss of the bank lease in the north-east corner has dealt the owners a severe economic blow.

Efforts Made to Retain the Use

119. The applicant's and Council's evidence indicates that the layout and condition of the building has been responsible for the various owners' failure over 50 years to secure a long term and adequate level of use of the accommodation to make the building a viable proposition. This is regarded by the Council as evidence to show that successive owners have made strenuous efforts to secure the use of the building. Whilst Cadw does not agree that sufficient effort has been made to re-use the building, it is clearly the case that the various owners had been attempting to secure lettings throughout the period since the Coal Exchange ceased trading²⁹⁻³¹.
120. The Exchange Building was built for a specific use in the 19th century, and although its main architectural spaces and features are preserved through the listing, neither these nor the ancillary offices are in a useable form today. The unconventional layout, combined with the poor state of the building and the large scale nature of the problems appear to render the building quite unusable in today's commercial market place. The applicants' costings demonstrate that a radical solution is needed to preserve the best architectural features of the building to secure its future through a change of use within its structure. This approach to its conservation, adaptation and reuse was also adopted by the CBDC in the years prior to 2000, and I do not doubt that if the building was to be sold freehold today, the new owners would be forced to adopt a similar approach to the problems of refurbishment and reuse.

Merits of the Proposals

121. Although a substantial amount of renewal of the building would be involved, the submitted scheme is far from being a proposal for a replacement building on the site, and it needs to be judged as to whether it would preserve the character of the listed building, its setting and its architectural features. The main benefits of the scheme are that it would preserve and fully restore the south, east and north elevations of the building, the Exchange Hall, foyer and ante-rooms internally, and it would remove the concrete car park bunker and create a paved courtyard and public piazza on the south side.
122. Clearly, the proposals aim to incorporate the listed building into the new development; and the notable historic architectural features of the building would define and enclose the new uses within the building. This would be a scheme led by the need to conserve the best features of the Exchange Building. There are more controversial elements to the proposed scheme, particularly the insertion of a contemporary west elevation with its replica corners, and the proposed contemporary roof extensions, and I deal with these aspects below.

Demolition

123. Apart from the Hall and important public rooms on the ground floor, which would be preserved and restored, I can confirm that the majority of the rest of the interior that would be removed in order to construct the new accommodation is unprepossessing and mundane. Although Cadw objects to the demolition of internal features⁸⁸, there is little of architectural or historic interest remaining in the corridors of small offices and the two small light-wells are fairly unattractive, utilitarian features intended to provide ventilation and a little light for the internal offices. Clearly, if these light-wells were to be retained, they would not provide sufficient light or privacy for the proposed residential apartments^{44,52}. In my view these are not of such historic or architectural importance that should be allowed to stand in the way of a mixed use scheme that would revitalise this badly run-down building.
124. In order to construct the new apartments, it is proposed to create a larger open internal courtyard, exposing to view the north side of the Exchange Hall. Although it is not clear from the submitted plans, it appears that in order to achieve this, a large proportion of the interior of the east, north and west wings would be reconstructed over the ground floor ante-rooms level. Due to the built-out nature of the whole site, and the depth of the floor plans, this appears to be a reasonable solution to the conversion of this large building.
125. Whilst the proposal to demolish the south front car park has received universal approval, as it would clearly enhance the building, the proposed demolition and replacement of the west elevation has had a mixed reception.

West Elevation

126. The existing west elevation is described in the Grade II* listing as “a less ambitious treatment” compared to the other façades. Cadw points out that although constructed 10 years after the original Bath stone elevations, the west side displays the same architectural language and although of yellow brick, it has dressed stone details to match⁸⁶. It is claimed to be ‘subordinate’ rather than ‘inferior’ to the earlier phases of the building. The applicants on the other hand, claim that the west wing is the weakest part of the architectural composition⁴⁹⁻⁵⁰, and it is clearly unfinished at roof level.
127. One of the aims of the new scheme is to add 2 floors and a proper roof to the west wing. The applicants explain that if the scheme is to be carried out with health and safety concerns in mind, there has to be a breach of the ‘perimeter wall’ of the site to allow access for the removal and reconstruction of damaged parts of the building³². The west elevation was

selected for this so called 'coal face approach' because it was felt to be the weakest in terms of architectural style and materials⁴⁹.

128. Whilst it is not unattractive in terms of its character and architectural composition, to my mind the brick west elevation definitely lacks the scale, grandeur, warmth and colour of the rest of building. It appears somewhat utilitarian and the craftsmanship of the other Bath stone façades is missing. It looks very much as though it was conceived as the rear of the building. This impression is reinforced by there not being an entrance to the Coal Exchange on this side (in contrast to each of the other elevations), and at only 2 storeys high, the roof remains truncated and unfinished. I conclude that if there has to be intervention on the scale proposed in order to put the building right, this is the one side where it would inflict least damage on the character of the building.
129. With regard to the replacement elevation, Cadw and the Ancient Monuments Society take the view that the proposed contemporary design for the central part of this elevation lacks "contextualism"^{87, 97}, in that it would not relate well to the style and composition of the original façades. It is explained by the applicants however, that the modern design of the projecting elevation follows the proportions, vertical rhythm and horizontal lines used by Seward throughout the building⁴¹. The slight forward projection of this façade is a device designed to divorce the contemporary section from the replica corner sections that would link with the north and south-west elevations.
130. In my view, the new elevation is well-mannered and follows the proportions and symmetry of the other main elevations. The corner 'book ends' are intended to replicate Seward's designs for these in Bath stone, and I find it difficult to fault this approach, particularly as it allows for the restoration of the cupolas at each corner of the roof and it would provide an appropriate transition from the 19th century façades on the adjoining north and south elevations to the modern central section.
131. In contextual terms, it would be difficult to justify an entire replica façade in the French Renaissance style, because the west side of Mount Stuart Square opposite the Exchange Building already contains some modern residential buildings, and the general approach to the redevelopment of the west wing with a predominantly contemporary design would not look out of place in this street scene.

Roof Design

132. Cadw, the Ancient Monuments Society and the Victorian Society object to the proposed new roof form on the west side^{89,98,101} on the grounds that it would be top-heavy, alien and unsympathetic. However, it has to be borne in mind that the whole building would be re-roofed, mainly in the original pitched slate roof style with domes, turrets and cupolas to form symmetrical compositions on each elevation, as envisaged in Seward's original plans^{39,40}. Additional floors of accommodation would be provided in new, contemporary roof forms on the north and west elevations.
133. Whilst these new zinc covered roofs appear to be substantial additions to the building on the elevational drawings, in fact they would be set back behind parapets and balconies from the front face of the main elevations (see Plans B, Sections 10465-PL-02-10 to 12). The computer generated images (Plans C, Photos 3) show how in street level views from the south-west, north-west and north-east, the modern roof form would be so far recessed and pitched at such an angle, as to have little impact upon these views.

134. The additional accommodation in the roofs must also be considered as an important part of the economic viability of the overall scheme, and it is therefore valuable in order to secure the future preservation of the listed building. Although these modern roof forms would be visible in some longer distance street views and from the upper floors of nearby listed buildings, such as Empire House, I find the design to be acceptable in terms of the neutral appearance and the natural grey zinc colour, which would blend well with the rest of the slate roof and façades of the building. On the west side, the roof would complement the modern design of the new façade, whilst on the north it would be set back to respect the main elevation.
135. Due to its inherent problems of water penetration, the existing roof would have to be removed and rebuilt to a design that would reflect Seward's original plans. In the proposed scheme, the roof of the building would be replaced in a more rational form that would ease future maintenance problems and ensure that the building would have sound weatherproof covering that would protect and secure the structure of the building. The new roofs on the south and east elevations would accurately reflect the original, symmetrical design by Seward, which was not properly implemented, and the result would be in keeping with what was intended for the listed building. The new zinc roofs on the other hand are a contemporary approach to finish the north and west elevations with duplex loft apartments, but I find these to be acceptable additions that would respect the impressive stone elevations.

Effect on Conservation Area

136. It is generally agreed that the improvement of the existing Coal Exchange building would bring a much needed lift to the character and appearance of the conservation area. The removal of the disfiguring modern concrete extension on the south frontage and the reinstatement of a new design for the lower forecourt, with a retail/restaurant frontage, stone stairs to the entrance terrace and a paved area across the street would give the conservation area a new focal heart.
137. The restoration of the external envelope of the building and the opening up of the Exchange Hall rooms to the public, the creation of an accessible paved frontage for eating and drinking and the new piazza area would undoubtedly breathe life into this commercial/leisure/residential area of Butetown. The proposed mixed uses would complement the character of the area and the scheme would restore those elements of the building that give it an important place in the commercial history of the region. I conclude therefore that the proposals would preserve the setting of the listed buildings in the vicinity, whilst preserving and enhancing the character and the appearance of the Mount Stuart Square Conservation Area.

Conditions

138. In addition to the Council's 10 conditions ^{103-5, Doc 20}, I consider it necessary to attach the 2 further conditions suggested by the Council. These are outlined in paragraphs 103 and 105 above, and require the approval of further details regarding the retention and replacement of chimney stacks, and a detailed schedule of all the parts of the building to be retained, protected and preserved during the demolition phases of the development. A full list of these suggested conditions is attached below at Annex A to my report.
139. Cadw claim⁹⁰ that the details required by the Council's suggested condition No. 3 are matters that should be considered as part of this application, rather than later. However, I consider that the details already provided are sufficient to determine the effect of the

proposals on the listed building, and the approval of further details required by the condition would ensure that the work would be carefully controlled and carried out in a sympathetic manner.

140. The submission of paving and landscaping details is required already by the planning permission, and as it falls mainly outside the building, it is not part of the listed building consent. Details of the service runs through the building would be unnecessary as these would form part of the new build internally, which would be unlikely to affect the historic fabric that is retained.

Final Conclusions

141. The proposed works for the conversion of this listed building to a mixed use scheme are extensive and go well beyond the minimal intervention advocated in Circular 61/96. However, it is clear to me in this case that there are inherent problems with this large building which demand a fairly radical approach to its conversion. The poor structural condition of much of the building, its rigid cellular layout of offices and the manner in which the interior has been badly compromised by later alterations, lead me to the conclusion that its internal reconstruction to form residential apartments around a larger courtyard would not destroy any notable architectural or historic features.
142. The original layout of the building has largely been lost, due to recent alteration of the circulation areas, corridors and partitions, so that the planned layout and interconnectivity that existed between the trading floor and galleries of the Exchange Hall and the ranks of offices etc has long gone. The significant interest of the building is in my view limited to the ground floor public rooms; the foyer, Hall and ante-rooms, and the main historic façades of the architectural envelope of the building, including the roof features.
143. The effect of the proposed demolition and reconstruction of the interior, west wing and roof has to be weighed against the significant benefits of the proposed conversion, and a balanced view must be taken of the scheme as a whole. The special architectural and historic elements, particularly the Exchange Hall, the ante-rooms and the southern entrance and foyer would all be restored in a way that would recapture the grandeur of its original form and the building would once again be open to public use. The cleaning, repairing and restoring of the north, east and south elevations, and the creation of a new public urban piazza would improve the setting of the building and the vitality of the Mount Stuart Square Conservation Area. Both the building and the conservation area would remain alive and prosperous, and the historic building would be preserved as an important resource for future generations.

Recommendation

144. I recommend that listed building consent be granted subject to the conditions set out in Annex A below.

Clive I Cochrane

INSPECTOR

ANNEX A

SCHEDULE OF SUGGESTED CONDITIONS: LISTED BUILDING CONSENT 06/764/C

1. The works hereby authorised shall begin not later than 5 years from the date of this consent.
2. Before any work hereby authorised begins, a schedule and plans showing all parts and architectural features of the building to be retained and protected during the demolition works and the measures to be taken to protect those parts/features, shall be submitted to and approved in writing by the local planning authority. Steps shall be taken to secure the safety and stability of those parts of the building or architectural features which are to be retained. Such steps shall, where necessary, include measures to strengthen any wall or vertical surface; to support any floor, roof or horizontal surface; and to provide protection for the building against the weather during the progress of the works.
3. No works shall take place until a scheme showing the architectural and construction detailing of the building has been submitted to and approved in writing by the Local Planning Authority and the development shall not be brought into use until the approved scheme is implemented including but not exclusively:
 - Full design details of the contemporary section of the west elevation,
 - Full details of the north west and south west replica 'corners' to the west elevation,
 - A scheme for the main front entrance (south elevation) and entrances to the north and east elevations,
 - Details of the south facing terrace, balcony, stairs, lift and lower ground floor glazed frontage,
 - Details of the car park entrance (north elevation),
 - Details of all new doors, windows and balconies to the residential apartments,
 - A scheme for the inner residential courtyard,
 - A fully detailed scheme for the new and replacement roofs and extensions plus restoration works to original roofs including rainwater goods.
4. Before any work hereby authorised begins, samples of the external finishing materials shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
5. Before any demolition work hereby authorised begins, details of the chimney stacks to be retained, removed and replaced, and details of the design of the replacement stacks, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
6. Prior to commencement of the works a Phased Programme of the demolition and construction works shall be submitted to and approved by the local planning authority. The works shall accord with the approved timetable unless otherwise agreed in writing with the local planning authority.
7. The demolition works shall be carried out in accordance with a Method Statement to be submitted to and approved by the Local Planning Authority prior to any demolition works commencing. The Statement shall include for the removal of demolition materials from the

- site, and storage of those materials to be re-used on site, and the works shall be carried in accordance with the approved statement.
8. No demolition shall take place until a contract has been signed, completed and let for the re-development of the site hereby approved.
 9. The consent relates to the application as amended by the revised plans received on 15th June, 2005 and 22nd June, 2006, and letter received 15th June, 2006, attached to and forming part of this planning application.
 10. Before any work hereby authorised begins, a detailed scheme of cleaning and restoration works to the external stonework, windows, lintels, doors, steps and railings shall have been submitted to and approved in writing by the local planning authority and the approved scheme shall be implemented prior to beneficial use of the development.
 11. Before any work hereby authorised begins, a fully detailed scheme including scaled 1:50 drawings of the proposed restoration works for the Exchange Hall and ancillary ground floor rooms shall have been submitted to and approved in writing by the local planning authority and the approved works shall be implemented in full prior to beneficial use of any part of the site.
 12. Before any work hereby authorised begins, detailed scaled drawings of the proposed internal redevelopment scheme shall have been submitted to and approved in writing by the local planning authority and the approved works shall be implemented in accordance with the details.

INQUIRY APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr N J Hanson BSc DipTP MRTPI - Cardiff County Council

FOR THE APPLICANT:

Mr D Kerfoot - Solicitor, Eversheds, 1 Callaghan Square, Cardiff CF10 5BT

He called:

Mr G Cohen BA BArch RIBA - Design Director, Aukett Fitzroy Robinson, Architects

Mr J M Blake BA(Hons)
BArch(Hons) RS RIBA AABC - Purcell Miller Tritton, Architects

Mr P Morgan - Chief Executive, Macob Group

FOR CADW:

Mr P Ashby - Principal Conservation Architect, Cadw

INTERESTED PERSONS:

Mr S Evans - Architect, Mount Stuart Square & Pierhead Conservation Group

INQUIRY DOCUMENTS

- 1 List of persons present at the inquiry
- 2 Letter of notification and addresses
- 3 Design Statement
- 4 Structural Appraisal Volumes 1 and 2 by Burroughs Consulting Engineers + CD
- 5 Listed Architectural Fabric Appraisal – Jeremy Blake
- 6 Proof of Evidence and Summary of Mr N J Hanson
- 7 Planning Permission 06/00760/C of 23/03/07 (finally approved 19/07/06 on submission of S106 Agreement)
- 8 Mr Hanson's Appendices A1-23 – Background Documents
- 9 Mr Hanson's Appendices B24-30 – Planning Policy & Strategic Framework
- 10 Mr Hanson's Appendices C31-62 – Planning History

- 11 Mr Hanson's Appendices D63-70 – Development Proposal Consultations
- 12 Mr Hanson's Appendices E71-72 – Council's Case
- 13 Proof of Evidence of Mr G Cohen
- 14 Appendices 1-3 to Mr Cohen's Evidence
- 15 Mr Blake's Proof of Evidence
- 16 Appendices to Mr Blake's Evidence
- 17 Proof of Evidence of Mr Morgan, including Appendices 1 & 2 (Cost Analysis)
- 18 Applicants' Bundle of Appendices TBA1-TBA19 and TBA JMB
- 19 Statement by Mr S Evans on behalf of the Central Area/Mount Stuart Square & Pierhead Conservation Group.
- 20 Council's suggested list of conditions for Listed Building Consent 06/764/C

PLANS

- Plan A Existing Floor Plans, roof general arrangement and Elevations (10465-PL-03-01 to 16), size A1, scale 1:200.
- Plan B Proposed floor Plans, Site Plan, Roof Plan and Elevations at A1, scale 1:200
- | | |
|-------------------|--------------------|
| 10465-PI-00-08 | Basement Level |
| 10465-PI-00-09A | Lower Ground Level |
| 10465-PI-00-10A | Ground Level |
| 10465-PI-00-11A | Level 1 |
| 10465-PI-00-12A | Level 2 |
| 10465-PI-00-12A/A | Upper Level 2 |
| 10465-PI-00-13A | Level 3 |
| 10465-PI-00-14A | Level 4 |
| 10465-PI-00-15A | Level 5 |
| 10465-PI-00-16A | Roof Level |
- Plan C North, South, East and West Perspective Drawings (10465-PL-03-10B, 20B, 30B & 40B) and Aerial view of Building at A1.
- Plan D A3 Set of Plans and Elevations (10465-PL-00-09A to 16A), including Roof Comparison Plan.
- Plan E Proposed Sections

PHOTOGRAPHS

- Photo 1 Existing Views of Building and Exchange Hall
- Photo 2 Computer Generated Image (CGI) of Refurbished Exchange Hall
- Photo 3 CGIs of West Elevation and South Elevation

RIGHT OF APPEAL TO THE HIGH COURT

1. The decision of the Welsh Ministers on any of the appeals or objections listed in the appendix to this leaflet may be challenged in the High Court in accordance with the provisions of either Section 63 or Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Procedures

Section 63

2(i). Any challenge against an order or a decision covered by this Section must be made within 6 weeks from the date on which the order is confirmed or takes effect or the date of the decision. As that period is specifically stated in the Act it cannot be extended by the Welsh Ministers or the Courts. Consequently, any decision or action not challenged within that period is, as far as the 1990 Act is concerned, unimpeachable.

2(ii). A challenge may be brought under this Section only on the grounds that

- (a) the action was not within the powers of the 1990 Act (this includes, for instance, failure to take into account material considerations); or
- (b) there has been a failure to comply with any of the relevant requirements (see paragraph 4 below).

Section 65

3(i). The procedures for challenging decisions covered by this Section are governed by rules of Court. These, in turn, require that the leave of the High Court be obtained in order to challenge any of the decisions covered by the Section. Notice of application for leave to appeal has to be submitted within 28 days of the decision challenged or good reason has to be shown to the Court why the notice was not lodged within that period. If leave to appeal is granted Notice of Motion has to be lodged and served within 7 days of the decision to grant leave.

3(ii). A challenge under this Section may be made only on a point of law.

Relevant requirements

4. The "relevant requirements" referred to in paragraph 2 above are the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 or the Tribunals and Inquiries Act 1992 (or any other enactment replaced thereby) and the requirements of any order, regulation or rules made under those Acts. These include

- (i) The Town and Country Planning (Inquiries Procedure) Rules 1992 [SI 1992 No 2038];
- (ii) The Town and Country Planning (Enforcement)(Inquiries Procedure) Rules 1992 [SI 1992 No 1903];
- (iii) The Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991 [SI 1991 No 2804];
- (iv) The Town and Country Planning (Enforcement Notices and Appeals)(Amendment) Regulations 1992 [SI 1992 No 1904];
- (v) Planning (Listed Buildings and Conservation Areas) Regulations 1990 (SI 1990 No. 1519)

Appeals and decisions covered by Section 63 of the 1990 Act

- (a) Applications for listed building or conservation area consent referred to the Welsh Ministers for determination (Section 12 of the Act) (where a local planning authority is the applicant Section 12 is applied by Regulation 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990);
- (b) Decisions on appeal in respect of applications for listed building or conservation consent (Section 20 of the Act);
- (c) Revocation and modification orders made by local planning authorities in respect of listed building or conservation area consents (Section 23 of the Act);
- (d) Revocation and modification orders made by the Welsh Ministers in respect of listed building or conservation area consents (Section 26 of the Act);
- (e) Any decision to confirm or not confirm a listed building or conservation area purchase notice (Section 35 of the Act);
- (f) Decision to grant listed building or conservation area consent or to discharge conditions or limitations or impose others on appeals against listed building or conservation area enforcement notices (Section 41(6)(a) and (b) of the Act);

NOTE: The provisions relating to conservation areas are applied by Section 74(3) of the Act.

Appeals covered by Section 65 of the 1990 Act

- (a) Any decision of the Welsh Ministers on an appeal against a listed building or conservation area enforcement notice except that relating to the grant of listed building or conservation area consent or the discharge or imposition of conditions or limitations.

RIGHT TO INSPECT DOCUMENTS

Under the provisions of the Inquiries Procedure Rules any person entitled to be notified of the decision given in the accompanying letter and who has received a copy of the Inspector's report may apply to the Welsh Ministers within 6 weeks of the decision for an opportunity of inspecting any documents appended to the Inspector's report.

Any application under these provisions should be sent to Planning Division of the Welsh Assembly Government at the above address, quoting the Welsh Ministers' reference number shown on the decision letter and stating the date and time (in normal office hours) when it is proposed to make the inspection. At least 3 days notice should be given.

Agenda Item 3.8

P-04-436 : Government Expenditure and Revenue Wales

Petition wording:

We call on the National Assembly for Wales to urge the Welsh Government to put together a Government Expenditure and Revenue Wales report.

In Scotland they have the GERS report, it aims to enhance public understanding of fiscal issues through detailed analysis of official UK and Scottish Government financial statistics. It's time that the Welsh Government published a similar report so that we can truly see the fiscal position of Wales.

Petition raised by: Stuart Evans

Date petition first considered by Committee: 15 January 2013

Number of signatures: 27

Jane Hutt AC / AM
Y Gweinidog Cyllid ac Arweinydd y Ty
Minister for Finance and Leader of the House



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref: P-04-436
Ein cyf/Our ref: SF/JH/0532/13

William Powell AM
Chair
Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

2nd March 2014

Dear William,

Petitions Committee: analysis of Welsh and UK Government financial statistics

Thank you for your letter of 19 December, in relation to my response on this subject in October.

While I addressed the revenue aspects of the petition in my previous letters, I am happy to provide further clarification. Specifically, in my October letter, I provided a link to information on Welsh revenues that was expected to be published imminently. Since I wrote, the information has been published and is available at:

<https://www.gov.uk/government/publications/disaggregation-of-hmrc-tax-receipts>

In my previous correspondence I have also provided links to other statistical information, including expenditure data for Wales. I therefore believe I have provided a full response to all the issues raised by the petition.

*Best wishes,
Jane*

Jane Hutt AC / AM
Y Gweinidog Cyllid ac Arweinydd y Ty
Minister for Finance and Leader of the House

Useful statistical sources and publications

Public Expenditure Statistical Analyses, published by the UK Government:
<https://www.gov.uk/government/organisations/hm-treasury/series/public-expenditure-statistical-analyses-pesa>

Welsh Government's budget documentation:
<http://wales.gov.uk/funding/budget/?lang=en>
<http://wales.gov.uk/funding/budget/?lang=cy>

Holtham Commission reports:
<http://wales.gov.uk/funding/financereform/report/?lang=en>
<http://wales.gov.uk/funding/financereform/report/?lang=cy>

Silk Commission's Part 1 report:
<http://commissionondevolutioninwales.independent.gov.uk/>
<http://commissionondevolutioninwales.independent.gov.uk/cy/>

**P-04-436 Government Expenditure and Revenue Wales report –
Correspondence from the Petitioner to the Clerking Team, 22.05.14**

All this shows is tax receipts. It does not show the revenue generated in Wales that is credited to England via a company having its head quarters in England.

It does not put a value on any of the natural resources we have stolen from Wales with no benefit to our people and it doesn't factor in goods from Wales exported from English ports. Or any of the other myriad of ways of 'cooking the books'.

All I am asking is for the Finance Minister to actually produce a detailed report, like they do in Scotland with their GERS report. That way we can see how well or how badly Wales is being run by the Welsh Government and the British Government.

Thank you

Stuart Evans

Agenda Item 3.9

P-04-437 : Opposing compulsory registration for home educating children

Petition wording:

We call upon the Welsh Assembly for Wales to abandon plans for a compulsory register for home educated children as part of the draft Education (Wales) Bill. The law states that parents, not the state, are responsible for the education of their children, which makes such a register both inappropriate and unnecessary.

Petition raised by: Wendy Charles-Warner

Date petition first considered by Committee: 20 November 2012

Number of signatures: 1614

Agenda Item 3.10

P-04-517 Stop the Welsh Assembly Government from bringing in the monitoring of electively home educated children under the guise of safeguarding

Petition wording:

Serious case reviews have shown that the authorities not elective home education have let children down. The government signed up to the rights of the child in 2004 which states that they will consult with children before changing things that effect them. They are not consulting our children who have already shown last year that they are against monitoring in a different consultation. We, therefore, call upon the National Assembly for Wales to urge the Welsh Government to stop bringing in the monitoring of electively home educated children under the guise of safeguarding.

Petition raised by: New Foundation Home Education

Date petition first considered by Committee: 26 November 2013

Number of signatures: 864



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE Elective Home Education – Analysis of responses to the Welsh Government consultation on proposals to introduce a compulsory registration and monitoring scheme for those who elect to educate their children at home

DATE 6 May 2014

BY Huw Lewis, Minister for Education and Skills

On 21 December 2012 my predecessor announced in a [written statement](#) that, following the Welsh Government's consultation on legislative proposals to introduce a compulsory registration and monitoring scheme for those who elect to educate their children at home, the Welsh Government would not legislate as part of the Education (Wales) Bill. In his statement he undertook to provide an update in due course. I am now updating you on the outcome of the consultation and my intentions going forward.

The consultation revealed a clear divide in opinion. The majority of home educating parents, home educated children and young people and organisations representing home educating families were strongly opposed to the introduction of any form of legislation. However, the majority of local authorities (LAs) and organisations with responsibility for children were of the opinion that legislation was absolutely necessary to ensure home-educated children were receiving a suitable education.

Having carefully considered the consultation responses from all stakeholders I have decided not to legislate for a compulsory registration and monitoring scheme during the current Assembly term. I have however, asked my officials to develop non-statutory guidance on home education by May 2015 to assist LAs with supporting their home-educating families, and to help create a more consistent approach to how LAs engage with their home-educating communities. The guidance will be developed in consultation with LAs and the elective home-educating community to provide an opportunity for them to work together to build consensus and trust. The guidance will assist LAs to develop a level of knowledge and expertise on home education, which was highlighted as an area for further development during the consultation.

The consultation highlighted that there is good practice and good engagement by some LAs with the home-educating community. We will draw upon this existing good practice in developing the guidance.

Developing non-statutory guidance will enable us to try out and evaluate different approaches to achieve the best learning outcomes for home-educated learners.

Today I have published an analysis of the consultation responses and this can be found on the Welsh Government website at:

<http://wales.gov.uk/consultations/education/registeringandmonitoring/?lang=en>

P-04-448 : Improve Sexual health services for Western Vale

Petition wording:

We call on the National Assembly for Wales to urge the Welsh Government to increase funding to the Cardiff and Vale University Health Board. This increased funding should be directed towards improving sexual health services for the Western Vale.

Additional Information:

Currently only one clinic is held once a week every Friday lunchtime in Llantwit Major. This clinic serves the whole of the Western Vale. This clinic gives sexual health advice and family planning services. This service is not adequate to meet the needs of this large geographical area. The town of Barry alone has 3 clinics/week. Help us to improve the sexual health of many young and vulnerable people who are often unable to travel 10 miles or further to a local clinic. These clinics offer the vital information/education/support/medical treatment that young people need. Improving sexual health services can help guide, support and care for the most vulnerable groups within our society. Please help us make a difference. Although teenage pregnancy rates are declining, abortion rates are rising (as cited by Helen Rogers Director of the Royal college of midwives, source BBC Wales 29/03/12) WAG in response to this report promised increased funding via public health Wales to improve access to integrated sexual health centres (BBC Wales 29/03/12) These vulnerable young people often from households which are deprived, do not receive the care they need. Had these young people lived in Barry, they would have received a much improved service. The rural vale is often dismissed as being "affluent" real pockets of socio-economic deprivation exist within this area. More clinics are needed. Wales wants a "World Class Health Service" built for the future. These young people are our future. Teenage pregnancy/abortion can have wide reaching detrimental effects on our young people. Sexually transmitted diseases are preventable if people get the right information.

Petition raised by: Rebecca Lowrie

Date petition first considered by Committee: 29 January 2013

Number of signatures: 16

P-04-449 : Bridgend Princess Of Wales – Save Our Services – Stop the Downgrade!

Petition wording:

On Wednesday 26th September 2012, Abertawe Bro Morgannwg Health Board announced changes that could radically affect the way our hospital services are delivered in Bridgend. Although nothing has been set in stone, it is probable that, if implemented, this will result in the loss of some paediatric, obstetric, neonatal, and accident and emergency care. Put simply, if you require intensive care, have a very sick child or are likely to have a pregnancy that is not straight forward you will have to travel to Cardiff, Swansea, and one of the other Specialist Service Sites in South Wales. Bridgend's population is ever increasing; as such we need more, not less local services. We the strongly condemn the move by Abertawe Bro Morgannwg Health Board, and demand that the Welsh Assembly Government spends more of its funding keeping these essential local services rather than putting the most at risk patients' lives in danger. We the undersigned call on the National Assembly for Wales to urge the Welsh Government to protect services in Bridgend, Princess of Wales Hospital, and ensure that the hospital retains all of these essential services without a downgrading.

Petition raised by: Ian Matthew Spiller

Date petition first considered by Committee: 29 January 2013

Number of signatures: 4,218. An associated petition collected 154 signatures.

P-04-449 Bridgend Princess Of Wales – Save Our Services – Stop the Downgrade! – Correspondence from the petitioner to the Committee, 20.05.14.

Hello Kayleigh

Many thanks for your response.

Thankfully the South Wales Plan included Princess of Wales Hospital as one of the centres for A&E and services that were under threat.

Unless things change, there is no need for this petition to be heard at this time as it is no longer relevant.

Best regards

Ian Spiller

P-04-456 Dementia – This Could Happen to you

Petition wording:

We, the undersigned, call on the National Assembly for Wales to urge the Welsh Government to:

- i. Bring to an end the discrimination against dementia sufferers in Wales who apply for N.H.S. Continuing Care Funding, by allowing for the cognition category of need (known as the "domain") to go up to the level "Severe" in the Welsh version of the Decision Support Tool. This would bring it in line with the English version; and
- ii. Direct Local Health Boards to implement the National Framework for N.H.S., Continuing Care Funding correctly in terms of patient eligibility and without regard to budgetary constraints.

Petition raised by: Helen Jones

Date petition first considered by Committee: 19 February 2013

Number of signatures: 1413

P-04-456 Dementia – This Could Happen to you – Correspondence from the Petitioner to the Committee, 12.05.14

Hi Kayleigh,

The meeting with Lynda Chandler was as I thought it would be, a waste of her valuable time and a patronizing waste of my time. Lynda Chandler is a very pleasant woman who was just doing her job but nothing was achieved and I felt that she was there simply because the health department had to be seen to be doing the right thing following having ignored the fact that they had written to the petitions committee inviting me as petitioner to become a stakeholder and not bothering to follow through. I came away feeling warmly encouraged and praised which presumably was the object of the exercise. Sorry if that sounds cynical.

If the Welsh Assembly Government Health Department and their special advisers don't listen to Professors of Law and Dementia Experts who have been battling away for years in an attempt to address the multitude of unjust ineligibility decisions that have been wrongly made by abuses to the National Framework and the incorrect withholding of Continuing Healthcare Funding, then what hope have I as a mere member of the public.

I will say this though, as long as there is breath in my body I will continue to stick pins in those who blatantly and pompously bend the rules for financial reasons.

As I see it the only good thing to come out of the hour or so I spent with Mrs. Chandler was the suggestion about forming a Dementia Task Force, but I would suggest that it should be made up of people who have been in the unfortunate position of being badly treated by the system as it stands, and not NHS cronies, so that in addition to the charities who support people who find themselves in a position of coming up against (.....and I use this term from experience) the hugely complex system as it stands, there is another option, that of choosing to be supported by those who managed to get a handle on the National Framework and jargonlike terminology like Multi Disciplinary Team Assessments and Decision Support Tools (the tick box administration). Often this data is not properly understood or correctly implemented/completed by the very people who are using them on a day to day basis, which is really scary, and of course there are those who are advised how to complete forms in a way that will ensure their continued employment, and YES I did say that!

Kind regards,

Helen

P-04-456 Dementia – This Could Happen to you – Correspondence from the Petitioner to the Committee, 20.05.14

Hi Kayleigh,

Thanks for your email.

The relevance of the documentation I've sent on to you surrounding my petition, and of course the time factors involved in dealing with each individual petition data suggests to me that wading through all of the emails I have sent to you recently would be best left to you and your colleagues discretion as to what you feel are the prurient points to bring to the attention of the committee.

The real question is, do the politicians want to tackle the problem of the lack of consistency and Health Boards in Wales evading the decisions of the Courts in Coughlan, Pointon etc., by the use of Guidance that is difficult to challenge by way of judicial review in the Courts. Without the political will to tackle the problem the Health Boards the CCGs can continue to ration Continuing Health Care funding by stealth. Possibly with an ageing population and an increasing, press led and social media awareness of dementia, the electorate will start taking a great deal more interest in this rather obscure and complex area of health care law. Unfortunately in the meantime the culture which currently allows personnel to falsify records (see BBC NEWS bulletin from last week concerning the arrest of several nurses the the Bridgend area for this) will hardly be discouraged from manipulating the Continuing Health Care assessment system if the goal of achieving costs savings can be achieved with no risk of sanctions and little prospect of the families challenging decisions which rely on the 'professional judgement' of Continuing Health Care assessors. From my experience the manager of the local Spar would have been better placed to judge my Mother's eligibility.

Ideally I would like the petitions committee to see all of the emails. I do not want this issue to get kicked into the long grass. I, as well as others are unimpressed with what has been the changing of a few words to satisfy what they see as the dissatisfied aggressor. I recognize that some positive changes have been made and I hope that some of them are because of my petition. The health department appear to agree that the 'cognition' domain should not have had the 'severe' tick box removed which was instigated by Lesley Griffiths the former Health secretary, after public consultation. This does bring it back in line with the English version of

the Decision Support Tool, on the one category. This does not mean that they have made it any easier for anyone to be considered eligible for this funding, in fact they have further messed with the decision support tool so that other areas have been negatively impacted upon! Rather than a meaningless consultative process whereupon the charitable organizations etc., who were consulted were listened to, perhaps these opinions should not have been just considered and then largely ignored, but acted upon honestly and with integrity?

Thanks Kayleigh and

Kind regards,

Helen

P-04-456 Dementia – This Could Happen to you – Email exchange between Tony Alexander, Member of the Alzheimer's Society's Volunteer CHC Support Group and Lynda Chandler, Welsh Government Official, 09.05.14

Dear Lynda

My sincere apologies for being unable to attend the meeting on Friday with Helen. I have volunteered as an “engineer” with REMAP which carries out bespoke alterations for appliances for handicapped people. I have an appointment at the home a handicapped lady and the occupational therapist on Friday.

I am a retired solicitor and a member of the Alzheimer's Society's Volunteer CHC Support Group which advises people who have been refused CHC. Only people who have successfully appealed a refusal are considered for the Group and in my case it was my father in law who had been refused and the decision reversed at the Local Appeal Panel.

I have been a member of the Group for two years and dealt with about 94 cases of which only 4 or 5 have been Welsh. Those have been similar to the English cases in that:-

(a) Assessments which the Framework require to be comprehensive, detailed and holistic are rarely, if ever, anything of the kind. Typically the assessments rely on Care Home notes (the majority of the cases have patients in care homes, unlike Helen's case) and those notes are at best superficial, as to be fair to the carers, they simply do not have the time to make detailed notes; frequently however, they are inaccurate and omit essential details as the carers are so used to such things as challenging behaviour so that unless it is exceptional, it is not mentioned. The extent to which the opinions of psychiatrists and GP s are sought or taken into account varies. Frequently it is a phone call and no written report is obtained. As far as I am aware (it was certainly the case in my father in law's case) the GP s know of the existence of a system for assessing for CHC but do not know the details.

(b) Although the Framework requires the family to be fully informed of the process so that they can play a meaningful role in the assessment process, this has not happened in any of the cases that I have dealt with. Sometimes they are provided with an explanatory leaflet, but no one has been handed the Framework or the DST and had those documents explained to them. The whole process is exceedingly complicated and no leaflet could do it justice. The majority of the families that I speak to say that they are daunted by the system and do not understand how it is supposed to operate.

(c) The assessors have a superficial knowledge of the Framework/DST, but are adept at interpreting the descriptors for the 12 domains in a prescriptive manner notwithstanding the guidance given in the Framework to the contrary.

The Welsh Audit Office report on CHC published in June 2013 sets out the many shortcomings in its implementation. In my opinion it did not pay sufficient attention to the problem of quality control of decision making and ensuring uniformity. A number of respected commentators have criticised the system including Luke Clements (Professor of Law at Cardiff University), the Law Society, the RCN, and the Alzheimer's Society. I believe that the problem of uniformity/consistency of decision making is not being addressed and will not be resolved until there is publication of anonymised case studies. If the Welsh Government adopt the whole of the English Framework (2012 edition) this will further hamper any drive towards consistency. Para 90 of the 2012 English Framework with superb civil service double speak states :-

“CCGs should be aware of cases that have indicated circumstances in which eligibility for NHS continuing healthcare should have been determined, and where such an outcome would be expected if the same facts were considered in an assessment for NHS continuing healthcare under the National Framework (e.g. Coughlan or those cases in the Health Service Ombudsman’s report on NHS funding for the long-term care of older and disabled people). However, they should be wary of trying to draw generalisations about eligibility for NHS continuing healthcare from the limited information they may have about those cases. There is no substitute for a careful and detailed assessment of the needs of the individual whose eligibility is in question.”

In other words CCGs can ignore Coughlan etc but at the same time should be aware of those decisions. Both the Westminster Government and the English Ombudsman found that using cases decided by the Ombudsman as comparators was useful. In 1994, Virginia Bottomley, then Health Secretary, referred to the care needs of the patient involved in the Leeds case (Ombudsman Report Case No E.62/93-94, January 1994) as a benchmark for funding, and the Ombudsman also compared the care needs of Pamela Coughlan in the Wigan and Bolton Case (E420/00-01 2002-03). However as can be seen from Para 90 of the English Framework, the DoH are steering assessors away from using comparators.

It is my submission that in the absence of case studies/comparators, it is impossible to tell if assessments across the Boards in Wales and CCGs in England are consistent, in fact I would argue that in the absence of case studies it would be miraculous if they were.

I compare the situation to various legal principles. For example, the law of negligence. That has been developed over several centuries, but the modern law is based on the 1932 case of *Donoghue v Stevenson* which laid down four criteria which needed to be applied for a claimant to succeed. Those criteria have been analysed, dissected and subjected to minute scrutiny by the Courts ever since and everyone has access to those decisions to see how the criteria are applied in various circumstances and how the principles of the decision have been developed over the 82 years since 1932. The availability of this body of case law means that as far as humanly possible a court in Newcastle faced with the same facts as a court with a case in Wrexham or Swansea will arrive at the same conclusion. However in the case of CHC no one knows if the assessments are consistent. The fact that the number of cases being awarded CHC is declining when the numbers diagnosed with dementia are increasing would suggest that if there is any consistency it is as a result of the bar being unlawfully raised as a means of cost saving. Furthermore, it is difficult to challenge decisions and have them tested forensically in Court because of the decision in the case of *Provincial Pictue Houses Ltd v Wednesbury Corporation*, which means in practice that unless the decision to refuse CHC is perverse/manifestly wrong, then the Courts will not interfere with the decision.

Once again my sincere apologies for not being able to attend the meeting. If you feel that it would be of any benefit to discuss the matter further, please let me know.

Regards

Tony Alexander

Dear Tony

Many thanks for taking the time to compile this e-mail. I'm sorry that we didn't get to meet, but your comments are informative and helpful; I completely understand the need to prioritise your appointment.

Many thanks to Helen also, for taking the time to meet with me this morning. It is impossible not to be deeply moved by your story and the experiences of others that you shared with me.

I sincerely hope that the amendments to the Framework I described will go some way to improving the experience of carers in navigating the CHC process. As we

discussed, and as Tony alludes to below, issuing guidance will only take us so far and Welsh Government is committed to working with the NHS to monitor compliance with the Framework going forward and to address the challenges. This is a longer-term improvement programme rather than a one-off event.

Perhaps it would also be helpful to refer to the specific points you detail below. We have received similar representations from other parties and have sought to address them as follows:

The revised Framework requires that a care co-ordinator is nominated and is responsible for ensuring that the assessment contains all the evidence needed for the MDT to make an informed and rational decision on CHC eligibility. When we publish the Framework at the end of June we will also provide an online Complex Care Information and Support Service, which will be publicly accessible. This will include templates for the submission of specialist clinical opinion. I must admit that we haven't as yet considered specific GP training, but I will take this suggestion back to our training group.

We hope that the role of the Care Co-ordinator (which is explained in detail in the Framework) will improve the experience for families and carers. We have developed three information leaflets: 'Public Information Leaflet on CHC', 'Preparing you for a CHC Eligibility Meeting' and 'What receiving CHC services means for you'. These have been developed with help from the Older People's Commissioner and Age Cymru, and have been tested with over 50's forums - so hopefully will help a little. They inform carers about what information, support and written feedback they should expect. The leaflets, Framework and DST will be publicly available on our website and linked from others. We have also required that families/carers are routinely offered access to advocacy services.

Helen and I discussed the cynicism with which some eligibility decisions appear to be made, and to which you allude in your e-mail. The revised Framework clearly separates the eligibility decision from financial considerations and stresses the importance of professional integrity and judgement (as opposed to rigidly 'ticking the boxes') in the assessment process. This will be re-emphasised in the training programme. Monitoring will include peer review and annual audit. We do also need to consider how we can best capture the experiences of carers, such as those you and Helen have described. Your suggestions would be very welcome.

Ensuring consistency of decision making is, as you rightly point out, an ongoing challenge. A number of mechanisms are proposed in the revised CHC Framework and in the Performance Management Framework. These include peer review and an

annual audit of a sample of cases. The issue of using case studies continues to be debated. As you recognise, there is some sense of caution though we are working with the Ombudsman in the first instance, to hopefully develop a 'Lessons Learnt' section in our online resource.

Helen and I also discussed the importance of values-based training and earlier education e.g. in schools. The importance of wider publicity regarding CHC was acknowledged. Publicity regarding the cut-off date for retrospective claims has been distributed to voluntary sector organisations and GP surgeries etc; there is no reason why we can't repeat the exercise with the general Public Information leaflets.

We are currently amending the draft Framework in response to the feedback received through the consultation exercise. This will then be submitted to the Minister with a briefing which will highlight any stakeholder views that remain unresolved. Whilst I believe we have addressed many of the concerns raised with regard to dementia, we will acknowledge that the issue of the potential removal of CHC eligibility as the disease progresses may not be resolved to everyone's satisfaction. We have however included some flexibility with regard to progressive disease where the assessors believe that the plateau may be short-term and/or require more frequent review.

I will also raise Helen's suggestion of a Dementia Task Group to examine how we can set the standard for a straightforward system for people with dementia and CHC.

I hope this response is helpful, though we do not underestimate the joint effort required to ensure that words are translated into action. I hope that you will both feel able to come back to me with any feedback you may have, or if you would like an update, at any time.

Kind regards

Lynda

P-04-502 Wellbeing Centre for Wales

Petition wording:

We the undersigned call on the Welsh Assembly to urge the Welsh Government to establish a new Wellbeing Centre for Wales that would put individual and community wellbeing(1) at the heart of Welsh politics, and that would be core-funded by government.

Additional information:

Although we recognize that the Welsh government has made considerable strides forward in terms of wellbeing policy, the latest statistics from the All-Wales Mental Health Network show that poor mental health, for example, costs the Welsh economy £7.2bn a year(2) and that the industrial areas of south east Wales have amongst the lowest subjective wellbeing scores in the UK(3)

We believe that this situation needs a solution.

A Wellbeing Centre for Wales would provide evidence-based policy solutions to the problem of wellbeing levels in Wales that are, on average, lower than the UK average. It would draw on the expertise of a wide range of cross-sector partners; including those with policy-making expertise and a track record in effective political engagement; those with experience of delivering wellbeing initiatives at grassroots levels, such as representatives from the voluntary sector; those with a background in action research; as well as academics and academic networks.

A Wellbeing Centre for Wales would draw inspiration from prestigious policy institutes like the Centre for Social Justice (CSJ). As with the CSJ's Poverty Fighting Alliance, The Centre would also aim to build on the vibrant network of grassroots charities and voluntary organizations already established by Lles Cymru Wellbeing Wales, to create a dynamic Wellbeing Network that would serve not only to showcase models of best practice that would then

inform and shape policy solutions, but also act as a bridge between communities and government.

The Wellbeing Centre for Wales could also provide a focus for a whole range of innovative wellbeing-promoting initiatives, such as working with the public and private sector to provide programmes of workplace training around wellbeing issues, including targeted workplace wellbeing training for those on low incomes; scaling up resources like the Sustainable Wellbeing Toolkit, which was developed by Lles Cymru Wellbeing Wales to help organizations implement and measure wellbeing programmes; mapping out community assets in Wales for the benefit of the public; or creating digital resources to increase public awareness around wellbeing issues, such as creating free electronic apps to measure individual wellbeing. The Centre would look for funding for its programme of projects and events from charitable trusts and foundations, as well as corporate sponsors, private individuals, and partnerships with the private sector.

In short, we the undersigned believe that a concerted effort is now required by multiple agencies, all working together, to realize the wellbeing ambitions set out in the government's legislative programme. A Wellbeing Centre for Wales would be a perfect vehicle to drive change.

[1] "Wellbeing is a positive physical, social and mental state; it is not just the absence of pain, discomfort and incapacity. It arises not only from the action of individuals but from a host of collective goods and relationships with other people. It requires that basic needs are met, that individuals have a sense of purpose, and that they feel able to achieve important goals and participate in society. It is enhanced by conditions that include supportive personal relationships, involvement in empowered communities, good health, financial security, rewarding employment, and a healthy and attractive environment.

From 'Local Wellbeing: Can We Measure it?' New Economics Foundation, September 2008

(2) Promoting mental health and preventing mental illness: the economic case for investment in Wales by Lynne Friedli and Michael Parsonage October 2009. For more details visit:

<http://www.publicmentalhealth.org/news.cfm?orgid=749&contentid=15934>

[3] <http://www.wiserd.ac.uk/training-events/annual-conference/programme/health-and-wellbeing/analysis-subjective-wellbeing-wales-evidence-annual-populati/>

Petition raised by: Wellbeing Wales

Date petition first considered by Committee: 24 September 2013

Number of signatures: 52

Mark Drakeford AC / AM
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref P-04-502
Ein cyf/Our ref MD/02674/13

William Powell AM
William.powell@wales.gov.uk

21 October 2013

Dear William

Thank you for your letter of 3 October calling on the Welsh Government to establish a new Wellbeing Centre for Wales. We are already supporting work on wellbeing.

Together for Mental Health sets out the Welsh Government's joined-up, 10-year strategic approach to improving the lives of those with mental health problems, and, where possible, preventing such problems developing in the first place by improving the mental wellbeing of the population.

The All Wales Mental Health Promotion Network, managed by Public Health Wales, provides strong leadership and a focus for mental health promotion and wellbeing in Wales. It increases public and professional understanding of public mental health, develops evidence and learning exchanges, and acts as a conduit for the dissemination of promising practices in public mental health wellbeing.

To guide and develop the network an Advisory Board, chaired by Professor Sir Mansel Aylward, meets on a quarterly basis and comprises experts in the field of mental health and representatives from mental health promotion and wellbeing. The Board is currently reviewing its terms of reference and membership to ensure that it is 'fit for purpose' in relation to its role in the delivery of aspects of Together for Mental Health, which includes a commitment to build skills to support policy development and practical action for promoting mental wellbeing.

I have asked Public Health Wales to liaise with Dafydd Thomas, Executive Director of Lles Cymru, to determine how the work on wellbeing can best be taken forward.

*Best wishes
Mark*

Mark Drakeford AC / AM
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff

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P-04-502 Wellbeing Centre for Wales – Correspondence from the Petitioner to the Clerking Team, 08.05.14

Dear Stephen

I am writing in response to William Powell AM Chair of the Petitions Committee. I have also had a copy of the letter from the Minister for Health and Social Services, Mark Drakeford AM to the Petitions Committee.

Firstly I would like to thank the Chair and the Petitions Committee for considering the issues through the petitions process.

In answer to the points made in the various items of correspondence, I would like to say that for the last 4 years I have been an active member of the Public Health Wales All Wales Mental Health Promotion Network Advisory Board and have worked with some very passionate and forward thinking individuals on delivering the Network's terms of reference – which I would suggest are tailored more towards mental health than wider, community wellbeing.

I have also learned that this particular network will be merged with a number of other Public Health Wales Networks to form the All Wales Public Health Network in the very near future – which challenges the idea that the All Wales Mental Health Promotion Network's work will continue to unchanged on this agenda.

It seems to me that there has been a considerable shift in Wales away from networks and nodes that identify good practice in project delivery; and provide the forums that develop policies that are 'fit for purpose.' Organisations in Wales are having to focus their efforts on project delivery, because that is what their funding is telling them to do. As organisations get more involved in delivery they become less skilled at evaluation; reflection and ironically learning how to deliver a better service. I am concerned that this will result in unnecessary duplication of effort; the waste of limited financial resources and ultimately services that don't deliver what their users need.

That said, I totally understand and support the Welsh Government's desire to champion delivery and change on the ground, but I do feel there is a role for evaluation, reflection and challenge. And I believe a Wellbeing Centre for Wales could help do that.

If as the Chair, you feel that the Petitions Committee would benefit from a discussion about wellbeing and what it means for the National Assembly's activities, I would be more than happy to present to the Committee. I have recently finished wellbeing evaluation's for the Arts Council in Wales; World Wide Fund for Nature in Namibia; the HR department in Cardiff City Council and Port Talbot Young People's Services - where wellbeing is the common theme that unites them all.

Thank you again for your time and consideration on the issue of a Wellbeing Centre for Wales. If I can help at all, please by all means let me know.

Kind regards

Dafydd Thomas

Cyfarwyddwr Gweithredol - Executive Director Lles Cymru Wellbeing Wales

P-04-530 Bilingual Labeling

Petition wording:

Like all self-respecting officially bilingual countries, (such as Canada), Wales needs legislation to ensure that all food products sold in Wales be labeled in both Welsh and English. We therefore demand that the National Assembly for Wales to urge the Welsh Government enact said legislation without undue delay.

Petition raised by: Simon Foster

Date Petition first considered by Committee: 21 January 2014

Number of signatures: 98

P-04-530 Bilingual labelling – Correspondence from the Petitioner to the Committee, 04.05.14.

To Whom it May Concern,

My response to the observation outlined by Welsh government minister Mark Drakford is profound dismay at our lack of self-determination coupled with a recognition of the threat posed by the EU government, and to a lesser extent, the UK government, to our continued national identity and existence.

I would urge the Welsh government to enact legislation requiring the bilingual labeling of food products sold in Wales (as outlined in the petition) regardless of rules and regulations external to our nation.

The European Union would then either have to recognise Welsh as a real language (i.e. give it 'official' status) or challenge the legislation in court where the merits of supporting the Welsh language could be debated in a transparent manner.

The argument from a Welsh perspective should be: if Welsh is an official language in Wales, then it should be recognised as such in the EU. Disparate standards and recognitions among two governments purporting to represent the same nation (in this case Wales), is clearly unacceptable.

I therefore urge the Welsh government to enact the said legislation requiring bilingual labeling in Wales (regardless of current EU or UK legislation) in order to affect positive change for Wales in her relationship to the EU and UK.

Sincerely,

Simon Foster

P-04-500 Call For Regulation of Animal Welfare Establishments in Wales

Petition wording:

We the undersigned, call on the National Assembly for Wales to urge the Welsh Government to regulate Animal Welfare Establishments and legislate for compulsory requirements be met by all animal rescue establishments in line with the report produced by the AWW Animal Welfare Establishments Working Group October 2012. The Welsh Government need to put in place legislation for Wales under the Animal Welfare Act(2006), to protect animals from neglect and abuse.

Additional Info:

More and more animals are suffering abuse, neglect and are being bred from in unregulated establishment who advertise as a Rescue Center, and we call upon the Welsh Assembly to legislate under the Animal Act 2006 to try and stop this from continuing.

Petition raised by: Lisa Winnett

Date petition first considered by Committee: 24 September 2013

Number of signatures: 265

**P-04-500 Call For Regulation of Animal Welfare Establishments in Wales –
Correspondence from the RSPCA to the Committee, 14.04.14**

Could I also draw your attention to the attached report by the Animal Welfare Network for Wales (of which I am Chair). We conducted a lengthy investigation into the need for regulating sanctuaries/rescues. This was a formal process which included a working group of experts (which included the Welsh Government and local authorities), oral evidence sessions and a written consultation process. We presented this to the Minister's predecessor (John Griffiths) but unfortunately we have yet to receive the Government's response.

If I can be of any further help, please do let me know. We would be more than happy to attend a committee meeting if that would be of use.

Best wishes,

Claire Lawson

Head of External Affairs

RSPCA Cymru

The case for the regulation of Animal Welfare Establishments in Wales

A report produced by the AWNW Animal Welfare
Establishments 'Sanctuaries' Working Group

October 2012



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First published in the United Kingdom in 2012 by the Animal Welfare Network for Wales.

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AWNW, C/o RSPCA Cymru, 10 Ty Nant Court, Morganstown, Cardiff CF15 8LW.

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***“Compassion needs to be encouraged, but
compassion without a sense of responsibility
can lead to cruelty.”*** **Gower Bird Hospital**

FOREWORD

The Animal Welfare Network for Wales (AWNW) has been involved in the issue of Animal Welfare Establishments¹ (AWEs) or 'sanctuaries' and the possibility of regulation from an early stage in the group's history. It is an issue which is of particular concern to our members, many of whom could be classified as AWEs. Our members are therefore highly informed as to the factors that are necessary for running a successful AWE to high welfare standards, and also what can go wrong.

Back in 2009 AWWN's work in this area led to the organisation of a popular seminar on the subject in North Wales. This event clearly illustrated that Network members were eager to engage in a lively debate on the issue and that there was a considerable level of concern about AWEs that were not being run properly and where animals were at risk. Discussions from this seminar led to the formation of the Sanctuaries Working Group, which later changed its name to the AWE Working Group, who began work on investigating the opinions of the sector.

This report, built on that wide variety of evidence gathered both within and outside the animal welfare sector, lays out the case for secondary legislation by the Welsh Government under the Animal Welfare Act (2006) and the form that this could take. The group has done its utmost to secure the opinions of all who may be affected by future regulation, along with independent legal advice, and feel that the end result is a balanced and achievable set of recommendations on how to move forward in this area towards proportionate regulation.

The structure of the working group that has produced this report has also been an interesting exercise for AWWN. Working with the Welsh Government, from the beginning of the process, and bringing together a diverse group of partners to achieve a coherent consensus has at times been a significant challenge, but also, a productive achievement. It is hoped that this form of external subject based working group run in partnership with the Welsh Government could be used as a template for future work going forward.

Many thanks go to those working group members who have attended meetings and contributed their valuable opinions towards the report over an extended period of time. Special thanks also need to go to RSPCA Cymru for their considerable commitment of staff time and resources needed to produce this report. Without this support this considerable body of work would have been unlikely to reach fruition.



Tina Reece, AWWN Network Manager

SECTION 1: BACKGROUND

1.1 Introduction

From the smallest organisation perhaps with just one individual acting on their own initiative to take in animals, to the largest rehoming centres of major UK charities, there are many issues that affect how well an AWE is run.

The Welsh Government has the opportunity to put in place legislation for Wales under the Animal Welfare Act (2006), or through an Assembly Act, which would both protect animals in this sector and ensure best practice. Public expectation would be high as to the protection of animals through the regulation of these establishments.

AWNW has a vested interest in this issue, as many of its members are AWEs. The Network has therefore investigated the issue and widely canvassed opinion from the animal welfare sector and those establishments who would be most affected by regulation, to produce this mapping document and a series of recommendations.

1.2 Working group members

Chair:	RSPCA Cymru/AWWN chair	Claire Lawson
Members:	BirdsFirst Born Free British Rabbit Council Catnip Cats Protection Dogs Trust Gower Bird Hospital and BWRC Great Dane Care HelpMyPet Hope Rescue Horse Trust Independent Pit Pony Sanctuary Redwings Horse Sanctuary RSPCA Tamlin Watson Animal Behaviour Specialist Torfaen County Borough Council World Horse Welfare Wrexham County Borough Council	Greg Glendell Chris Draper Alan Gibbs Liz Thomas Catherine Smith Paula Boyden/Chris Laurence Simon Allen Liz Davies Sarah Marsh Vanessa Waddon Liane Crowther Rebecca Evans Roy Peckham Nicolas De Brauwere Adam Grogan Tamlin Watson Alison Hughes Phil Jones Graham Capper
Advisor:	Aberdeen University Law Department	Mr Mike Radford
Observer:	Welsh Government	Sian Smith
Secretariat:	AWNW Network Manager	Tina Reece

1.3 Why legislation is needed

There are several pieces of legislation that cover the welfare of animals in Wales, the most prominent being the Animal Welfare Act (2006) (and its subsequent species-specific codes of practice) however no regulations exist to sufficiently and specifically govern the establishment of AWEs, nor their ongoing practices.

It is the opinion of this working group that in our experience much of the public are already under the impression that this area is regulated. However, the current situation is that any person, organisation or animal welfare establishment who holds themselves out to receive vulnerable animals on a regular basis, whether companion, farmed, protected or other animals, with a view to either rehoming, rehabilitating or providing long-term care, can do so. This has led to a catalogue of problems with this practice, including anything from basic animal welfare problems to the visibility of these individuals or organisations and access rights to monitor and inspect conditions in which animals are kept.

A precedent for regulation already exists in parts of Europe², and there are parallels for us closer to home with the regulation of other animal related undertakings such as riding schools, dog breeders³ and dog and cat boarding in Wales and within other UK nations. Currently, although there is some information available, there is still no definitive data as to how many animal welfare establishments are operating in Wales⁴, because they are not required to register, which has wide ranging implications for animal welfare and disease control.

1.4 Size of the sector involved

The general visibility of the animal welfare sector is a major part of the issue of regulation for AWEs.

Although most AWEs are an invaluable part of animal welfare services, there are times when things go wrong, often leading to a rapid decline in standards. Resources may become overwhelmed for many reasons. This may include irregular fees or donations which do not meet the required levels of funding to maintain operations, capability being surpassed due to large intakes of animals or specialist welfare and husbandry problems being encountered (such as for wildlife and exotics especially). These are common issues encountered by both large and small organisations. In these cases a framework or safety net is necessary to protect vulnerable animals and the organisations trying to deliver their care. There has long been recognition in the animal welfare sector, and, we believe, amongst informed members the public that this step is a necessary and positive move that will protect both the people and animals involved.

Of 146 AWNW members, 65 have self-defined their organisations as 'sanctuaries' or AWEs within our definition⁵, whilst figures gathered by the Welsh Government in 2009-2011 identified 88 'sanctuaries' or 'refuges', and 54 'collectors' in Wales⁶.

²These countries and authorities include Jersey and others.

³Indeed the Welsh Government intends to bring forth stronger legislation in this area in the autumn of 2012.

⁴The CAWES baseline data project has given us a starting point for numbers of AWEs in Wales, but because of discrepancies in the data reporting of the different Local Authorities involved, the difficulty identifying relevant organisations and establishments, and the end of the scheme on the 31st of March 2011, we have been left with an incomplete picture of the scale of the problem.

⁵AWNW membership statistics – which are self defined by the organisation during their application process - showed that as of the 1st of January 2011 65 of our 145 members classified themselves as a sanctuary, rehoming centre, nature reserve/wildlife centre/zoo, rescue or rehabilitation centre. More would also be included under the stricter definition set out for an AWEs in section 2.4 above. Please refer to the AWNW website for the AWNW's full membership list, <http://awnwales.org/search.asp?hit=true>

⁶The Welsh Government defined 'collectors' for the purposes of this data as an: 'individual who keeps a number of different specimens of the same species for non-commercial purposes' which could also mean these premises. However, the AWNW's Working Group has stated that trends cannot be accurately measured by this data due to differences and difficulties in the local authorities reporting. The full data can be found at <http://wales.gov.uk/docs/drah/publications/101119cawesen.pdf>

Welsh Government Baseline Data collected by 22 Welsh Local Authorities under CAWES:

	2008-9	2009-10	2010-11
Sanctuary/refuge	85	82	88
Collectors	12	34	54

Unfortunately these figures still do not provide a comprehensive picture of the full extent of the sector. This is due to the definitions used for the data gathering process, which were not robustly defined, along with difficulties identifying all relevant individuals and organisations to be counted. As an example of this, wildlife premises were not included in the Welsh Government data. Local authorities were also only able to identify those organisations that they had the resources and understanding to cover. It should be noted that it can often be those who do not openly advertise themselves that are the organisations of particular concern.

The AWNW has very good representation from the active animal welfare sector in Wales, but its membership is not exhaustive. After an extensive mapping project of the sector in 2006, which was rerun and updated in 2009, AWNW databases show 122 animal welfare organisations who are not currently members of the Network. This project showed that overall there were approximately 268 animal welfare organisations in Wales, as well as many who remain unmapped due to issues such as their size or location⁷. It is worth noting here that members of AWNW are self-selecting, as there is no provision for automatic membership and organisations must apply and be accepted to the group⁸.

1.5 Problems to be addressed

The primary concern identified by this report has been the poor standards of animal welfare that can affect AWEs. These concerns can be broken down as follows:

- There are numerous cases of poor standards at AWEs, often reported as a result of concerns raised by the public. Sometimes the standards have been so poor they have resulted in prosecutions for cruelty and other welfare offences. Please refer to section 1.6 for case studies;
- There is an element of trust in the system of sanctuaries from the public, which assumes some level of knowledge, professionalism and accountability which unfortunately is not always the reality;
- AWEs are vulnerable to rapid declines or large fluctuations in standards. The expenditure required to provide care and treatment can easily exceed income generated from rehoming fees (if any) so resources are typically strained. When donations are sparse, welfare standards are vulnerable and may be compromised. Fluctuations in numbers and types of animals depending on the season may cause difficulties in planning and can lead to AWEs becoming quickly overburdened. With fixed resources available, taking in more animals can lead to lesser standards of care available for each individual animal within an AWE. These organisations are typically heavily reliant on volunteers and thus when key individuals became temporarily or permanently unavailable, welfare standards can quickly deteriorate;

⁷Data as collected through AWNW membership review data collected in 2006 showing 629 animal welfare related organisations with dealings in Wales, many of which could be assumed to fall into the definition of AWEs.

⁸To date there have been no organisations that have been rejected for membership. For membership terms can be found at <http://awnwales.org/membersterms.asp>

- There are no safeguards to prevent people who lack the requisite knowledge, skills, resources, commitment, facilities and equipment, from operating an establishment;
- There is a lack of knowledge about which individuals and organisations are operating as AWEs, what types of animals they care for and what standards they operate to, which if standards are low may well lead to poor levels of animal welfare. Given this lack of knowledge it is currently difficult to identify where problems are occurring until they become of a severe nature and often animals are suffering considerably. Given that decisions regarding regulation should be based on good quality data, inspection of AWEs is necessary to obtain this data and identify which are 'high-risk' and which already have systems in place to ensure adequate standards of welfare. For example, small AWEs with limited funding, run by a small group or an individual, pose a greater risk of poor standards of welfare arising due to financial pressures. Some AWEs that are not open to the public can also carry a greater risk of problems not being visible to be picked up by enforcers.

1.6 Case studies

The need for regulation of AWEs can be illustrated by a number of prosecution case studies taken from recent years. It should be noted that by the time these situations came to light the problems were already at the suffering stage for the animals involved. Each of the cases below could have been prevented through regulation and careful regular monitoring. More worrying, are the cases that don't come to light and the AWEs that function with no oversight, perhaps with the public assuming wrongly that there is a system of external monitoring already in place.

Case Summary 1 (RSPCA)⁹:

Mr and Mrs J – Animal sanctuary run from a three-bedroom semi-detached residential council house. Both defendants (Mr and Mrs J) were unemployed.

Charges:

Both defendants were charged with causing unnecessary suffering by unreasonably omitting to provide the animals (being 23 cats, five snakes, three lizards and one rabbit) proper and necessary care and attention contrary to section 1(1)(a) of the Protection of Animals Act (1911). Mr and Mrs J effectively became an AWE when they advertised that they would find good and loving homes for any unwanted animals. The animals were underfed, kept in dirty conditions (also the responsible Inspector found evidence of ringworm in the house) and the defendants failed to provide adequate veterinary care. Mr and Mrs J pleaded not guilty to all the charges and trial was heard on 30 September – 3 October 2003. The case was not concluded at this time and was adjourned to 10 November 2003.

Outcome:

Mr J – 30 convictions were brought against him. He received a three-year conditional discharge and is subject to a disqualification order in relation to all animals for life, except for one dog, one rabbit and three cats. Mr J was required to rehome the above animals within fourteen days following an agreement with the Court. Mrs J – 30 convictions were brought against her.

She received a confiscation order and is subject to a disqualification order in relation to all animals for life, except for one dog, one rabbit and three cats. Mrs J was required to rehome the above animals within fourteen days following an agreement with the Court. An appeal was lodged by Mr and Mrs J against their convictions and sentences. Mr and Mrs J withdrew their appeals on the day of the appeal hearing.

Case Summary 2 (RSPCA)¹⁰:

Ms P – Ran a small scale animal sanctuary which was based at her home and in some barns. The defendant was unemployed.

Charges:

The defendant was charged with causing unnecessary suffering by unreasonably omitting to provide proper and necessary care and attention contrary to section 1(1)(a) of the Protection of Animals Act (1911) to a Shetland type cross-bred mare pony. The pony was suffering from laminitis which the defendant made no effort to seek veterinary help to alleviate the animal's suffering. The pony was eventually euthanised. Ms P pleaded guilty to the charge and trial was heard on 7 April 2005.

Outcome:

The defendant is subject to an 80 hours Community Punishment Order and was ordered to pay costs of £100 and compensation of £634.47.

Case Study 3 (A Welsh Local Authority)¹¹:

A hobbyist caring for his chosen species of birds soon became known in the locality and people started taking injured birds to him to rehabilitate. When the residential property could no longer provide for the accommodation needs of the birds, he relocated and built new aviaries. People began to visit and give donations to fund his work. The population expanded, more aviaries were built and publicity resulted in more visitors.

Gradually the hobby and wish to educate people about wildlife became subject to the regulatory control of the Zoo Licensing Act (1981). The operator explained that there was no intention to become a business, as a zoo, and was reluctant to accept the situation and wanted to remain as a 'sanctuary' not subject to legislative controls. Unfortunately, the escalation in numbers of birds bred on site, injured wild birds and re-homed unwanted pets, brought about a decline in welfare standards.

Outcome:

Existing legislation was enforced, a closure notice under the Zoo Licensing Act (1981) was served and a prosecution taken under the Animal Welfare Act (2006). These actions proved to be very unpopular with the general public.

¹⁰Taken from RSPCA prosecution data.

¹¹Supplied anonymously by a Welsh Local Authority by an officer involved with the incident.

This unlicensed zoo closed to visitors and continued as a 'sanctuary' thus a prosecution was not proceeded with under the Zoo Licensing Act (1981). The costs associated with prosecution and conviction under section 4 of the Animal Welfare Act (2006) amounted to £4,000, costs awarded to the council were £500. It should be acknowledged that the cost would have been substantially increased without the RSPCA Inspectors who assisted with transportation, accommodation and responsibility for several of the birds signed over to them without charge to the council.

Case Summary 4 (RSPCA):^{12a}

Mr and Mrs M – Wildlife sanctuary. Mr M was employed. Mrs M was unemployed. A prosecution was not brought against Mr and Mrs M because it failed to meet the evidential and public interest tests. This was in relation to a number of birds kept at the sanctuary and the investigating Inspector felt the following offences had been committed:

1. Causing unnecessary suffering by failing to provide adequate care and attention contrary to section 1(1)(a) of the Protection of Animals Act (1911).
2. Keeping the birds in cages that were too small contrary to section 8(1) of the Wildlife & Countryside Act (1981).
3. Possessing wild birds which was contrary to section 1(2)(a) of the Wildlife & Countryside Act (1981).
4. Not registering a Schedule 4 bird contrary to section 7 Wildlife & Countryside Act (1981).
5. Displaying Annex A species to the public without the Article 10 certificates contrary to section 8(1) of the Control of Trade in Endangered Species (Enforcement) Regulations (1997).

Outcome:

Adult Cautions were issued and signed by both Mr and Mrs M.

^{12a}The Report On Companion Animal Welfare Establishments: Sanctuaries, Shelters And Re-Homing Centres, The Companion Animal Welfare Council, 2004, 2.1.1, p14 http://core.kmi.open.ac.uk/download/pdf/27685/34&sa=U&ei=IPLnccf6IwD8jYpD0r48Vod=0CCMQFJAH&sig2=OgY0KGLc8j_6lm4ht1-Yqg&usg=AFQjCNFDn8fHfuwWLUHTswjdlN9UhrUnw

SECTION 2: PARAMETERS

2.1 Interpretation of terms

Animal welfare establishment (AWE):

Originally adapted from the CAWC definition^{12b} which aims to better reflect the function of establishments and organisations such as 'sanctuaries' and provide an umbrella term for what can be a diverse sector. For the purposes of this report therefore, an animal welfare establishment is any establishment which held itself out to take in and to care (temporarily, permanently, or both) for vulnerable animals¹³. This could include establishments known as: animal home, sanctuary, shelter, rehoming centre, rest home, hospital, rehabilitation centre, rescue centre, stray animal facilities (local authority or contractor). The function of these establishments could include: taking in unwanted animals, rehoming, keeping for life, lost animals, treatment on a small or large scale or sick or injured animals, taking in retired animals, rehabilitation¹⁴. It would not be possible to create a definition of AWEs based on numbers of vulnerable animals taken in or by severe limitations on species, but rather the organisation must be defined by what they do.

Vulnerable animals:

The definition of a protected animal can be taken from the Animal Welfare Act (2006).¹⁵ Animals which are lost, un-owned, unwanted, injured, diseased, neglected, abused, orphaned, at risk of harm, or whose owners are unable to cope should be included. These could be companion animals, farm animals or protected animals.

Protected animal:

An animal is a 'protected animal' if: it is of a kind which is commonly domesticated in the British Islands; it is under the control of man whether on a permanent or temporary basis; or it is not living in a wild state.¹⁶

Wild animal:

A 'wild animal' means any animal (including a wild bird) which is or (before it was killed or taken) was living wild; 'wild bird' means any bird of a species which is ordinarily resident in or is a visitor to the European territory of any member State in a wild state.

Person:

The definition of human responsibility for an animal can be taken from the Animal Welfare Act (2006).¹⁷ For the purposes of this report a 'person' is an individual or company not associated with any group or organisation in regards to holding themselves out to receive vulnerable animals on a regular basis. For the issue of fostering, these individuals could be captured under the legal responsibility of the organisation they were acting for, rather than being personally liable or under a requirement to gain any sort of licence.

^{12b}The Report On Companion Animal Welfare Establishments: Sanctuaries, Shelters And Re-Homing Centres, The Companion Animal Welfare Council, 2004, 2.1.1, p14 http://core.kmi.open.ac.uk/download/pdf/27685/34&sa=U&ei=ib7LTqqPGIWR8gPhyLDqDw&ved=0CCMQFJAH&sig2=OgY0KGLc8j_6lm4ht1-Yqg&usg=AFQjCNFDn8fhfuwWLUHTswjdlN9UhrUnw

¹³For clarification this does not include veterinary practices.

¹⁴This is not an exhaustive list, but the working group as flagged those examples that they particularly want covered by regulation in this area. The group would prefer to see a non-prescriptive list with exemptions only if absolutely necessary and such a case was proven.

¹⁵Animals to which the Animal Welfare Act (2006) applies are listed in Introductory section 1: "animal" means a vertebrate other than man; (2) Nothing in this Act applies to an animal while it is in its foetal or embryonic form; (3) The appropriate national authority may by regulations for all or any of the purposes of this Act (a) extend the definition of "animal" so as to include invertebrates of any description; (b) make provision in lieu of subsection (2) as respects any invertebrates included in the definition of "animal"; (c) amend subsection (2) to extend the application of this Act to an animal from such earlier stage of its development as may be specified in the regulations. (4) The power under subsection (3)(a) or (c) may only be exercised if the appropriate national authority is satisfied, on the basis of scientific evidence, that animals of the kind concerned are capable of experiencing pain or suffering. (5) In this section, "vertebrate" means any animal of the Sub-phylum Vertebrata of the Phylum Chordata and "invertebrate" means any animal not of that Sub-phylum. <http://www.legislation.gov.uk/ukpga/2006/45/crossheading/introductory>

¹⁶Taken from the Animal Welfare Act (2006) definition, Introductory section 2: <http://www.legislation.gov.uk/ukpga/2006/45/crossheading/introductory>

¹⁷Animal Welfare Act (2006), Introductory section 3: a person responsible for an animal whether on a permanent or temporary basis.; (2) being in charge of it; (3) a person who owns an animal shall always be regarded as being a person who is responsible for it; (4) a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible. <http://www.legislation.gov.uk/ukpga/2006/45/crossheading/introductory>

Organisation:

For the purposes of this report an 'organisation' is the persons (or committees or departments etc.) who make up a body for the purpose of administering an animal welfare establishment. If the organisation is a charity or trustee incorporated association, trustees would hold responsibility.

Holding out:

There was a need to distinguish between individuals buying and keeping animals and those 'holding themselves out' to receive animals. For the purposes of this report advertising or being well known in the locality for taking in vulnerable animals could be classified as 'holding one's self out' to receive animals. Hoarders of the type who buy or adopt their animals would therefore not be classified as an AWE. The issue turns on the vulnerability of the animal (such as the issue of selling rescue animals). Even if it means that some individuals escape the net, it was agreed that a distinction had to be made in this area.

2.2 Past definitions of what constitutes an 'animal sanctuary'

Definition of an 'animal sanctuary' written in 2001 for the draft Animal Sanctuaries (Licensing) Bill¹⁸:

In this Act "animal sanctuary" means any premises at which ten or more animals, or, in the case of equines, four, are normally kept for the purpose of protection, rehabilitation, rest or rehoming other than: any establishment at which any animal is kept and the use of the establishment for that purpose is licensed in accordance with, any other enactment; any premises owned or operated by a local authority and used for the detention or care of any animal by that authority in the exercise of its functions under any enactment.

Definition of an 'animal sanctuary' written by Defra in 2006:

*An animal sanctuary is any **premises** which is **willing** to admit and care for displaced, injured or unwanted animals on a regular basis, whether companion, farmed, wild or other animals, with a view to either rehoming, rehabilitating or providing long-term care for them.*

And further refined by the RSPCA in 2006¹⁹:

*An animal sanctuary is any **facility** which **seeks to** admit and care for displaced, injured or unwanted animals on a regular basis, whether companion, farmed, wild or other animals, with a view to either rehoming, rehabilitating or providing long-term care for them.*

2.3 Agreed working definition of an 'Animal Welfare Establishment' for this report

For the purposes of this report, an Animal Welfare Establishment shall be defined henceforth as:

A person, organisation or establishment who holds themselves out to receive vulnerable animals on a regular basis, whether companion, farmed, protected or other animals, with a view to either rehoming, rehabilitating or providing long-term care.

¹⁸Draft Animal Sanctuaries (Licensing) Bill, a Private Members Bill put forward by Ian Cawsey MP <http://www.publications.parliament.uk/pa/cm200102/cm-bills/022/2002022.pdf>

¹⁹Email exchange between the RSPCA's Adam Grogan and Sash Foreman, and Defra, 2006.

2.4 Legislative positioning

As mentioned earlier the Welsh Government has the capacity to legislate in this area either through introducing regulations (secondary legislation under the Animal Welfare Act) or by through primary legislation and what is called an Act of the Assembly. Indeed when the UK Government passed the Animal Welfare Act in (2006), which is enabling framework legislation, there was an intention by the drafters that the issue of sanctuaries should be considered next (along with other issues). This Act devolved the responsibility for introducing secondary legislation to Wales and indeed since it was subsequently implemented by the Welsh Government in March 2007 there have been several developments, namely Codes of Practice for cats, dogs, equines and rabbits, as well as a ban on the use of shock collars for cats and dogs.

Although the 2011 referendum saw the whole area of animal welfare devolved to Wales²⁰ the Animal Welfare Act still provides the simplest method for introducing regulations for sanctuaries because the purpose of the regulations would fit closely to the primary purpose of the Act, to promote animal welfare, although legislation would also help to make these organisations accountable in other areas, both formally and informally.

The European Convention for the Protection of Pet Animals²¹, which the UK has not yet signed up to, has some areas with which the four nations of the UK does not comply with currently, such as the requirement to have regulation of sanctuaries. If the UK was to sign up to the Convention in the future, such requirements would need to be addressed anyway. It is worth noting however, that the Convention's definition of sanctuaries is widely considered to be inadequate.

²⁰The exceptions being Hunting and Animal Experiments

²¹<http://conventions.coe.int/treaty/Commun/QueVoulezVous.asp?NT=125&CL=ENG>

SECTION 3: METHODOLOGY

3.1 Timeline of inquiry

The working group engaged in an investigation and mapping exercise to seek evidence from interested parties in Wales with the view to producing this report containing recommendations by the end of 2012. This is not a campaigning group and will cease to exist following the report's publication.

June 2009:

The issue was first examined in an AWNW seminar held in Llandudno on the 4th of June 2009. The topic had been suggested by the Board of the Network because of informal discussions and concerns on the topic gathered from members.

Key speakers at this event were: Adam Grogan (RSPCA Wildlife Department), Simon Allen (Gower Bird Hospital), Graham Capper (Wrexham County Borough Council) and Mr Mike Radford (Reader of Law at Aberdeen University).

This seminar was very well attended and sparked animated discussion amongst our members which resulted in a resolution to establish the AWNW Sanctuaries Working Group.

December 2009:

At the inaugural meeting of the working group on the 9th of December 2009 it was decided that proportionate legislation to address current and potential problems was the ultimate goal of the working group.

Mike Radford, a Reader of Law from Aberdeen University and a specialist in animal welfare law agreed to consult for the group as it completed the mapping exercise and developed recommendations with a robust definition of what constitutes an AWE.

April 2010:

The mapping exercise was undertaken through evidence gathering from interested groups across Wales through both oral sessions and written submissions. The forms inviting written submissions were distributed on the 29th of April 2010, with a deadline of the 30th of June 2010.

All members of AWNW were emailed evidence forms and an invitation to one of the three oral evidence sessions on the 29th of April 2010. Members were also encouraged to forward the evidence form and introductory email to any other organisation or individuals they felt may be interested in submitting evidence, or to pass on their contact details to the Network Co-ordinator who would forward them evidence forms.

The Network also forwarded evidence forms to a database of 162 vets in Wales and all 22 Welsh local authorities. The councils also received an appeal to forward copies of the evidence forms to all of the 'sanctuaries' identified by their CAWES baseline data gathering exercise, as these addresses were protected by data protection and could not be released to the Network.

May 2010:

Oral evidence gathering sessions offered at various venues in north, mid and south Wales during May of 2010 to ensure access to all interested parties and allow those not comfortable with submitting written evidence, or with literacy issues, to take part. No bookings were made for the north and mid Wales sessions on the 5th of May 2010 at the Welsh Government offices, Aberystwyth, the 25th of May 2010 Welsh Government offices, Merthyr Tydfil, and the 10th of June 2010 Welsh Government offices, Caernarfon. These sessions were subsequently cancelled. However, a fully booked south Wales session was held in Merthyr Tydfil on the 15th of May 2010.

July 2011:

Once the evidence was gathered and legal recommendations received, the working group met on five subsequent occasions to discuss the construction of the recommendations to be put forward to the Welsh Government in the form of this report.

October 2012:

Completed report submitted to the Welsh Government.

3.2 Engagement

The Animal Welfare Establishments 'Sanctuaries' Working Group is made up of AWWN members who expressed an interest in any future regulation of AWEs in Wales. The Welsh Government has also attended meetings in the capacity of an observer.

AWWN has been functioning since 2006 and has as yet never had to deny membership to an organisation wishing to join. All member organisations of the Network were given the opportunity to get involved with the working group and later, to submit their own evidence and circulate the evidence forms to others they thought may have an interest in responding.

Local authorities via the Welsh Government also circulated evidence forms and invitations to oral evidence sessions to all of the sanctuaries that they had identified through the CAWES Baseline Data project.

After the second meeting of the working group the list was closed to new members, although these organisations could still attend evidence sessions and submit their written evidence. This was to ensure all members of the group had an equal amount of knowledge on the subject and an adequate understanding of the issues being dealt with, and thus a collective responsibility for producing the report.

The working group meetings were covered by the AWWN normal terms and conditions, available on the Network website at www.awnwales.org/membersterms.

Organisations who submitted written evidence were (in alphabetical order):²²

1. BirdsFirst
2. Blaenau Gwent County Borough Council
3. Cardiff County Council
4. Cats Protection
5. Dogs Trust

²²Please see Appendix C for a link to the full written evidence.

11. Maesteg Animal Welfare Society
12. National Ferret Welfare Society
13. North Wales Reptile and Raptor Sanctuary
14. Pembroke Hospital
15. Pet Care Trust
16. Raptor Rescue
17. RSPCA
18. RSPCA Llys Nini Branch
19. Veteran Horse Welfare
20. Wild Futures
21. World Horse Welfare

Organisations who submitted oral evidence were (in alphabetical order):²³

1. Gower Bird Hospital
2. Great Dane Care
3. Greyhound Rescue Wales
4. Hope Rescue
5. Horse Trust
6. National Federation of British Herpetologists
7. Redwings Horse Sanctuary
8. RSPCA

Overall, 26 separate organisations submitted evidence to the enquiry.

3.3 Evidence forms

A standard evidence form was sent out as a template for submitting written evidence and structuring the oral evidence sessions.²⁴ Responders were also encouraged to add any information not covered by the questions in the form which they saw as relevant.

SECTION 4: FINDINGS AND RECOMMENDATIONS

4.1 Role in society

The place of AWEs is very important in the role of animal health and welfare and is a central element in society's response to these issues. It should be stressed that this is an essential service and offers a very significant contribution to animal welfare and the ethical and social needs of society. Those involved range from large organisations, to very small, to individuals – but well run versions of each of these AWEs offer something special to the field. In many cases, without smaller AWEs, larger organisations would not be able to cope. The existence of AWEs is therefore a public good.

The many and varied roles undertaken by AWEs include:

1. Assisting in reuniting owners and keepers with their animals;
2. Providing an important source of animals for those seeking new companions;
3. Rehabilitating companion animals to make good companions;
4. Alleviating and preventing animal suffering;
5. Protecting animal health and public health and safety;
6. Protecting vulnerable species and wildlife/protected animals;
7. Treating injury and disease;
8. Educating the public about animal welfare;²⁵
9. Absorbing the costs of animal rehabilitation/treatment and housing for unwanted animals;
10. Reducing public nuisance;
11. Rehabilitating wildlife, and;
12. Promoting responsible animal ownership.

“Even in the best regulated society it is inevitable that some animals will become unwanted for a variety of social reasons such as relationship breakdown, death or financial hardship.” Dogs Trust

4.2 The issue of hoarding

The problem of hoarding animals should be seen as distinct and separate to that of the regulation of AWEs covered in this report. Unfortunately, individuals engaged in hoarding animals can often be suffering from issues such as financial strain and mental health problems which exacerbate their inability to provide for their animals' welfare. These individuals can also come to be informally labelled as an AWE by the public because of general misconceptions about their situation, which can in turn add to the pressure on them to take in more animals.

²⁵Covering all relevant educational areas including wildlife, farm and domestic animals.

This issue has been raised at numerous points during this enquiry in both the evidence sessions, by the working group members and our legal advisor. It has been agreed by the group that the issue of animal hoarding is separate to the regulation of legitimate AWEs. They are private individuals who hoard animals and although they may take in animals from the public from time to time, they do not qualify fully under the definition of sanctuaries as stated earlier. These situations are also difficult to monitor and the authorities rely on social services, neighbours and visits to report animal welfare concerns, once this has happened they can usually be dealt with under the Animal Welfare Act directly, thus it is inappropriate to include 'hoarding' under any proposed AWE regulation.

Those individuals in a similar situation who are 'holding themselves out to the public' to receive animals however, should be covered by proposed regulation. It is unlikely individuals in this situation would be able to meet the requirements of any such regulation and consequently the welfare needs of the animals in their care, in which case regulation would act to protect them from their own good intentions.



70 cats kept in a house © RSPCA

4.3 Examples of concerns about AWEs raised during the inquiry

"We have seen tremendous welfare problems arising from the existence of well-meaning but unregulated and poorly run 'sanctuaries'."

Wild Futures

"Sanctuaries often begin as a well-meaning person's hobby developing into a genuine wish to help their chosen species, which can grow beyond their expectations. This escalation can result in attempting to care for too many animals without the financial means to ensure sufficient food, satisfactory accommodation, cleanliness, socialisations, exercise, veterinary treatment etc."

Blaenau Gwent County Council

"There are many [AWEs] with poor standards such as overcrowding and high levels of infectious disease..."

Cats Protection

"In 2006, the RSPCA assisted with a raid on an establishment thought to be holding illegally caught wild birds. They seized over 100 animals of various species which were being kept in some appalling conditions. The owner was found guilty of a number of offences under the Protection of Animals Act and of one offence under the Wildlife and Countryside Act. However, the sanctuary had a good public profile in the neighbourhood and because of this the owner was charged with improving the conditions of the establishment with the assistance of the RSPCA."

RSPCA

"90% of sanctuaries I have visited are disgusting. People 'rescue' animals and are unable to care for them."

Veteran Horse Welfare



Self-plucked mitred conure in sanctuary, UK © Greg Glendel/BirdsFirst

4.4 Options for regulation

Given the evidence submitted to this working group and the problems that have been identified in the past, it was established that the status-quo was not an option and that some form of regulation was required.

There was a general recognition that a proactive scheme of compulsory regulation for organisations defined as AWEs would be preferable for animal welfare to that of registration or self-regulation, specifically because it is essential that the system offers tools such as access and enforcement of penalties, to ensure compliance.

Registration would allow general visibility of establishments, but not any level of accountability, which would not solve the problems of identifying welfare problems before they escalated. Self-regulation would also be undesirable because of a lack of visibility and the wide and varied range of opinions and experience in the sector.

There were concerns raised about the ability of smaller organisations to meet monetary and bureaucratic requirements for this. A number of suggested solutions to this have been raised, including that of a tiered payment system. It was generally agreed that the fees for inspection and regulation must be proportionate to the costs involved. It was also agreed, however, that any inability to meet such running costs should indicate that there may be a lack of sufficient funds to ensure welfare standards, particularly given the costs of veterinary treatment.

We accept that given the variety within the sector any form of regulation must be proportionate but effective.

“The existence of small establishments which care for companion animals and/or wildlife is crucial to the ongoing welfare of animals in [rural] areas, where transportation of the animals to larger centres in built up areas may be impractical or impossible.” RSPCA

4.5 Size of AWEs

Any regulation would not be about big organisations versus small – for example the larger groups forcing out the small, as there should be room for all sizes of organisations to function in this area, so long as they provide an adequate standard of care. To an extent, in some sectors the large organisations need the small and vice-versa, in terms of ensuring standards and providing spaces for all animals in need of care. The point should also be made that regulation would allow identification of these smaller AWEs, which can often exist without any official or public knowledge.

Any future implemented regulation scheme could necessitate the closure of some AWEs which are unable to reach the required standards due to cost etc. This could be regarded as a positive outcome in cases where AWEs are operating without proper regard for welfare or beyond their capabilities and funds. Although this should only affect a very small number of establishments, the effect on the remaining AWEs would be felt due to increased demand on their services.

4.6 Data collection and visibility

It is essential that the legislation makes the return of certain data a compulsory requirement. There is no reliable information concerning the total number of AWEs in Wales at this time and the nature of their interaction with animals in their care i.e. welfare outcomes, euthanasia, disease/condition incidents. Regulation would allow local authorities to retain a comprehensive list of all AWEs in their area, including locations, animals/species catered for, resources and training available, contact numbers etc. This could be an invaluable resource for joint working and visibility in the future. Statistics on the nature of the work being undertaken would also become clearer and more easily quantified and analysed to give a more accurate picture of the impact on the animal welfare sector.

4.7 Animal welfare policy documents

There must be a clear standard for AWEs to achieve, and this must be clearly documented and generally available.

While the working group accepts that it is preferable to inspect outputs (results of animals taken into care) rather than inputs (culture and policies), we recognise the difficulty in doing so with such a broad spectrum of species. However many output matters can be dealt with by the provision of adequate documentation by the establishment. Such policy and operating procedure documents would be required to demonstrate compliance with the Animal Welfare Act (2006), and particularly to Section 9. The issue of a licence should be dependent on the provision of satisfactory documentation (in addition to an inspection – see 5.8).

Of those organisations who responded to the call for evidence for this enquiry, many of whom are defined as AWEs, 23 out of 26 agreed with some form of policies being required of all AWEs as a condition of their registration/licence.

A recognised and enforced minimum standard needs to be the basis of any regulation of AWEs. This has been proposed as taking the form of AWEs providing compulsory policy documents covering certain set areas. These policies would be made available for scrutiny as part of any inspection process and would be available to the public if requested. It would be required that the policies comply with Section 9 of the Animal Welfare Act (2006) and cover certain defined areas in order for a licence to be granted.

Because of the diversity of animals kept by AWEs it is advised that current Animal Welfare Act Codes of Practice be used as the basis of any compulsory policy documents for those species they have currently been produced, and other recognised sources (such as those used by RSPCA, BVA, GFAS etc.) be utilised for other species until such time as further Codes of Practice are developed to cover them.

The person responsible for the development of the compulsory policy documents should be the operator of the AWE, which means the natural or legal persons responsible for ensuring that the requirements of animal welfare and licensing law are met within the AWE under their control; it may be that another person or persons will take the lead in developing these policies, but the operator of the AWE cannot delegate overall responsibility for this work.

Such policy documents would demonstrate a level of forethought and contingency planning in key areas of animal health and welfare and general management regimes and should cover key areas. This would help to remove any ambiguity over the organisation's practices and intentions and allow consistency over the entire sector.

Policies provided should include the compulsory and non-compulsory requirements listed below, and should aim to avoid any unnecessary suffering of animals in care as outlined in the Animal Welfare Act (2006):²⁶ The level of detail needed for the compulsory policy documents will depend on the type and size of AWE undertaking, but will as a minimum need to be in writing, in a format that can be readily viewed, and kept at the AWE in question at all times so that they can be viewed as part of any inspection process.

Collaboration and information sharing should be utilised in this process, with guidance and model templates already in use by other AWEs and the local authority. Those establishments not able to prove that their policies comply with the Animal Welfare Act should be denied a licence and either encouraged to reach the standards required within a specified time period or to close. Help should be offered to those organisations below standard and who wish to upgrade to improve, perhaps through support from nominated organisations recorded on a list of experts such as the RSPCA.²⁷



Single hoglet being hand fed at Stapeley, UK. © Joe Murphy/RSPCA

²⁶ 'Unnecessary suffering' as defined by the Animal Welfare Act 2006: (1)A person commits an offence if— (a)an act of his, or a failure of his to act, causes an animal to suffer, (b)he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so, (c)the animal is a protected animal, and (d)the suffering is unnecessary. (2)A person commits an offence if— (a)he is responsible for an animal, (b)an act, or failure to act, of another person causes the animal to suffer, (c)he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and (d)the suffering is unnecessary. (3)The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include— (a)whether the suffering could reasonably have been avoided or reduced; (b)whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a licence or code of practice issued under an enactment; (c)whether the conduct which caused the suffering was for a legitimate purpose, such as— (i)the purpose of benefiting the animal, or (ii)the purpose of protecting a person, property or another animal; (d)whether the suffering was proportionate to the purpose of the conduct concerned; (e)whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person. (4)Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

²⁷ This would have to be a request made separately to the RSPCA for their consideration.

Policy documents should include:

Compulsory requirements:

- *Record keeping - must be put in place to cover any key areas of animal welfare, to include, as a minimum, the receipt and disposal of animals, any veterinary care and the feeding and care regime for each animal (refer to compulsory wildlife recording 5.5 below);*
- *Euthanasia – under what circumstances a decision to euthanase would be made and ability to enact;*
- *Vet checks/vaccinations – nominated veterinary surgeon and ability to provide;*
- *Breeding from animals in care – reasons;*
- *Hygiene/disease control;*
- *Staff and volunteer training/competency: a) the establishment licence holder is responsible for ensuring that they, or a responsible member of staff at a managerial or supervisory level, have adequate knowledge and skills to implement legislative requirements and to ensure the well-being of animals in their care; b) where existing skills and knowledge are not demonstrable, completion of a programme of training from an accredited education provider should be attained by the licensee and/or responsible member of staff;*
- *Number and type of animals able to be accommodated and where. If wild animals are to be taken in, how each species will be housed etc.*

Non-compulsory requirements to provide guidance on best practice:

- *Public access/display (not appropriate for wild animals);*
- *Ownership – such as “signing over” animals when they are taken in;*
- *Rehoming;*
- *Fostering arrangements – for organisations that utilise a network of fosters or multiple small sites, they would need to register as a single organisation and provide robust policies to cover this and enact a level of self-regulation to ensure their fosterers standards where maintained;*
- *Release protocols for wildlife;*
- *Neutering and microchipping where appropriate.*

“Because wild animals are perceived as not having owners, members of the public believe they can “have a go”, attempting great feats of orthopaedic surgery on animals with open fractures and broken spines, with bandages and lolly pop sticks.”

Gower Bird Hospital

4.8 The question of wildlife

Wild animal rehabilitation is a specialised area of animal welfare with many different needs, facilities and outcomes than for companion or farm animals. There are risks to human safety as well as separate and additional legislation governing protected wild animals. Consideration must be given to the number of different species admitted, types of housing available, rehabilitation methods and provision for monitoring success rates, as well as the potential to spread disease to other protected or domestic animals, livestock or people. Record keeping for compliance with the Wildlife and Countryside Act (1981) is compulsory for those species listed on Schedule 4 of this Act, however for most other species it is the responsibility of the keeper to demonstrate the provenance of the animals in their care. Such records should be kept in all centres treating wildlife and this should be a requirement of any new legislation. Animal welfare for wild animals is poorly understood, wild bred animals have a natural fear response to people and can exhibit high levels of stress behaviour in captivity. Furthermore, these animals are not pets and should not be treated as such.

Wildlife rehabilitation centres admit many different species of wildlife, requiring different housing, handling and treatment protocols. They must be able to demonstrate knowledge of the biology and ecology of the species being cared for as this is particularly important for the successful treatment and rehabilitation of protected animals.

Given all the above it would be unlikely that any wildlife AWEs, if they have a non-euthanasia policy, would be able to satisfy the welfare requirements of permanently disabled protected animals under the Animal Welfare Act. A large percentage of wildlife casualties are non-releasable and permanent captives would put enormous strain on facilities at AWEs, reducing the effectiveness of centres to rehabilitate those wildlife casualties that have a chance of being released and potentially compromising the welfare of releasable and non-releasable animals. Therefore a pragmatic euthanasia policy for non-releasable animals is essential.

If wildlife AWEs are already established and visible through advertising or through agreements with the RSPCA and other organisations, the effect of any regulation would appear to be small due to the limited number of wildlife rehabilitation facilities in Wales and their specialist role. There is however perhaps an unknown number of individuals and organisations that hold themselves out to receive wildlife casualties from the public and private veterinary practices across Wales.

4.9 Accountability

It was felt by the working group that an organisation or nominated person should be licensed under any regulation scheme which required it, rather than licensing a physical address. The issue of internet based animal welfare organisations should also be considered in any future regulation, as these are increasing in number in recent years, making knowledge of physical addresses and visibility harder to achieve.

The question of accountability in regards to other individuals within AWEs or their organisations should also be considered. These other individuals include: fosterers (approved/inspected/informal), veterinary surgeons and surgeries, boarding establishments, satellite sites and satellite organisations.

Any regulation to cover these individuals would need to be proportionate. For example, if an AWE utilises a network of fosterers or multiple small sites, they would need to register as a single organisation and provide robust policies to cover their arrangements and enact a level of internal regulation to ensure their fosterers' standards were maintained. We do not want a situation where each individual fosterer needs licensing. However, in the interests of transparency comprehensive records of fosterers and animals cared for should be kept by each AWE.

4.10 Veterinary surgeons

Veterinary surgeons play an important role in the effective management of an AWE, and could also contribute to the visibility of these organisations under a regulation scheme.

A nominated veterinary surgeon with the necessary expertise relevant to that organisation and the animals being kept by them should also be recorded as part of the policy documents detailed in section 4.3 above.

4.11 Inspections

An annual or risk-based inspection should be a central element of any licensing scheme, which would also allow for a cost recovery element. It could be difficult to justify inspections for licensing if the process was not mandatory, so mandatory inspections with a right of entry for Inspectors included in the regulations would be preferable²⁸.

Although it was generally accepted by the working group that local authorities are in the best position to enforce any new regulations and conduct inspections in this area, there is some concern that they are already overstretched financially and in terms of resources. However, this role could easily integrate into the current local authority responsibilities for animal welfare legislation providing the costs are fully recoverable.

²⁸ In the Welsh Government's draft Animal Welfare (Breeding of Dogs) (Wales) Regulations 2012, Powers of Entry are addressed in section 21 as 'Breach of a licence condition must be treated as a relevant offence for the purpose of section 23 of the Powers of Entry and Search under warrant in connection with offences'.

There was also concern that Inspectors would not necessarily have sufficient expertise to inspect certain specialist AWEs such as wildlife rehabilitation centres. The use of a vet would not always resolve this problem due to the specialist nature of some disciplines, but it has been suggested by most responders to this inquiry that veterinary input would be necessary. It was also suggested that difficulties could be overcome by providing contact details for a panel of experts who would be available to support the inspecting officer. Possible experts could include veterinary surgeons and individuals from established AWEs or, in the case of wildlife rehabilitation centres, individuals from wildlife establishments used by the RSPCA in the local authority's area.

Extra animal welfare training could also be provided for Inspectors throughout Wales by organisations such as the RSPCA, British Horse Society, Donkey Sanctuary and others. This training would also be of benefit to other areas of the Inspector's animal welfare role.

Inspections should not use a similar format to current dog boarding licensing procedures where inspections are prearranged with the management of the facility once a year. Unannounced inspections would allow the Inspector to see the establishment in its normal working condition.

Inspections should be risk-based where risk is related to the condition of the establishment, its management and the size of the establishment. Licences could run for up to three years with the frequency of inspection set at a minimum of annual but as frequently as considered necessary for high risk establishments. There should be some financial implication for those high risk establishments, for example by charging for any additional inspections required on a cost neutral basis.

It would be preferable to have standardised local inspection protocols to ensure consistency and fairness. This could be achieved by ensuring minimum standards are contained within the legislation and also in a similar way to other legislative enforcement, through training for enforcement officers, Welsh Government additional guidance and the use of existing local authority liaison arrangements.²⁹

There have been suggestions that the current Zoo Licensing Act (1981) could cover AWEs open to the public, but these organisations are in many cases unlikely to apply for a Zoo Licence either because they fall outside the legal definition, or because their motivations for running an animal welfare establishment mean that they do not want to be classed as a zoo. Any establishment granted a licence under the sanctuaries inspection scheme should be specifically exempt from the Zoo Licensing Act, unless they fall under the definition of a zoo as defined in the legislation.³⁰

Access to AWEs in order to carry out an inspection is an important issue which will determine the effectiveness of any regulation. Right of entry for proactive and reactive inspections and other regulatory intervention visits are therefore a crucial aspect of this system.

²⁹ As a point of reference or example of standards currently in use, the RSPCA's site inspection standards can be found in Appendix D.

³⁰ Definition of a zoo: A zoo is an establishment that displays wild animals to the public for more than 7 days in any one 12 month period, as defined by the Zoo Licensing Act (1981). Zoos are required to be licensed by local authorities after the receipt of a satisfactory report on the establishment by a vet appointed by Defra. The definition of a wild animal as given in section 27 of this Act is a wild animal in the United Kingdom, as defined in Great Britain. This has been clarified in a subsequent Defra circular an extract of which can be found in Appendix E at the end of this report.

There is currently a toolkit available to local authorities when standards slip, which has already been included in the Animal Welfare Act (2006). It was felt by the working group that it would therefore be advisable to also adopt the penalties outlined in the Act, namely the issuing of improvement notices and finally, seizure. The group would advise that any regulation should state that it would be an offence not to comply with an improvement notice issued under the regulation, which is not currently the case under the Animal Welfare Act (2006). It is imperative that the improvement notice is constrained by a time period. This differing requirement could be justified by the expectation of a higher degree of compliance with the Animal Welfare Act from an AWE, whose direct function is that of animal welfare and where expertise should have been developed to a higher standard, than those of private animal keepers.

The working group would like to add that if the Animal Welfare Act could be amended to allow enforcement notice compliance to be compulsory, such as in Scotland, this would strengthen the position of this regulation and add extra weight to Local Authorities enforcing it. It would also allow robust enforcement without removing the AWEs licence, which would potentially close those premises.

4.12 Compliance and penalties

Compliance with any regulation could be enforced by giving Inspectors the ability to amend the numbers of animals and the types of species licensed at a particular AWE overall. This would mean that if problems were to arise, the ability of the AWE to take in any new animals could be halted by the Inspector in a probationary capacity until any problems were resolved.

The working group wants to reinforce that it does not want a system of regulation that would remove a licence for non-compliance, as this would lead to a situation where the AWE in question was no longer able to be inspected because the authorities would no longer be able to gain access without a warrant.

4.13 Costs and charges

Options are either cost-neutral or cost-recovery through a licence/registration fee, or Government funding however, it should be noted that we would not want this option to harm the ability to introduce regulation and feel that a cost neutral cost recovery system through a fee is a viable alternative.

Fee structures should be set by the Welsh Government and not left to the discretion of the local authorities, on the condition that they are on a true cost recovery basis. This must be equivalent to costs and not confer undue profit. Fees should be proportionate so as not to unfairly burden smaller organisations.

The concern that smaller organisations could not afford a licence fee even if means-tested and, subsidised by the larger establishments' fees can be justified by the concern that an establishment running without sufficient funds would also have limited ability to provide for animals in their care and should be encouraged to cease operating.

SECTION 5: CONCLUSION

After thorough examination of the issues involved, a summary of the recommendations contained in this report include:

- AWEs provide a range of essential services for animal welfare in the community;
- Hoarding is a distinct and separate issue to the regulation of AWEs and can be dealt with under the Animal Welfare Act (2006);
- Compulsory regulation of AWEs is recommended in the form of secondary regulation brought under the Animal Welfare Act (2006);
- Compulsory registration of AWE details would be an integral part of any regulations;
- Data collection should be prioritised as an important resource for information and visibility of organisations operating as AWEs;
- Animal welfare policy documents should be a requirement of organisations under any regulation. These should include both compulsory and recommended requirements. Those establishments not able to prove that their policies comply with the Animal Welfare Act should be denied a licence and either encouraged to reach the standards required within a specified time period or to close;
- The unique challenges and specialties of wildlife rehabilitation should be specifically addressed in any regulations;
- A nominated individual should hold responsibility for an organisation, but with reference to other individuals who may also carry varying levels of responsibility (i.e. fosters);
- Each AWE should have a nominated vet with knowledge of their operations;
- A Local Authority administered mandatory risk-based inspection to involve veterinary presence should be a central element of any registration scheme, considered on an annual basis, which would also contribute to cost recovery;
- Compliance should be addressed by the current Animal Welfare Act toolkit, Improvement Notices, amendments to the numbers of animals licensed for an AWE to keep or instructions to carry out specified works to meet the legal minimum standards, rather than removal of licenses that could lead to problems of access;
- Proportionate fees should be set by the Welsh Government on a self-funding cost-neutral/cost recovery basis.

In conclusion, the AWNW AWE working group **strongly** recommends that regulation of AWEs be introduced in Wales. This sentiment was also reflected by a majority of those organisations who submitted evidence to this enquiry, and so should be seen as a relatively uncontroversial move from within the sector and the wider public.

APPENDIX A: THE ROLE OF AWWN

The Animal Welfare Network for Wales (AWNW) is an independent initiative set up to bring together all organisations with volunteers who work within the animal welfare world in Wales. Currently there are 146 member organisations (including animal welfare organisations and other NGOs, vets, local authorities) that make up the Network, which is a large representative section of the sector.

It should also be pointed out that AWWN is already functioning as a facilitation group for the animal welfare sector, representing many AWEs who would be affected by any future regulation. Therefore the AWWN is in a position to facilitate forums, networking and joint working with local authorities, Government etc. in the context of regulation of AWEs. AWWN does in fact already have a working relationship with the proposed enforcers and parties outlined in this report. The AWWN's existence could also help to mitigate any possible negative effects on the sector.

The aim of the Network is to facilitate affective communication between all animal welfare organisations who work in Wales at a crucial time for the sector – March 2011 saw animal welfare devolved to Wales as a whole sector³¹, The Welsh Government has a Compact with the Voluntary Sector, which provides for a seat on animal welfare issues on the Third Sector Partnership Council (TSPC). The RSPCA holds that seat as a representative of AWWN, to facilitate information across all interested groups in Wales.

The Network provides a number of services for its members – from information facilitation of political developments related to animal welfare, to networking events and topic lead seminars. The Network was also involved in the former Welsh Government administered the Companion Animal Welfare Enhancement Scheme (CAWES) which allowed its members access to meetings with local authorities on companion animal welfare issues and be involved in special projects run by the councils.

Following the conclusion of CAWES on the 31st of March 2011, AWWN, the Welsh Government, local authority representatives and the WLGA (Welsh Local Government Association) ran a successor scheme which operated without funding. This scheme only covered four meetings throughout Wales for the discussion of companion animal matters between the Welsh Government, local authorities, AWWN members and others with an interest in animal welfare. The Welsh Government provided the chair and venues for these meetings, whilst the AWWN provided the secretariat. The Network is in discussions about this scheme's future.

More details about the AWWN work can be found on the AWWN website at www.awnwales.org

³¹ Exceptions being hunting and animal experiments

APPENDIX B: CALL FOR EVIDENCE LETTER AND FORM



10 March 2010

Dear Sir or Madam,

RE: AWNW Animal Welfare Establishment "Sanctuaries" Evidence Gathering

The Animal Welfare Network for Wales (AWNw) is conducting an evidence gathering exercise to determine views on animal welfare establishments (sanctuaries) and regulation in Wales. We are attempting to reach as many sanctuaries and related organisations as possible for their input.

We are interested in hearing from any animal welfare establishment, which includes: rehoming, retired animals, rescue, rehabilitation, community based activities etc. We are also interested in all types of animals including: companion, wildlife and farm animals.

AWNw would be very pleased to receive any evidence which your organisation would like to submit on the issue of sanctuaries and regulation. There are two ways to give evidence: written, orally or both.

If you would like to submit oral evidence, please use the form attached for guidance. If you have other comments not covered by our questions, please feel free to include these as we want to hear all of your thoughts on this topic. The deadline to submit this written evidence is the 30th of June 2010. Please submit your evidence in email format to contact@awnwales.org.uk

If you would prefer to give your evidence orally or if you wish to supplement your written submission, then the AWNw Animal Welfare Establishment "Sanctuaries" working group will be available on three dates. This will be a chance for you to have an informal chat with a few of the working group members to have your organisations views heard.

We will be holding sessions throughout Wales on the following dates:
05.05.10 Welsh Assembly Government offices, Aberystwyth
25.05.10 Welsh Assembly Government offices, Merthyr Tydfil
10.06.10 Welsh Assembly Government offices, Caernarfon

To book a slot at one of these sessions, please contact the Co-ordinator using the details below before the 9th of April 2010.

If you have any questions or would like to discuss anything further, please feel free to contact me. I thank you for your time and hope to hear from you soon.

Kind regards,



Tina Reece

0300 123 8910 • contact@awnwales.org.uk • AWNw, 10 Ty Nant Court, Cardiff CF15 8LW



Animal Welfare Establishment Sanctuaries Call for Evidence

Contact Details

1. Full name of organisation:
2. Contact name
3. Contact address:
..... Postcode:
4. Contact number: 5. Email:

Questions

We would like to hear anything you have to say on this issue. Please use the questions below as informal guidance and feel free to add anything else you wish to discuss under question 5. As there is only limited space allow below we would prefer you to submit your answers in an email to contact@awnwales.org

1. What role do you see animal welfare establishments playing in Wales? If you run an animal welfare establishment (sanctuary, rehoming centre, rescue/rehabilitation, wildlife hospital, animal retirement centre etc.) we would also like to know details of your operation such as size, staffing, running costs, income generation etc. which would be pertinent to regulation. If you are a Local Authority please add how many animal welfare establishments are in your area and any relevant details.
2. Do you agree with the practice of sanctuaries providing policies regarding their animal welfare work (such as policies on how to handle euthanasia, transfer of animals etc.)?

3. Do you agree with the principle of regulating sanctuaries? What concerns do you have, if any?

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4. Do you agree that a compulsory Local Authority run registration/licensing system for sanctuaries would be the most appropriate method of regulation?

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5. Please add anything further that you wish to discuss on the issue of regulation for animal welfare establishments.

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APPENDIX C: EVIDENCE

Transcripts of written evidence can be accessed at: <http://www.awnwales.org/AWEwritten>

Transcripts of oral evidence can be accessed at: <http://www.awnwales.org/AWEoral>

APPENDIX D: RSPCA INSPECTION STANDARDS

A full copy of the Licensing Conditions for all RSPCA Animal Centres (December 2009) can be found at:
[www.politicalanimal.org.uk/RSPCA/Licensing Conditions.pdf](http://www.politicalanimal.org.uk/RSPCA/Licensing%20Conditions.pdf)

A copy of the standards for non-RSPCA centres for wildlife can be found at:
www.rspca.org.uk/allaboutanimals/wildlife/rehabilitation/standards



Licensing Conditions for all RSPCA Animal Centres Branch & Animal Centre Support Department

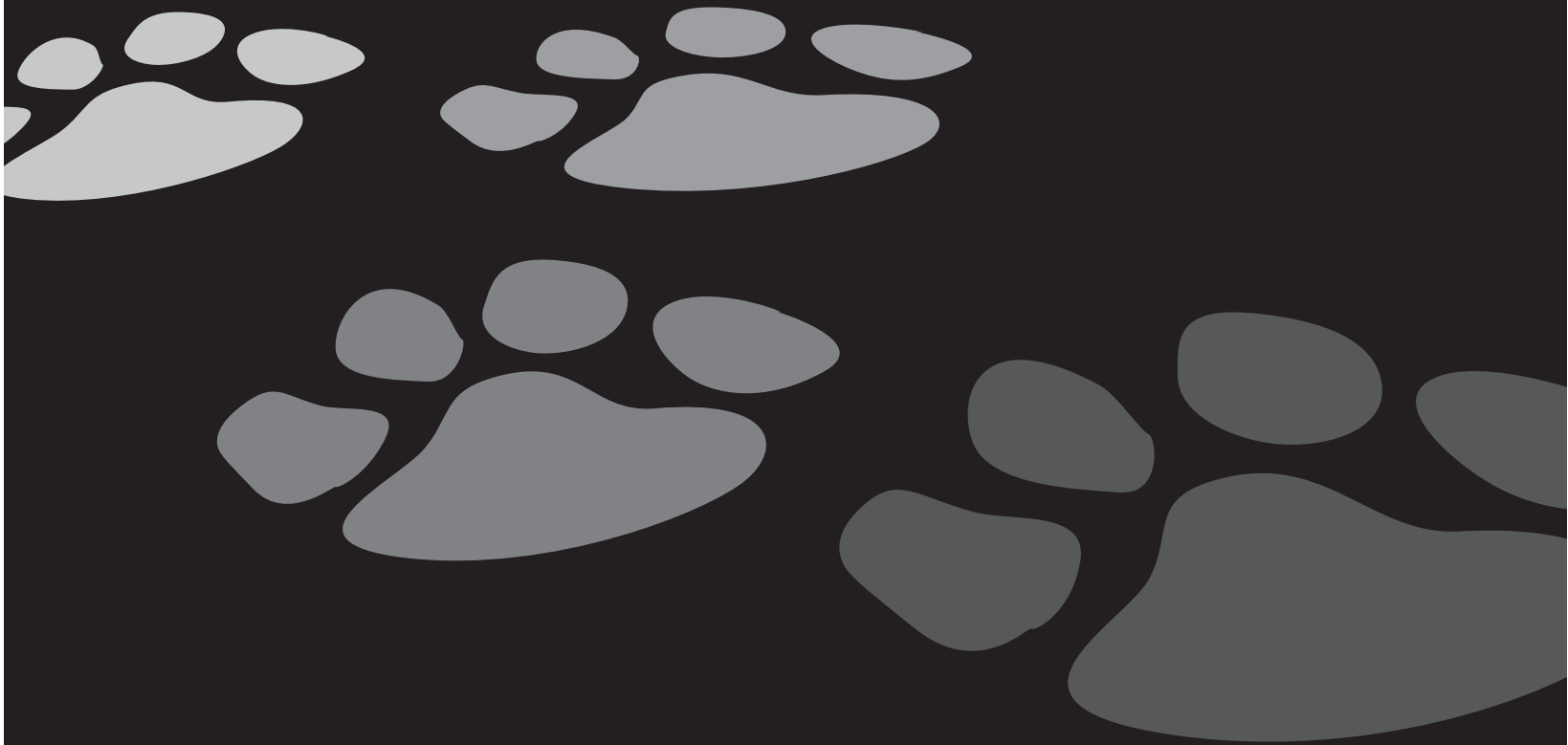
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APPENDIX E: DEFRA CIRCULAR 02/2003 – ZOO LICENSING ACT 1981, ANNEX E

Animals considered normally domesticated or not normally domesticated for the purposes of the Zoo licensing Act 1981. The Secretary of State is not in a position to give an authoritative statement on which animals fall into the 'normally non-domestic' and 'normally domestic' categories as interpretation of legislation is a matter for the Courts. However, an informal view on the more common cases that have caused uncertainty is set out below.

To explain the thinking, the two categories have been sub-divided into the following five subcategories. Species not in categories 1 to 4 will almost certainly be in 5. Hybrid species should be treated as not normally domesticated if one of the parents is from sub-categories 3 to 5. Where there is doubt about a species, local authorities, Inspectors or operators may check with Defra who may seek views through the Zoos Forum.

<i>Species normally domesticated in Great Britain and therefore not "wild animals" for the purposes of the ZLA.</i>		<i>Species not normally domesticated in Great Britain and therefore to be considered "wild animals" for the purposes of the ZLA.</i>		
<p>1. True domestic breeds of species that have been kept in this country for so long, and in such large numbers, that their status as "normally domesticated in Great Britain" is clearly justified (exotic domestic breeds of the same species as those listed here are included, eg. Vietnamese potbellied pigs).</p> <p>Examples: horses/ponies, donkeys, cattle, sheep, goats, pigs, dogs, cats, ferrets, rabbits, pigeons/doves, chickens, turkeys, ducks, geese.</p>	<p>2. True domestic breeds, and selectively bred wild species, introduced to this country relatively recently, but now so commonly kept outside zoological collections as to justify regarding them as "normally domesticated in Great Britain".</p> <p>Examples: guinea pigs, hamsters, gerbils, rats, mice, chinchillas, budgerigars, canaries, guinea fowl, peafowl, goldfish, koi carp, golden orfe.</p>	<p>3. True domestic breeds of species introduced to this country relatively recently, and kept in relatively low numbers, and that therefore should be regarded as "not normally domesticated in Great Britain" (exotic domestic breeds of species in list 1. Are included in that list).</p> <p>Examples: llamas, alpacas, camels, water buffalo, Ankole cattle, yak, reindeer.</p>	<p>4. Wild species, commercially farmed or widely bred by hobbyists (including some species which have been selectively bred and therefore may be considered domestic), but where this is so recent as to render the species "not normally domesticated in Great Britain"</p> <p>Examples: deer, ostriches, wild boar, American bison, aquarium and pond fish (excluding those in 2.), cage and aviary birds (excluding those in 2.), waterfowl (excluding those in 1.), giant African land snails.</p>	<p>5. True wild species, where domesticity is not seriously suggested.</p> <p>Examples: All species not listed</p>



**P-04-500 Call For Regulation of Animal Welfare Establishments in Wales –
Correspondence from the Petitioner to the Committee, 21.05.14.**

Hi Kayleigh,

I agree with the RSPCA as this report is what I am calling on the Assembly to implement, as it is much needed.

Yours

Lisa Winnett

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