

**Environment and Sustainability Committee**

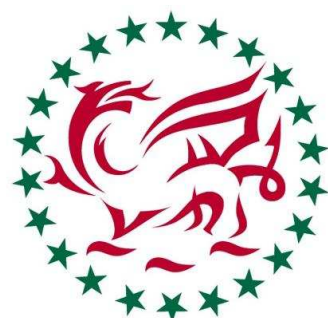
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**Inquiry into the Business Case for the Single Environmental Body - Evidence  
from the Welsh Local Government Association**

# Single Environment Body

Environment and Sustainability  
Committee

26<sup>th</sup> January 2012



WLGA • CLILC

## INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. This submission was largely drafted before the Committee finalised its terms of reference and as such may not address all issues of interest to the Committee.

### Key Issues

4. The WLGA broadly supports the creation of a Single Environment Body with a number of important caveats;
  - That transitional arrangements are such that service levels are not reduced. This is a real fear given the number of staff who will be needed to manage the transition and the danger of a lack of focus on front line services.
  - That merger needs to lead to greater clarity on roles and responsibilities between the body and other stakeholders and that there are clearer lines of accountability and communication especially in dealing with emergency situations ; On certain issues LAs have similar regulatory roles and already experience difficulties caused by inconsistent approaches (e.g. in relation to fly tipping and permitting). It is important that LAs can input to the work streams to ensure that clear memoranda of understanding are developed between LAs and the new body.
  - There is a risk that the complexity of the merger, in tandem with the necessary review of legislation and the development of the Living Wales/ecosystem approach undermines the process.
  - That the focus on the creation of an environmental body does not mask the need to address wider social and economic agenda's – especially in reducing the burden of the regulatory framework, and the relationship with other key processes such as planning.

- That the creation of a shadow board ensures wider stakeholder buy in and accountability; LA Members' are accessible to their communities and will remain under pressure on issues of local delivery. What will be the governance arrangements be surrounding the SEB? Who will be on its board and who will they be accountable to? What relationship, if any, will the Board have with the local communities they are serving across Wales? Will there be stakeholder representation on the Board?
- That other key initiatives such as Simpson and the collaboration agenda across the wider public sector are not undermined in any way; the danger here is opportunities to develop new services across a range of bodies are not possible whilst the merger is ongoing.
- Authorities already deal with a range of boundary issues, including different regions of the EA in Wales. Ceredigion, for example, deals with 2 EA regions and also has separate relations with FC and CCW. Will the SEB be co-located so that these *existing* problems are overcome?
- This is also an ideal time to look at interfaces such as the electronic transfer of information between bodies – ICT linkages and communications issues need to be considered as part of this process; especially in light of moves to streamline the planning process likely to be set out in the Planning Bill.
- What will happen to the expertise that is currently drawn on from England? Some recent permitting work on landfills had to be dealt with by experts from England, for example. Will there be delays as a result of the need to draw in such support?

## **WLGA Role**

5. WLGA have been involved in the discussions on the SEB in a number of Ways;
  - As a consultee to the Living Wales process
  - As a participant in a number of sub groups to the Natural Environment Framework work streams such as the Communications and Engagement sub group and the Regulatory sub group.
  - As a direct consultee in the development of the business case and as a facilitator of such discussions with the local Authority Strategic Environment Directors forum.
  - As an interviewee in the internal peer review process.
  - Through our regular dialogue with Welsh Government Officials and other stakeholders on related matters; such as discussions at the planning Lead Members meetings with the Minister.

- And lastly through our recent involvement on the NEF/SEB reference group which received the strategic outline case (Business Case) at its meeting on the 23<sup>rd</sup> of November.

## **Context**

6. The fast evolving context of the NEF/Living Wales process alongside the consideration of the case for a SEB, has meant that it has proved difficult to both divorce the two processes and consequently form definitive views on the emerging business plan. Equally the changing context of Simpson and the regional/national agenda within Local Government has meant that much has changed in our thinking on those aspects of the interface between the SEB and LA's.
7. In the process we have maintained a clear focus on two key tests; do we believe that the outcomes in terms of service improvement are real and justifiable, and will wider stakeholder/public confidence be maintained/improved? Clearly there also had to be assurances from a technical viewpoint that the different roles of the organisations involved would continue to be discharged appropriately and within the necessary legal framework.
8. There have all along been some questions raised about the timing of the process. This has manifested itself in two ways; given the wider need to reduce public expenditure there has been some disquiet among some sectors that the main driver of the exercise was a reduction in expenditure. It is our view that efficiency remains a legitimate outcome at all times but has not been the main driver in this instance. Secondly that the NEF/Living Wales process needed to be completed before a discussion could be initiated on the proper mechanisms to deliver it. Whilst we have some sympathy with that the reality is that we believe it is possible to run both processes concurrently and iteratively.

## **Scope**

9. Clearly the scope of the business case at this stage is on a strategic level. Many of the issues that we are concerned about as local government will focus on the practical implementation and how the new body will interface with Local Government and other stakeholders. Over the years WLGA have established a good working relationship with all three bodies around a range of issues. However it is at the local level where that relationship is critical to the delivery of local strategic planning and local services.

Again our view is that this relationship has matured and strengthened over time and whilst difficulties remain it is generally a positive picture. A key concern that we have is that the turbulence caused by the changes, if not effectively managed could lead to a deterioration of that local relationship especially if the new organisation becomes too internally focussed in the interim. How the new organisation operates regionally will be critical in this future relationship.

10. Equally in terms of scope, a range of issues have been raised in relation to the business case regarding cost assumptions, VAT status, pension provisions, and transitional arrangements and so on. It is out with our competence to comment specifically on those issues.

### **Transparency and Accountability**

11. It is clear that a wholly devolved structure with transparency over governance and decision making is a positive of this process; especially as the Assembly will be able to hold the Minister to account for performance in Wales. This must be balanced with an understanding of the expertise and capacity required to deliver on the range of functions these bodies currently deliver upon and what may be potentially denuded through the loss of access to UK expertise. This must be carefully managed through ongoing relationships on a UK basis and indeed may be improved in terms of clarity about what services are being utilised and at what cost. It is our view that better value for money can be sought and delivered through the creation of highly valued and skilled capacity within Wales that will be of wider benefit to the economy. Opportunities for collaboration across the public sector should be investigated as should the role of the private sector.
12. There is a potential role for Local Authority Overview and Scrutiny committees that need to be explored. This is within the context on the range of designated bodies which can be called before these committees to give evidence. Clearly this would enable greater local accountability for decisions and activity.

### **Practical Delivery**

13. Local Government is a service user, delivery partner and regulated body amongst others in terms of the three organisations. The complexity of these relationships and the nuances of the differing roles are difficult to capture in terms of this submission. However generally these relationships are valued at both a national and local level. It

is often the mundane interaction between local government and the bodies that illustrates the critical co dependencies that exist.

14. Clearly any reduction in service provision, accessibility or speed will have a detrimental effect on local service delivery and a negative impact on the public and the regulated sector. Whilst we must remain vigilant on this front the Strategic Outline Case does not furnish enough detail to allow a view to be formed as to whether this danger is real or not. It is an issue we shall seek to keep under review as the process moves towards vesting day. In this regard we believe the date of 1<sup>st</sup> April 2013 is appropriate weighing up the practicality of doing this and the damaging effects of delay on staff/stakeholders and the need to focus on delivery of real services.
15. There has been a concern that the Simpson process in local government failed to fully capture the potential for wider public sector reform in its analysis of whether services should be delivered locally, regionally or nationally. Whilst there have been some discussions around the roles of local government and the SEB and the possibility of functions moving between the two bodies we believe that this has not yet received enough focus and detailed thought. Again the difficulty is the complexity of change in one part of the public sector compounded by change in another. Notwithstanding this it remains an area that will require further development in the future; especially in the local democratic accountability of bodies and the pooling of expertise/skill sets across organisations. (notwithstanding the text in point 2.8.2 of the Strategic Overview document V5).
16. Another key issue will involve where the new organisation will be located and the impact any potential changes will have on the economy. Any rationalisation of assets must not lead to a centralisation of resources. The current significant representation in North and West Wales is both positive and effective.
17. However the WLGA wishes to seek clarification on the matter raised in point 2.5 Legal Powers (Strategic outline Case v5) where it discusses the Public Bodies Bill and its provisions, the fourth bullet states that:  
'Transfer any Welsh devolved function relating to the environment from the person whose function it is to (a) a new body, (b) the CCW, or (c) The Environment Agency or Forestry commission'.  
It is not clear what the rationale behind seeking this power was and how it is envisaged that it would be exercised in the future.

18. It is likely that the Environment Green Paper will raise issues around the interface between planning and environmental regulation and guidance. Indeed this committee has looked at such issues as part of its ongoing inquiry into Planning and Energy. Whilst we accept that improvements need to be made in this respect and there may be more efficient and elegant ways of discharging duties in relation to planning and consents it requires very careful consideration to ensure that all the consequences of any changes are fully understood. There is a danger that changes brought about under the Planning Bill, collaboration agenda, the SEB and an ecosystems approach against the backdrop of severe economic downturn could lead to unforeseen consequences.

### **The Case for Change**

19. It is clear that Wales needs a step change in the way we manage our natural resources. The failure to meet the biodiversity targets in 2010 was just one symptom of a system which failed to recognise our basic dependency on ecosystems as a prerequisite of our existence. Climate Change and the overuse of resources are two others. In many ways the mass of environmental legislation and protections had actually had the perverse outcome of not effectively protecting the environment whilst calling into disrepute such activity by becoming a barrier to appropriate and sustainable development that our communities need to thrive.
20. In this regard the business case for the SEB has been closely tied into this new ecosystem approach which promises a more proportionate and effective framework within which to take decisions regarding sustainable development. This more proactive supportive approach rather than a regulatory one with a focus on preventing inappropriate development is both positive and necessary especially in terms of supporting the economy.
21. The criteria and weighting set out on page 9 (Executive Summary) of the business plan appear to offer a balanced assessment of the main issues in relation to the creation of the SEB. The key question remains is the new organisation a pre-requisite to deliver these additional benefits?
22. The proposal assesses the case around five areas; strategic, economic, commercial, financial and management (section 2.2 of the section 2 Strategic Case).

23. The strategic case which argues that a fragmented regulatory framework undermines our management of the environment and prevents a truly integrated and sustainable of environmental management based on the ecosystem approach is well made. However whilst a new body may more elegantly allow this integration and the development of a better regulatory framework it is not entirely clear from the business case why this is significantly better than ensuring that the current bodies operated more effectively in this regard.
24. In terms of the economic case the reduction in burden and bureaucracy is a persuasive argument which should be tempered with an understanding that many of the processes delivered by these bodies are not within their gift to amend, such as European directives. However the greater clarity on role and responsibility which will allow business to access the support they need more readily is a real positive. The WLGA have no particular view on the cost and saving assumptions set out in the business case.
25. There has rightly been a vigorous public debate on the commercial activity of especially the Forestry Commission and how this may be impacted upon by the SEB. The analysis within the business case does not seem to address this and focuses upon internal issues. This remains a key question in terms of how the SEB will operate with a view that this activity may be compromised in some way. Clearly this must not happen if the SEB is to be judged a success but equally there would need to be an acceptance that the forestry element of the new body may need to operate at a sub optimum commercially on occasions where they are seeking to deliver key Welsh government objectives.
26. Again whilst we have no particular view on the financial case put forward in the business case it would have been prescient to have included a view on what the impact upon the regulated sector may be and other stakeholders and what the wider economic benefits could be. Whilst this is problematic territory to get into, with the necessity to make heroic assumptions, this clearly should be a driver for the process.
27. If other public and private stakeholders incur greater costs because of the changes then the sum total of benefit may be less or even negative. The business case does not provide a framework to allow this to be considered.

## **Conclusion**



28. Whilst much debate remains on the implementation of SEB; not least in the context of NEF/Living Wales it is our view that if the assumptions in the business plan are robust then there is a prima facie case to proceed with the merger.

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**For further information please contact:**

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