



Y Pwyllgor Amgylchedd a Chynaliadwyedd

Environment and Sustainability Committee

Emyr Roberts
Chief Executive
Natural Resources Wales

3 June 2014

Annwyl Emyr

Natural Resources Wales 7 May evidence session – further information

The Committee would like to thank you and Professor Peter Matthews for attending our meeting on 7 May to discuss the progress made by Natural Resources Wales during the first year of its operation. During the session a number of issues were raised which we would be grateful for further information on. Thank you for the information already provided in relation to flood forecasting and the Wales Coastal Path – this has been circulated to members of the Committee.

We would be grateful if you could provide an update as to when you expect the staffing structure to be completed, including progress on incorporating the Internal Drainage Boards, particularly arrangements for cross-border operations and ensuring the continuing engagement of local landowners.

Further to the questions raised by Antoinette Sandbach and Julie Morgan, we would appreciate clarification on the mechanisms in place for providing advice to the Welsh Government. It would be helpful to receive details as to how advice from expert officers is provided to Welsh Ministers and clarification as to how such advice is pursued/followed-up e.g. in relation to the advice provided on proposals for the M4 around Newport.

It would also be useful to receive clarification on plans to reduce Natural Resources Wales' workforce to 1,850. During the session you stated that reducing to this number would create skills gaps and that a re-balancing of skills within the organisation would be required – please could you explain what this would entail and how you propose to achieve this. We would be grateful if, in your response, you could refer to how these plans take account of possible resource requirements expected from the Environment Bill and also the criteria being used to decide which staff are accepted for voluntary severance.

We would be grateful if you could provide further detail on the de-coupling of the IT systems, and confirmation as to whether you have a final indication of the associated costs and timetables.

Again, you will recall that Members raised the need for independent verification of the separation of functions, particularly given the proposals for developing more enterprise activities. I understand that this information is being collected and will be provided to us shortly.

We would also be grateful if you could provide an update in relation to action you have taken to improve your response time to planning consultations and by when you expect to see the improvement.

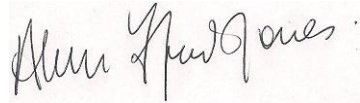
In relation to issues around quantifying non-cash benefits associated to the Business Case for the creation of the Single Environment Body, we would be grateful if you could provide details of how non-cash benefits were calculated in the last financial year and how you intend to calculate and present non-cash benefits for the current and future financial years.

Finally, we would be grateful for clarification on the £3 million of savings, the money carried forward and whether this relates to projects that were delayed and will need to be funded this year or whether it relates to savings you were required to find to fund pressures this year. The finance paper presented to NRW Board

meeting on 3 April suggests that it was the result of savings and not underspend, however, we would be grateful if you could confirm this.

We look forward to receiving your response to these queries.

Yn gywir,

A handwritten signature in black ink on a light-colored background. The signature is written in a cursive style and reads "Alun Ffred Jones".

Alun Ffred Jones AM

Chair of the Environment and Sustainability Committee



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19 June 2014

Annwyl Alun,

Natural Resources Wales 7 May evidence session – request for further information

Thank you for your letter of 3 June in which you asked for further information on a number of issues that were raised in the Committee meeting of 7 May.

My letter provides an update on each of the subjects that you have asked for more information on.

1. Expected date for completion of staffing structure

- Our Executive Team and Leadership Team structures are already in place and we will shortly have completed the appointment of our Management Tier. Work is also underway to develop the remaining staff structures in a way that will deliver our business objectives and these are being considered in line with our organisational

design principles i.e. placed-based teams working in communities, doing things once for Wales etc. It is important to remember that structures are continuously evolving and will need to adapt and flex to meet our continuously changing business priorities.

- However, structures are only one part of the answer and we are also considering our ways of working to complement structural arrangements. Working with managers and trade union colleagues, there are multiple change programmes happening across the next 3/6 months. Some are a complete re-design of work roles and require due process to be fair with staff; others are simple realignment of staff and teams to new managers.
- It is therefore difficult to be absolutely categorical about the 'completion' of our staffing structure, but I would expect to complete the appointments to our Management Tier by the end of July, and to have largely completed other structures by the end of September 2014.

2. Progress on incorporating the Internal Drainage Boards (IDBs), arrangements for cross-border operations and continuing engagement of local landowners

- Natural Resources Wales has established close and productive working relations with the staff of the three IDBs to jointly discuss and develop arrangements for the transfer of staff, assets and functions.
- Regarding future cross-border arrangements, we are currently working in partnership with Powysland and Lower Wye IDBs, the Environment Agency, Welsh Government and Defra. We are making sure arrangements are in place for 1 April 2015 for the co-ordinated delivery of operational work both in Wales and also on the English side of the border. This will build upon the existing approaches of NRW, the EA and the IDBs to cross-border water management.
- New governance and stakeholder engagement arrangements are required from 1 April 2015. Natural Resources Wales is therefore also liaising with the current Chairs of the three IDBs and IDB staff to develop bespoke arrangements that reflect the individual issues and customer priorities for each of the Internal Drainage Districts that NRW will administer from next April.

3. Clarification on the mechanisms in place for providing advice to Welsh Government

- The protocol for advising Welsh Government is the same, irrespective of the topic area i.e. planning or any other. Advice to the Minister mainly comes from Welsh Government civil servants and we advise them; either by direct input to policy development at the request of officials, discussions through reference group/programme boards, policy forum etc. or by providing information to facilitate their responses to AOs.

- Advice directly to the Minister is normally requested through our regular meetings with the Minister, and submitted via me.

4. How advice from expert officers is provided to Welsh Ministers. Clarification as to how such advice is followed up and specifically, how advice was provided on proposals for the M4 around Newport

- NRW provides advice to Welsh Government on planning development through our role as a statutory consultee.
- With respect to NRW's engagement with Welsh Ministers and Welsh Government on the draft Plan for the M4 Corridor around Newport, we responded in December 2013 providing our expert advice on the draft Plan and its accompanying Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA). These responses were to ARUP, who were managing the consultation on behalf of Welsh Government.
- Welsh Government has held a number of Environmental Liaison Group meetings since July 2013, which Natural Resources Wales has attended, providing technical advice as appropriate. In addition we have had a number of meetings with ARUP, who are working on behalf of Welsh Government to provide specific technical advice in the fields of ecology and nature conservation, flood risk and planning. This advice has been provided 'without prejudice' to any decision by Welsh Government to take forward the draft plan.
- As with all NRW responses to external customers, we consult widely internally for specialist input and distil this to provide a 'single voice' response.
- Alongside advice provided in meetings, we have also provided specific written advice in relation to consultation on survey requirements and methodologies for a number of ecological surveys, again on a 'without prejudice' basis. All of our responses require sign-off from a senior manager.
- Our involvement on the M4 proposals has therefore been with Welsh Government officials and their principal consultant (Arup) rather than Welsh Ministers.

5. Clarification on plans to reduce our workforce to 1,850

- We are committed to reducing our workforce headcount to 1,850, which is in line with the original business case. However, it should be recognised that the original 1,850 figure did not take account of some of the additional functions and staff who have transferred to NRW for example, the Llanelli Laboratory.

6. Resulting skills gaps and re-balancing of skills to manage this

- We undertook a skills audit in our first year of operation that identified where our talent and experience was, and to enable us to plan both learning and development and recruitment strategies. We identified skills gaps particularly in relation to some of the expert services that were previously provided by staff either in the Environment Agency or Forestry Commission GB. We are continuing to work with the business areas to understand the requirement and develop routes to maintain our knowledge in-house. In parallel, we are investigating opportunities for entry level schemes and apprenticeships for NRW and we are developing links with academic institutions and providers to mitigate these current gaps.
- There have been a number of exits from NRW through our first voluntary exit scheme (2013 / 14). The criteria applied prioritised exits for our Corporate Services. Following the development of our Corporate and Business Plans (which include a high level workforce plan for NRW), we now have workforce plans for all areas of the business and these plans will drive our recruitment and learning and development investment.

7. How these plans take account of possible resource requirements expected from the Environment Bill

- Changes in the profile of our workforce will be driven by multiple factors including changes to Welsh Government policy and new requirements placed on us. This means we need to support continuing professional development for all staff and ensure our core purpose is well understood. We have for example been running well-attended workshops on the eco-system approach.
- We have been working with Welsh Government to understand the resource requirements for NRW from the proposed Environment (Wales) Bill. We are also working with Welsh Government to establish where our work on existing environmental plans could be stopped, streamlined or subsumed within the new area based approach to integrated natural resources management. We have identified a short term need for resources as we invest in the transition to new ways of working and a more integrated approach; we have secured money from the Nature Fund to support this transition work.

8. Criteria being used to decide which staff are accepted for our voluntary exit scheme

- Our voluntary exit scheme is an important mechanism in achieving our head count figure of 1,850. Any staff exits under this scheme will be subject to scoring criteria, which will include an assessment of the impact of the loss of skills and experience and succession planning. Our detailed workforce plans will drive the process for our next round of voluntary exits. No staff will be released where the skills and

experience are considered business critical and cannot be provided in a different way.

9. Further detail on the decoupling of IT systems and confirmation of final indication of the associated costs and timetables

- The decoupling of ICT systems is proceeding on schedule and within forecasted budgets. Currently 800 NRW staff are on the new NRW kit and systems, and all NRW staff will be migrated onto NRW kit by the end of the calendar year. Work will then continue to remove the dependency on most of the ICT services provided by the partner organisations during 2015/16, with a small amount of residual services remaining where it is mutually beneficial. The total cost for decoupling work in 2013/14 was £ 9.7m and the forecast cost for 2014/15 is £14.2m.
- The benefits associated with the de-coupling also remain on track.

10. Need for independent verification of the separation of functions, particularly given the proposals for developing more enterprise activities

- I include with this letter a document that sets out our operational response, using organisational design and other tools, to help us deliver our multiple roles transparently and equitably. These arrangements are subject to ongoing review by our Board, including its Audit & Risk Assurance Committee, to ensure they remain fit for purpose

11. Actions taken to improve response time to planning consultations, when we expect to see improvements

- We have been working with an aggregation of legacy processes to provide a single voice and manage our ongoing workload; and our staff have risen to the significant challenge of bringing the three legacy organisation advice services together. We have also seen, and successfully accommodated, a significant increase in Nationally Significant Infrastructure Project (NSIP) workload; a significant number of Local Development Plan consultations; and a number of other high-profile planning cases.
- We have been developing the operating model for the Planning Service in NRW. For example, we have established a national governance model in relation to the provision and delivery of advice to the planning system. The Development Planning Advice Delivery Board is now providing the “Head of Business” for NRW’s national planning service providing process ownership, prioritising improvement and consistency, managing transition and providing steer and governance needed.
- We have also developed strategic objectives for our planning advice. This is key to ensuring the embedding of a positive approach and the proactive engagement with

the planning system as an important means of delivering sustainable development, natural resource management and positive outcomes for Wales' natural heritage. This has also enabled alignment of our future approach to external changes proposed for example, those set out in Positive Planning.

- We have recruited staff and filled vacant posts and have brought in additional technical expertise to support areas where there is a high call on technical specialists e.g. landscape. Our Operations South Directorate has just re-aligned and integrated its planning case management resource into two teams (from 9), one covering SE and one covering SW; our North and Mid Wales Directorate will also be re-aligning.
- We have undertaken detailed process analysis and developed solutions. The current complex aggregation of legacy processes has been analysed and key areas of improvement have been identified, solutions for process improvements worked up, and improved ways of working have been agreed.
- We have set ourselves targets for improved response times and I am confident that there will be a noticeable improvement within the next six months.

12. How non-cash benefits were calculated in the last financial year / how we intend to calculate and present non-cash benefits for the current and future financial years

- The non-cash realisable benefit is mainly the value of staff time that we free up by improving productivity and reducing wasteful effort. We are creating these efficiencies with business improvement projects that simplify processes and make them more customer focused. These projects will start delivering improvements during 2014/15 and onwards. For example, work to streamline the collection of water samples will make that process 20% more efficient and in time free up staff time equivalent to seven full time posts. That will increase our capacity for other priority work. On the same basis, early changes in 2013/14 freed up staff time worth about £0.5M per year.
- We are managing all the actual and planned benefits through the use of a benefits register, and are tracking delivery of non-cash realisable benefits through a benefits scorecard and ultimately our corporate dashboard.

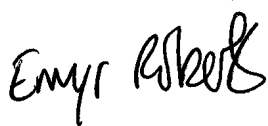
13. Clarification on the £3 million of savings

- The £3m savings were targeted budget reductions and savings and not underspends. This action was taken to meet budgetary pressures in our Forest Roads Civil Engineering programme and costs related to transitioning away from the Environment Agency's ICT infrastructure and applications. As part of that

exercise, we were also targeting a budgetary surplus at the end of year to help meet financial pressures in 2014-15.

I hope that this provides you with the further information that you were seeking. Should you require any further clarification on these, or any other issues, please do not hesitate to contact me.

Yn gywir,

A handwritten signature in black ink, appearing to read 'Emyr Roberts'.

Emyr Roberts

**Prif Weithredwr
Chief Executive**



Delivering our Multiple Roles as a Land Manager, Statutory Adviser and Regulator (Version 1) –

*Integrated decision making supported
by transparency and accountability*

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1. Introduction and Purpose

It was a deliberate and strategic decision by the Welsh Government to establish Natural Resources Wales (NRW) with multiple land management, advisory and regulatory roles. This decision reflected an aspiration to create a new and innovative approach to deliver integrated natural resource management, whereby a single organisation has at its disposal a range of tools and roles to better achieve positive outcomes for people, the environment and the economy.

This document establishes the context for our multiple roles, as well as acknowledging the challenges that these roles give us in two main areas. First, with regard to transparency of our own responsibilities as an organisation that directly delivers services, especially as a land manager - an 'operator' - in our own right. And second, in respect of our statutory responsibilities, where legislation and case law means that we are required to organise our delivery with particular requirements in mind.

The purpose of the document is to establish clarity and transparency for external stakeholders and customers. We describe our organisational design and operational responses established to achieve these objectives. They are all designed to support the decision to establish a new approach towards the delivery and facilitation of integrated natural resource management, through the creation of Natural Resources Wales.

2. Our Purpose and Roles as an organisation

The Establishment Order states the purpose of Natural Resources Wales is to ensure that the environment and natural resources of Wales are:

- (a) sustainably maintained;
- (b) sustainably enhanced; and
- (c) sustainably used.

(2) In this article –

(a) “sustainably” (“yn gynaliadwy”) means –

(i) with a view to benefitting, and

(ii) in a manner designed to benefit, the people, environment and economy of Wales in the present and in the future;

(b) “environment” (“amgylchedd”) includes, without limitation, living organisms and ecosystems.

Our purpose requires a balance to be struck and does not ascribe weight to any aspect (e.g. the environment or the economy) in preference to another. However, we have a duty to implement existing legislation and whilst it informs our approach, we must also have due regard to our purpose and use discretion and judgement in the application of specific legal requirements.

The ‘Functions Order’ transferred many duties and functions from the existing legislation and our roles can be summarised as follows:

Regulator: protecting people and the environment including marine, forest and waste industries, and prosecuting those who breach the regulations that we are responsible for

Statutory Adviser: to some 9,000 planning applications a year and also in respect of Strategic Environmental Assessment, Habitats Regulation Assessments and Environmental Impact Assessment.

Land Manager (Operator): managing seven per cent of Wales' land area including woodlands, National Nature Reserves, water and flood defences, and operating our visitor centres, recreation facilities, hatcheries and a laboratory

Technical/Policy Adviser: principal adviser to Welsh Government, and adviser to industry and the wider public and voluntary sector, and communicator about issues relating to the environment and its natural resources

Designator: for Sites of Special Scientific Interest – areas of particular value for their wildlife or geology, Areas of Outstanding Natural Beauty (AONBs), and National Parks, as well as declaring National Nature Reserves

Responder: to some 9,000 reported environmental incidents a year as a Category 1 emergency responder

Partner, Educator and Enabler: key collaborator with the public, private and voluntary sectors, providing grant aid, and helping a wide range of people use the environment as a learning resource; acting as a catalyst for others' work

Evidence gatherer: monitoring our environment, commissioning and undertaking research, developing our knowledge, and being a public records body

Employer: of almost 1,900 staff, as well as supporting other employment through contract work.

For many of the activities we are involved in we may exercise more than one role, either simultaneously or sequentially. For instance, we may provide a local authority with advice as a statutory adviser in respect of a proposed development and then be required to consider an application for a permit under a regulatory regime for the same development.

For a range of our own land management activities and those undertaken by our contractors, we are also the regulator – the body responsible for granting permits, assessing compliance, investigating potential offences and taking enforcement action. We also act as the consultation body for our own programmes, plans and projects in respect of environmental assessments such as Strategic Environmental Assessment (SEA), Habitat Regulations Assessment (HRA) and Environmental Impact Assessment (EIA). In this operator mode we also consider / facilitate third party activity on which we may then provide statutory advice to other authorities and then be required to consider applications for permits against regulatory regimes where we have responsibility.

Our Board has established high level principles to help us manage and organise these roles to achieve an agreed corporate position and avoid undue criticism. In addition our founding legislation and our legal purpose provides an overarching principle that is vital in managing our multiple roles. Namely, that no one role has primacy or priority over another. It is our responsibility to use evidence and judgement to agree the most optimal course of action recognising all our roles and our overarching purpose.

This means that our strategy decisions are key and once they have been made, all our roles can be delivered in line with our wider legislative responsibilities.

3. The principles we have adopted for managing our multiple roles

In developing its approach to corporate governance and mindful of the organisation's purpose and strategic case for a new approach to integrated natural resource management, our Board agreed to adopt a number of governance principles that aim to guide our operational responses to the management of our multiple roles:

- a. All proposals will facilitate integrated decision making by NRW in support of the ecosystem approach
- b. Functional separation will only be used when necessary, in recognition that NRW is one organisation and that regulatory and advisory functions support the same outcomes;
- c. Transparency will be a fundamental requirement both internally and externally;
- d. Delegated authorities will be based on risk thresholds.

4. Our Operational Response when Land Manager, Statutory Adviser and/or Regulator

The organisational structure for Natural Resources Wales (Annex 3) is a key component in managing our multiple roles in line with the agreed principles:

Our **Operations Directorates** fulfil the Land Manager role through their management of the Welsh Government woodlands and our own land, as well as when acting as the 'client' for services provided by other Directorates e.g. when constructing flood defence schemes or other developments and activities on the land we manage or own. In addition our **Operations Directorates** also provide all our statutory advice to local authorities and the Welsh Government, as well as project level statutory responses to HRA and EIA, including those of the Directorate as a 'Land Manager'. The teams that fulfil our Land Manager role in Operations are separate to the teams that provide our statutory responses and report through to a different manager at Leadership Team level. Our **Operations Directorates** do not make regulatory consenting and permitting decisions, which are made by our National Services Directorate reporting to a different Executive Director. However our **Operations Directorates** do undertake compliance and enforcement work based on agreed permits and the protocol for how this is undertaken for our own operations is set out in 4.1

Our **National Services Directorate** provides internal and external services. The internal services are primarily provided to our Operations Directorate as Land Manager and 'client'. For example harvesting & marketing of timber from the woodland estate and project management of flood defence schemes. In addition, **National Services Directorate** also provides an 'enterprise development' service. Where this involves the land that we manage, the Operations Directorate acts as 'client'. All these activities report to a single Leadership Team level manager. **National Services Directorate** also provides a

Permitting and Consenting Service to third parties and to Natural Resources Wales as a Land Manager through our Operations Directorate. These activities report to a different Leadership Team level manager.

Our **Knowledge, Strategy and Planning Directorate** is responsible for strategy development on behalf of the whole organisation. These strategies consider our multiple roles and are the method by which we will achieve alignment for all our roles to achieve our purpose. **Knowledge, Strategy and Planning Directorate** also provides a plan making assessment service for Natural Resources Wales own programmes and plans that require assessment under the SEA and HRA Directives.

Due to the case law requirements for functional separation when a plan making body is also the relevant Consultation Body for Strategic Environmental Assessment, our **Governance Directorate** fulfils the Consultation Body role, as the Directorate has no plan making, land manager or regulatory responsibilities. Due to the close process links with Habitat Regulations Assessments, the **Governance Directorate** also acts as the Consultation Body for these requirements at 'Plan' level.

4.1 As a Regulator of our own Land Manager role

The following explains how we will regulate our own activities including determining applications using principles of fairness, transparency, independence, and an exemplar level of environmental protection.

In some cases such as water abstraction, the legislation prescribes the process for permitting our own activities. However, most of the applicable legislation does not specifically cover self-permitting or compliance and enforcement. The Natural Resources Body for Wales (Functions) Order 2013 ("the Functions Order") imposes a duty on NRW to have a publication scheme, part of which relates to self-permitting; the scheme imposes some specific requirements.

Where we are responsible for a regulatory regime then we will apply the following standards to our application for a permit, determination of permit applications, participation in internal consultation, compliance assessment and investigation of potential offences in relation to own activities. The standards also apply to permitting, compliance and enforcement activities in relation to works conducted by contractors on behalf of NRW; for example, a licence to translocate dormice resulting from construction works within woodland.

Our standards will ensure that:

- a. We apply equivalent scrutiny and standards to our own activities as those required for external individuals and businesses. In particular, we should comply with our published enforcement policy and follow relevant public interest considerations.
- b. We follow clear and transparent decision making processes that are robust to challenge and clearly documented.

- c. There is an appropriate degree of separation between the business unit being regulated and the team undertaking the regulation. This is to help demonstrate fairness and transparency, and to support the public's and Welsh Government's confidence in our decision making.

4.1.1 Permitting

The decision making level for internal permits is as specified in the Non-Financial Scheme of Delegation (NFSoD). This will usually be the same as for external applications unless specified otherwise. Where a decision is likely to be contentious, or subject to internal or external challenge it will usually be appropriate to escalate the sign off to a higher level.

Separate guidance exists on functional separation relating to internal consultation on permit determination involving EU obligations, e.g. Habitats Regulations appropriate assessments and environmental impact assessments. These arrangements should be followed for internal permitting, where appropriate.

The arrangements in sections 4.1.3 to 4.1.5 below also apply to permitting activities in relation to works conducted by contractors on behalf of NRW.

4.1.2 Arrangements between National Services and Operations

Where an internal application is made by the Operations Directorates, and submitted to the permitting teams within the National Services Directorate for determination, then a separation of function already exists.

The team that determines the application may need to consult teams within the Operations Directorate that made the application. This may be entirely appropriate as local information will often be needed. However, if the information is critical to the decision then a degree of separation is applied through sign off rather than by local teams being organised specifically to deal with internal applications. This is normally by separation of line management to at least tier 3 (level below Leadership Team) or validation of the advice by subject experts in another directorate (KSP, NS or the other Ops Directorate).

Examples of internal permissions determined by permitting teams within National Services include:

- Water quality discharge consents for an NRW hatchery
- Marine licences for flood defence schemes
- Water abstraction licences for an NRW hatchery
- Septic tank registrations for NRW offices and depots
- Waste exemptions for NRW offices and depots
- Forest resource plans and felling licences for the Public Forest Estate

4.1.3 Arrangements where the application originates and is determined within National Services.

Any internal application is determined by a team separate from the team where the application originated, and provide a separation of function to at least Leadership Team level.

If the application is potentially contentious or likely to be subject to internal or external challenge, then as an additional safeguard the proposed decision can be referred to the Governance team for advice on an appropriate approach.

4.1.4 Arrangements where the application originates and is determined within Operations.

Where applications arise from within Operations Directorates that would normally be determined within Operations for external applicants, then a degree of separation through sign off by different area teams is in place.

Examples include:

- SSSI consents issued for NRW flood and coastal risk management schemes
- Flood defence consent for works carried out by NRW

Where possible, applications are determined according to the inter-area arrangements set out in table 1 below. Where this is not possible or the application is potentially contentious, then as an additional safeguard the proposed decision can be referred to the Governance team for review. As a minimum there is a separation to at least Leadership Team level.

Where applications are submitted by contractors on behalf of Natural Resources Wales the same arrangements described above are applied.

There may be some circumstances where it could be appropriate that some of the work can be carried out by the local team. For example, where extensive site visits are required. However, the permitting decision will be taken in accordance with the general arrangements above and clear evidence (e.g. photographs) will be provided.

Table 1- Inter-area arrangements

Area	Will regulate	Will be regulated by
North Wales	South East Wales	South West Wales
Mid Wales	South West Wales	South East Wales
South East Wales	Mid Wales	North Wales
South West Wales	North Wales	Mid Wales

Note:

Where the team permitting the activity covers all of South or all of North & Mid Operations Directorates, then the application will be determined by the Directorate other than the one where the application arises.

4.1.5 Compliance

Once permissions have been granted the inter-area arrangements described in Table 1 above will be applied for any compliance assessment work. The arrangements in this section also apply in relation to works conducted by contractors on behalf of NRW.

Where the team undertaking compliance assessment covers all of South or all of North & Mid Operations Directorates then the compliance assessment will be carried out by the Directorate other than the one where the regulated activity takes place.

There may be some circumstances where these arrangements are not practicable. In these cases, functional separation to at least Leadership Team level will be applied. If an issue develops that is likely to be contentious e.g. an offence is identified, then functional separation to at least Executive Director level will be applied for oversight or review.

4.1.6 Investigation of potential offences

In general, the arrangements described above for compliance will be applied to investigations where potential offences are identified. Offences could be breaches of permit conditions or contraventions of directly applicable legislation such as Duty of Care requirements or causing an unpermitted water discharge.

Where a potential offence relates to a pollution incident, the initial response will usually need to be provided by local officers, but follow up investigations should be in accordance with the arrangements described above.

Whenever a potential offence is identified, it will immediately be communicated through line management to Director level, in both the Directorate undertaking the activity and the Directorate undertaking the role of regulator.

4.1.7 Enforcement

Where an offence has been committed we will comply with our published enforcement policy and take account of relevant public interest considerations. Report of contravention forms will be completed for all cases and should be referred to the relevant enforcement panel and the Wales Enforcement Panel. Relevant Directors will have been informed.

Where the appropriate response is a warning and/or the issue of a notice this will be completed internally. In most cases a notice will not be necessary, because we would expect complete co-operation and prompt action. This is equitable with the approach we take with external parties.

For circumstances where a prosecution, formal caution or civil sanction is potentially appropriate, legal advice will be sought immediately*.

**We are seeking further legal advice in relation to these circumstances, and this procedure will be updated when the advice is received.*

4.1.8 Charging

Where a permit application would normally attract a fee there is no charging requirement for internal applications or subsistence fees for internal permits.

Where applications are required to be advertised in a newspaper during the determination process, then the applying department needs to cover these advertisement costs.

4.1.9 Publishing requirements for all internal permissions

The Functions Order 2013 requires that we publish information* about 'all applications for permits made by the Body, in cases where the Body is responsible for determining the application'. We are also required to inform Welsh Government of all internal applications (where it has the power to call in an application) at the time of the application.

The 'self permitting decisions' spreadsheet on the document management system is used to record the receipt and determination of internal permit applications. It is the responsibility of the team involved in the determination of the permit to ensure this spreadsheet is completed promptly when applications are received and when they are determined.

Once a month the spreadsheet detailing all internal permitting applications and decisions for the previous month is uploaded to the NRW external website and forwarded to the Welsh Government.

**The interim permitting publication scheme is currently being reviewed and any new requirements will be incorporated into this procedure*

4.2 Our own plans and programmes – Consultation Body (Statutory Advice) arrangements

In our roles as relevant nature conservation body (HRA- plans) and consultation body (SEA) for the plans and programmes of other authorities, as well as for our own plans and programmes that require either SEA or HRA (plans) we have a number of statutory and non-statutory roles including;

- Provision of information on European Sites, their features of interest and conservation objectives.
- Provision of scientific and technical advice and guidance on the environment and natural resources of Wales, including natural heritage, landscape and cultural heritage.
- Provision of statutory comment and representation as 'statutory consultee'

As well as these specific roles in respect of SEA and HRA, we have many other roles and duties arising from our role as land managers/project developers/operators and as the Regulators for some 30+ regulatory regimes. For SEA, there is European caselaw (the 'Seaport' case) that requires the 'functional separation', where Natural Resources Wales or any other authority is both the 'responsible authority (plan maker) and statutory consultant body.

In response to our responsibilities and these principles, a 'functionally separate' Strategic Assessment team (SAT) has been established within the Governance Directorate of NRW. This team's primary role is to fulfil the Consultation Body role for the SEA of NRW's own plans and programmes (legally required by Seaport ruling). However, based on the strong interdependencies between the SEA and HRA (plans) processes, our Board recommended that this team should also fulfil the relevant nature conservation body role on HRA (plans) for NRW's internal plans.

For those plans, programmes and projects produced by Responsible authorities external to NRW, the consultant body role for SEA (programmes and plans) and HRA (plans and projects) is provided by either the Knowledge, Strategy and Planning Directorate or the relevant Operations Directorate, according to the type of plan, programme or project (national/sectoral or regional respectively). However if NRW is formally contracted to develop the SEA or HRA plan level assessment by a third party 'responsible authority' then the Governance SAT team provides NRW's statutory consultee response as the Consultation Body.

4.3 Our own projects – Consultation Body (Statutory Advice) arrangements

For our own projects our Operations Directorates fulfils the Consultation Body role but through a separate team reporting to different Leadership Team manager to the one responsible for the project. The Land Manager role responsible for the project reports through to the Head of Operational Services and the relevant teams responsible for project level Habitats Regulation Assessment Consultation Body role reports through to the Head of Ecosystems Planning & Partnerships.

Where our own project requires planning permission through the Town & Country Planning system, our role as statutory adviser to local authorities within this regime is separate at Leadership Team level to the senior manager accountable for the project. Our role as a land manager responsible for the project is accountable to the Head of Operational Services. The teams who provide the statutory advice as a Consultation Body to enable the Local Authorities as the responsible body for permitted development to make a decision are accountable to the Head of Ecosystem Planning & Partnerships.

5. Our Operational Response when Statutory Adviser and Regulator

Although NRW is a single corporate entity, we will often exercise the distinct functions of statutory advisor and regulator in the context of a single development most notably Nationally Significant Infrastructure Plan developments. As well as using our agreed principles for managing our multiple roles to guide us where we are a regulator we have also taken into account an important theme that runs through administrative law: where legislation confers discretion on a body like NRW, the body must not surrender or abdicate that discretion – to a "policy". The body (NRW in our case) must keep an open mind and consider each case on its own merits: otherwise we would be failing to exercise our discretion. We must keep an open mind and consider the facts of the particular case.

In relation to the Development Consent Order application under the Planning Act 2008, we are a statutory consultee advising the decision maker on the land use planning implications of the development. For those developments which impact on Welsh waters, certain aspects of the development will comprise marine licensable activities for which a licence is required under the Marine and Coastal Access Act 2009. NRW (acting on behalf of Welsh Ministers) is the licensing authority. For those developments which involve a

regulated activity requiring an Environmental Permit under the Environmental Permitting Regulations 2010, NRW is the permitting authority.

There is therefore a distinct legislative framework for NRW's respective functions. The implications for cross-over between the respective functions could be opening up any decision or consent to be challenged upon the grounds of pre-determination and/or bias i.e. that one function has been unduly influenced by the others. Therefore, internal separation between the functions has been maintained with the Statutory Consultee responses for developments requiring planning permission being the responsibility of our Operations Directorates, whilst our National Services Directorate is responsible for all permits, consents and licences.

Annex 1 – When operating as Land Manager and Statutory Adviser and/or Regulator - Roles and Responsibilities

NATURAL RESOURCES WALES AS LAND MANAGER, STATUTORY ADVISOR AND REGULATOR	
ROLE	ROLE & RESPONSIBILITIES
<p>Role 1 – Applicant. Natural Resources Wales is land manager</p> <p>The person who makes an application for a permit. Any registration, exemption, approval, permission, licence, consent, assent or other authorisation.</p>	<p>Operations Directorates Applicant / land manager is Natural Resources Wales</p> <p>Welsh Ministers are notified of all applications at the time they are made</p>
<p>Role 2 - Originator of plan, programme or project is Natural Resources Wales</p> <p>The ‘Responsible Authority’ in statute for preparing Environmental Assessments: •Strategic Environmental Assessment &or Habitat Regulations Assessment (plans and programmes), •Environmental Impact Assessment &or Habitat Regulations Assessment (projects)</p>	<p>Transparency – publication scheme</p> <p>Knowledge, strategy, Planning Directorate for strategic plans, programmes, projects</p> <p>Operations Directorates for regional & local plans, programmes, projects</p>
<p>Role 3 – Natural Resources Wales is Regulator</p> <p>NRW is the body, as defined by statute, that supervises a particular industry or business activity including its own activities. The provider of a permitting decision / determination.</p>	<p>Transparency – publication scheme</p> <p>National Services Directorate Permitting decision</p> <p>Operations Directorates* Enforcement & Compliance casework *geographical separation</p>
<p>Role 4 - Natural Resources Wales is Statutory Consultee (Planning and Development Control)</p> <p>NRW is the body, as defined by statute, that must be consulted on relevant planning applications. The provider of evidence, information, advice to Local Planning Authorities to allow them to make an informed permitting decision.</p>	<p>Transparency – publication scheme</p> <p>Operations Directorates (separate team to applicant / originator)</p> <p>Receive & reply regional & local</p>
<p>Role 5 - Nature Conservation, Countryside and /or Forestry Consultation Body (environmental assessments)</p> <p>a) NRW is the body, as defined by statute, that gives opinion upon and must be consulted on relevant environmental assessments. The provider of evidence, information or expertise and advice as Competent Authority for plans and programmes (SEA, HRA) and projects (EIA, HRA) as the nature conservation, countryside or forestry body.</p> <p>b) NRW is the body, as defined by statute, that gives opinion upon and must be consulted on relevant environmental assessments.</p>	<p>Transparency – publication scheme</p> <p>a) Evidence & advice role – assessment preparation</p> <p>Operations Directorates Receive & reply Plans, programmes and projects</p> <p>b) Statutory advisory role</p> <p>Governance Directorate Plan / programme due diligence (SEA and HRA)</p>

Annex 2 – When operating as Statutory Adviser and Regulator - Roles and Responsibilities

NATURAL RESOURCES WALES AS STATUTORY ADVISOR AND REGULATOR

ROLE	ROLES & RESPONSIBILITIES				
<p>Role 1 - Applicant</p> <p>The person who makes an application for a permit. Any registration, exemption, approval, permission, licence, consent, assent or other authorisation.</p>	<p>Applicant is external (includes third party on WG Woodland Estate)</p> <p>Customer service centre logged & assigned 'Exceptional' casework identified Corporate risk register entry</p>				
<p>Role 2 - Originator of plan, programme or project</p> <p>The 'Responsible Authority' or plan, programme or project maker in statute for preparing environmental assessments:</p> <ul style="list-style-type: none"> •Strategic Environmental Assessment &or Habitat Regulations Assessment (plans and programmes), •Environmental Impact Assessment &or Habitat Regulations Assessment (projects) 	<p>Originator of plan, programme or project is external. The external applicant may need to prepare a Strategic Environmental Assessment, Habitat Regulations Assessment and / or Environmental Impact Assessment.</p>				
<p>Role 3 – Natural Resources Wales is Regulator</p> <p>NRW is the body, as defined by statute, that supervises a particular industry or business activity including its own activities. The provider of a permitting decision / determination.</p>	<table border="1"> <tr> <td data-bbox="880 934 1161 1061"> <p>National Services Directorate</p> <p>Permitting decision</p> </td> <td data-bbox="1166 934 1439 1173"> <p>Operations Directorate</p> <p>Enforcement & Compliance casework</p> </td> </tr> <tr> <td data-bbox="880 1068 1161 1173"> <p>Operations Directorates</p> <p>Permitting decision (eg SSSI consent)</p> </td> <td></td> </tr> </table>	<p>National Services Directorate</p> <p>Permitting decision</p>	<p>Operations Directorate</p> <p>Enforcement & Compliance casework</p>	<p>Operations Directorates</p> <p>Permitting decision (eg SSSI consent)</p>	
<p>National Services Directorate</p> <p>Permitting decision</p>	<p>Operations Directorate</p> <p>Enforcement & Compliance casework</p>				
<p>Operations Directorates</p> <p>Permitting decision (eg SSSI consent)</p>					
<p>Role 4 - Natural Resources Wales is Statutory Consultee (planning development control)</p> <p>NRW is the body, as defined by statute, that must be consulted on relevant planning applications. The provider of evidence, information, advice to Local Planning Authorities to allow them to make an informed permitting decision.</p>	<p>Operations Directorates</p> <p>Receive & reply regional & local</p>				
<p>Role 5 - Nature Conservation, Countryside and /or Forestry Consultation Body (environmental assessments)</p> <p>a) NRW is the body, as defined by statute, that gives opinion upon and must be consulted on relevant environmental assessments. The provider of evidence, information or expertise and advice as Competent Authority for plans and programmes (SEA, HRA) and projects (EIA, HRA) as the nature conservation, countryside or forestry body.</p> <p>b) NRW is the body, as defined by statute, that gives opinion upon and must be consulted on relevant environmental assessments.</p>	<p>a) Evidence & advice role – assessment preparation</p> <table border="1"> <tr> <td data-bbox="880 1458 1161 1630"> <p>Knowledge, Strategy, Planning Directorate</p> <p>Receive & reply Plans & programmes</p> </td> <td data-bbox="1166 1458 1439 1630"> <p>Operations Directorates</p> <p>Receive & reply Projects</p> </td> </tr> </table> <p>b) Statutory advisory role</p> <p>Governance Directorate</p> <p>Plan / programme due diligence (SEA and HRA) only where NRW are a Partner or act as consultant</p>	<p>Knowledge, Strategy, Planning Directorate</p> <p>Receive & reply Plans & programmes</p>	<p>Operations Directorates</p> <p>Receive & reply Projects</p>		
<p>Knowledge, Strategy, Planning Directorate</p> <p>Receive & reply Plans & programmes</p>	<p>Operations Directorates</p> <p>Receive & reply Projects</p>				

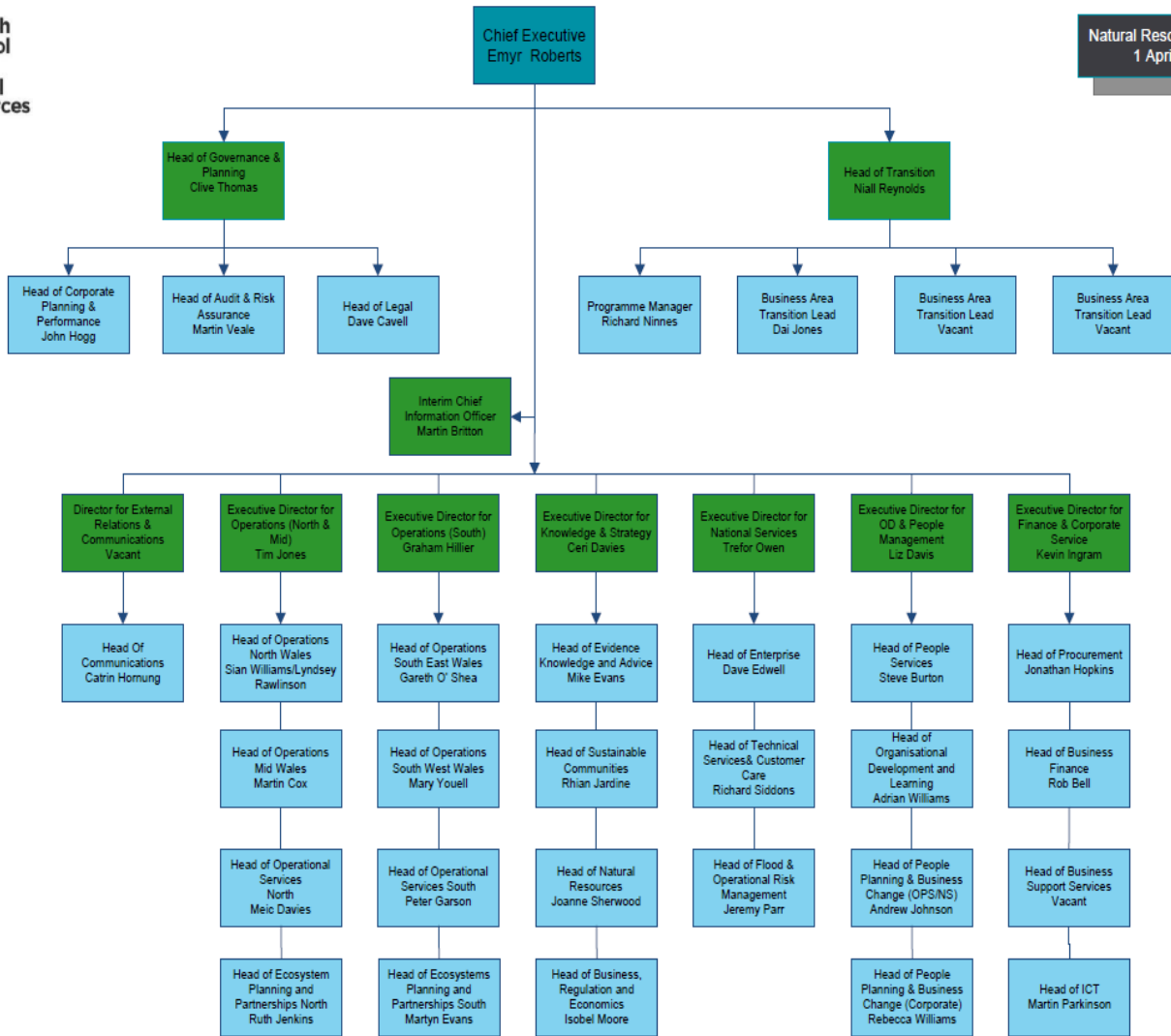
Related policies/procedures

- NRW Publication Scheme
- Guidance on functional separation covering all activities.
- Non - Financial Scheme of Delegation
- Internal Environmental Management procedures.

Annex 3 – Organisation Structure



Natural Resources Wales
1 April 2014



Version 1.0



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