

Environment and Sustainability Committee

Meeting Venue:

Committee Room 4 – Tŷ Hywel

Meeting date:

Wednesday, 3 December 2014

Meeting time:

09.15

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Alun Davidson

Committee Clerk

0300 200 6565

SeneddEnv@Assembly.Wales

Agenda

- 1 Introductions, apologies and substitutions**
- 2 Motion under Standing Order 17.42 to resolve to exclude the public from item 3**

Private session

3 The Government of Wales Act 2006 (Amendment) Order 2015:

Consideration of draft report (09:15 – 09:30) (Pages 1 – 4)

E&S(4)–30–14 Paper 1

Public session

4 Planning (Wales) Bill: Stage 1 – Evidence session 6 (09:30 – 10:15)

(Pages 5 – 46)

Natural Resources Wales

Emyr Roberts, Chief executive

Sarah Wood, Team Leader, Terrestrial Spatial Planning, Energy and Infrastructure

Rhian Jardine, Head of sustainable communities

E&S(4)–30–14 Paper 2

5 Planning (Wales) Bill: Stage 1 – Evidence session 7 (10:15 – 11:15)

(Pages 47 – 57)

Roisin Willmott, Director, RTPI Cymru

Lyn Powell, Wales Planning Consultants Forum

Mark Roberts, Wales Planning Consultants Forum

E&S(4)–30–14 Paper 3

E&S(4)–30–14 Paper 4

6 Planning (Wales) Bill: Stage 1 – Evidence session 8 (11:15 – 12:15)

(Pages 58 – 73)

Morag Ellis QC, Chair, Planning and Environment Bar Association

Huw Williams, Geldards LLP, representing The Law Society

Tim Morgan, Planning and Environmental Law Committee, The Law Society

Dr Victoria Jenkins, Swansea University, representing UK Environmental Law Association (UKELA)

Dr Haydn Davies, Joint Convenor, UKELA Wales Working Party

E&S(4)–30–14 Paper 5

E&S(4)–30–14 Paper 6

7 Papers to note

The Well-being of Future Generations (Wales) Bill: Correspondence from the Auditor General for Wales (Pages 74 – 76)

E&S(4)–30–14 Paper 7

Inquiry into the public forestry estate in Wales: Correspondence from Natural Resources Wales (Pages 77 – 78)

E&S(4)–30–14 Paper 8

Welsh Government Draft Budget 2015–16: Correspondence from the Minister for Natural Resources and the Deputy Minister for Farming and Food (Pages 79 – 90)
E&S(4)–30–14 Paper 9

Inquiry into Poverty in Wales: Correspondence from the Chair of the Communities, Equality and Local Government Committee (Pages 91 – 92)
E&S(4)–30–14 Paper 10

Animal welfare: Correspondence from Monima O'Connor (Pages 93 – 96)
E&S(4)–30–14 Paper 11

Animal welfare: Correspondence from Shechita UK (Pages 97 – 100)
E&S(4)–30–14 Paper 12

Animal welfare: Correspondence from the Countryside Alliance (Page 101)
E&S(4)–30–14 Paper 13

Agenda Item 3

Document is Restricted

Agenda Item 4

Document is Restricted



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

**National Assembly for Wales
Environment and Sustainability Committee
PB 39
Planning (Wales) Bill
Response from Natural Resources Wales**
E
Glan Teifi,
Barley Mow,
Lampeter
SA48 7BY

Ebost/Email:
rhian.jardine@cyfoethnaturiolcymru.gov.uk
Ffôn/Phone: 03000 653 638 (PA)

The Committee Clerk
Environment and Sustainability Committee
National Assembly For Wales
Cardiff Bay
CF99 1NA

Dear Sir/Madam

Inquiry into the General Principles of the Planning (Wales) Bill: The Evidence of the Natural Resources Body for Wales

This is the Natural Resource Body for Wales' (NRW) formal response to the Environment and Sustainability Committee's inquiry into the general principles of the Planning (Wales) Bill.

The purpose of the Natural Resources Body for Wales (NRW) is to ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used. In this context sustainably means with a view to benefitting and in a manner designed to benefit the people, environment and economy of Wales now and in the future. Our functions are set out in the Natural Resources Body for Wales (Functions) Order 2012. Our comments are therefore provided in the context of this remit.

We welcome the opportunity to contribute to the Inquiry, as we consider the Planning (Wales) Bill, together with the Environment and Wellbeing of Future Generations Bills, represent a once in a generation opportunity to significantly improve the statutory framework for the integrated management and planning of environmental and natural resources in Wales to meet the challenges facing Wales. These challenges include the effects of climate change, the need for energy security and efficiency, the depletion and deterioration of natural resources including the continuing decline in biodiversity, the need to create and maintain jobs, and the inequality in the access that the people of Wales have to the benefits that the environment provides.

We consider that the Environment Bill, the Wellbeing of Future Generations Bill, the Wales National Marine Plan, the Review of Designated Landscapes and the Planning (Wales) Bill are complementary and mutually supportive. To ensure a joined up approach to addressing the environmental, social and economic challenges we now face, it is important that these linkages are recognised and clearly articulated within the context of the wider process of public service reform and delivery in Wales.

Within this framework of policy the Planning system is designed to manage the development and use of land in the public interest and is an important mechanism for delivering sustainable development and shared outcomes within a spatial context. As well as providing land for development and infrastructure, the planning system also provides protection and opportunities to enhance the environment. We welcome the aim of the Bill to deliver a planning system which is positive in outlook and enables development that helps to deliver sustainable places whilst providing the protection and enhancement opportunities that Wales' environment requires. NRW has a key role to play in supporting the proposals in the Planning (Wales) Bill through providing evidence and guidance, and in our role as a statutory consultee. In this statutory consultee role, the Bill proposes that we will provide statutory advice through substantive responses at a number of stages in the planning application process. This will involve advice on the environmental impact of development, and potential solutions, to inform developers and decision makers to ensure the right development is located in the right place, and implemented within the impact parameters assessed for developments.

NRW has developed a set of Strategic Objectives for our Planning Advice, which was endorsed by our Board on 18 December 2013. These align with the overall approach set out in the Planning (Wales) Bill. They emphasise the need to move towards an enabling, solutions based approach, working strategically and through early engagement with developers and decision makers to enable the right development in the right location whilst respecting environmental limits in accordance with the ecosystem approach. A copy of our Strategic Objectives is attached at Annex 2 for your information.

Our response to the Planning (Wales) Bill highlights the importance of:

- The integration of legislation, policies and plans;
- Parallel tracking of planning and connected environmental consents and permits;
- Integration of outcomes to optimise the benefits from development;
- The opportunity to develop a common evidence base to inform the National Natural Resources Policy, the National Development Framework and the Wales National Marine Plan.
- Strategic engagement with the National Development Framework and other strategic plans to provide evidence and advice to direct nationally important development and infrastructure to the most suitable locations;
- Early engagement in the development management process – at the site selection phase;
- Clarity over the proposed future role of statutory consultees and others in the planning process.

We note that the Bill sets out a number of provisions which rely upon subordinate legislation for their implementation. Whilst much of this detail is not currently available, we view that this secondary legislation will be of considerable importance. Natural Resources Wales looks forward to continued discussion with regard to the scope and detail of the provisions of secondary legislation.

We note that the Regulatory Impact Assessment has considered the options, costs and benefits of proposals on Statutory Consultees, including the desirability of statutory consultation and the requirement for substantive responses at additional stages of the Planning process. We look forward to working with Welsh Government to establish the full extent of these new responsibilities, our respective roles, particularly in relation to the connected consents process, and how best to resource them so as to maximise our effectiveness in delivering the Welsh Government policy objectives in relation to the Planning, Environment and Wellbeing of Future Generations Bills, and the emerging Wales National Marine Plan.

We will continue to work with the Welsh Government and other stakeholders to develop further the details of this important piece of legislation and associated secondary legislation, policy and technical guidance.

Our detailed response to the terms of the Committee's inquiry are set out in Annex 1.

Finally, NRW has this week been invited to attend to give oral evidence to the Committee, which we will be pleased to do.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Iwan Jones', with a long horizontal line underneath.

Head of Sustainable Communities
Pennaeth Cymunedau Cynaliadwy

Inquiry into the General Principles of the Planning (Wales) Bill

Evidence of the Natural Resources Body for Wales

1. The General Principles of the Planning (Wales) Bill and the need for legislation in specified areas.

We welcome the opportunity to contribute to the Inquiry, as we consider the Planning (Wales) Bill, together with the Environment and Wellbeing of Future Generations Bills, represent a once in a generation opportunity to integrate the statutory framework for the management and planning of environmental and natural resources in Wales. We consider that the Environment Bill, Wellbeing of Future Generations Bill, the Wales National Marine Plan, the Review of Designated Landscapes and the Planning (Wales) Bill are complementary and mutually supportive. To ensure a joined up approach to addressing the environmental, social and economic challenges we now face, it is important that these linkages and interconnections are recognised and articulated through the various Bills within the context of the wider process of public service reform in Wales.

The challenges we face include tackling the causes and effects of climate change, the need for energy security and efficiency, the depletion and deterioration of natural resources including the continuing decline in biodiversity, the need to create and maintain jobs and the inequality in the access that the people of Wales have to the benefits that the environment provides. Addressing these challenges needs to be delivered within the context of the wider processes affecting the delivery of public services across Wales.

The Planning system is designed to manage the development and use of land in the public interest and is an important mechanism for delivering sustainable development and shared outcomes within a spatial context. As well as providing land for development and infrastructure, the planning system also provides protection and opportunities to enhance the environment. We welcome the aim of the Bill to deliver a planning system which is positive in outlook and enables development that helps to deliver sustainable places whilst providing the protection and enhancement opportunities that Wales' environment requires.

NRW has developed a set of Strategic Objectives for our Planning Advice, which was endorsed by our Board on 18 December 2013. These reflect the overall approach set out in the Planning (Wales) Bill. They emphasise the need to move towards an enabling, solutions based approach, working strategically and through early engagement with developers and decision makers to enable the right development in the right location whilst respecting environmental limits i.e. adopting the ecosystem approach. A copy of our Strategic Objectives is attached at Annex 2 for your information.

The requirement to produce a national land use plan, the National Development Framework

NRW welcomes the proposal to introduce a National Development Framework (NDF) to replace the Wales Spatial Plan. The NDF will be evidence based, and therefore provides an opportunity to direct nationally strategic development and infrastructure to the most appropriate locations based on clear evidence, some of which will be provided in the State of Natural Resources Report and, in due course the National Natural Resources Policy and Area Natural Resources statements. In this context it will be important that green infrastructure is identified in the NDF, and the role that it has in delivering multiple benefits such as managing flood risk and providing health benefits, thereby reducing the social and economic costs associated with flooding and poor health for government, business and communities.

Integration between the NDF, National Natural Resources Policy and the Wales National Marine Plan will be essential to ensuring integrated solutions to the economic, social and environmental challenges facing Wales within the context of the Goals set out in the Well Being of Future Generations Bill.

A significant opportunity exists to develop a common evidence base to inform the Natural Resources Policy, the National Development Framework and the Wales National Marine Plan.

The NDF will need to -

- clearly define the role of the land use planning system in delivering the national outcomes of government and any long term goals arising out of the forthcoming Wellbeing of Future Generations Bill ,the Wales National Marine Plan and future Environment Bill provisions with respect to Natural Resource Management.
- set out a long term vision focussed on the delivery of sustainable development goals and outcomes to ensure a resilient economy and environment
- clearly articulate the relationship between the different tiers of plans and processes
- clearly articulate the relationship between the NDF, the Wales National Marine Plan, the Wales Infrastructure Investment Plan (WIIP), the Wales Climate Change Strategy and its associated Sectoral Adaptation Plans and the Wales Transport Strategy and the spatial expression of major development and infrastructure arising out of non-devolved Plans and programmes e.g. National Policy Statements
- clearly articulate the relationship between the NDF and the Natural Resources Policy proposal for the Environment Bill and between the NDF and the Wales National Marine Plan. Section 60B of the Planning (Wales) Bill should make provisions for the Ministers to have regard to, or consider, natural resources policy and the Wales National Marine Plan in the preparation of the NDF.
- clarify that the NDF will set out a spatial expression of Natural Resources Policy including green infrastructure and strategic recreation and access provision, flood defence and other flood risk management measures, such as upland catchment management measures together with pressured environments and National and Internationally important designations.

- clarify whether Developments of National Significance are to be criteria led or reflected spatially in the NDF, informed by the Wales Inward Investment Plan, Wales Transport Strategy and Natural Resources Policy.
- highlight the key natural resource requirements that target setting and land allocation further down the planning hierarchy will need to take into account e.g. water resource availability when setting housing allocation targets for Strategic Development Plans (SDP) and Local Development Plans (LDP).
- align the review period with that proposed for the Natural Resources Policy and State of Natural Resources Reporting.

We note and welcome the development plan status of the NDF and that the Bill requires a Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) to be carried out for it. This will help ensure clarity, certainty and consistency throughout the planning hierarchy in Wales and avoid unnecessary conflict and delay arising from inappropriate development in inappropriate locations. Specifically some environmental issues such as flood risk manifest themselves at regional or national spatial scales, such as large river catchments and coastal process cells. These and other environmental issues should be firstly addressed at the national spatial planning level in order to most effectively influence strategic and local development decisions.

Investment in such development and infrastructure will need to be founded on robust environmental evidence to ensure that proposals are directed to locations that can deliver intended outcomes for the long term, whilst being resilient to current and future challenges such as climate change impact.

The NDF can play an important role in achieving Wales' emissions reduction targets in a way that otherwise uncoordinated local planning decisions will fail to do. It will be important to ensure that SEA/SAs are fit for purpose and demonstrate long term sustainability. In this context, and given the importance of meeting EU, UK and Welsh Government targets on carbon reduction, the Framework and its proposals should be required to demonstrate at least a 3% reduction in carbon emissions per annum, over the lifetime of the Framework. Reducing carbon emissions in line with Welsh Government targets is one key step in assuring long term sustainability.. Similarly, the SEA process should demonstrate how the developments proposed in the NDF and their total impact, reduce the impact on natural resources in line with for example Biodiversity targets.

To deliver SA/SEAs that are fit for purpose it will be important to ensure that the necessary expertise and competencies are available, particularly if it is to deliver the larger than local framework and account for the total impacts of the Plan. A realistic assessment of total impacts will be required at the NDF level. The assessments should not be relegated to the SA/SEAs of the lower tier Strategic (SDP) and Local Development Plans (LDP), so that the bigger picture proposed in the NDF recognises how it is contributing to environmental impacts, as well as delivering any economic, social and environmental benefits.

Whilst welcoming the requirement for SA/SEA, we are concerned however that no reference is made to the need to undertake a Habitat Regulation Assessment of the Plan to ensure that compliance with and full consideration is given, to the requirements of the

Conservation of Habitats and Species Regulations (as amended) (The Habitat Regulations), which transposes the requirements of the EC Habitats Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora) into UK law. Consideration should therefore be made to amending Section 60B(1) of the Bill should to include the requirement for a Habitat Regulations assessment to be carried out, either by inserting the reference as part of (c) or by inserting an additional criterion.

The proposals for the scrutiny and review of, the NDF will need careful consideration particularly if the intention is to include the spatial elements of existing TANs, such as TAN 8 and 15, within the NDF. As Strategic Development Plans (SDP) and Local Development Plans (LDP) will be required to be in conformity with the NDF, it also provides the context for both of those plans, and it is therefore of key importance that it is given appropriate scrutiny before being finally published.

The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues

There are a number of areas in Wales where larger-than-local cross-boundary issues will benefit by greater collaboration between authorities and in being considered at the strategic or regional level. Most notably these include housing allocations particularly for South East Wales and Cardiff, and North East Wales; mineral and waste allocations; and green and blue infrastructure, informed by Area Natural Resources evidence and statements, to complement the delivery of grey infrastructure. Strategic Development Plans (SDPs) therefore seem an appropriate tool to consider such issues.

However, given that consideration is being given to larger local authorities in light of the recommendations set out in the *Report of the Commission on Public Service Governance and Delivery* (The Williams Report), it is anticipated that if such changes are introduced, a number of Local Development Plans will cover a much larger area and therefore become more strategic in nature.

It is not clear from the Bill what the interrelationship between SDPs, the Local Development Plans (LDPs) of larger local authorities and Area Natural Resources evidence and statements will be. This needs to be defined or reference provided to the provisions for it to be clarified in secondary legislation.

Similarly, in areas where no SDPs are proposed, the NDF will need to provide an adequate framework for the LDP for the area, to ensure that the LDP is able to demonstrate the necessary conformity with the NDF.

As stated for the NDF, we similarly welcome the requirement for the Strategic Planning Panel to carry out a Sustainability Assessment and Strategic Environmental Assessment of the SDP. However, as for the NDF, we have concerns that there is no reference to the requirement to carry out a Habitats Regulations Assessment of the SPD. We consider this an omission in the Bill and suggest that it is included.

Similarly there is no legislative requirement for the SDP to be informed by the National Natural Resources Policy or Area Natural Resources Statements, although Paragraph 5.26 of the Positive Planning Consultation stated that SDPs would be informed by it and the area based approach for natural resources management. To ensure that the Bill and the emerging Environment Bill are integrated and mutually supportive, we recommend that the proposed Section 60I (6) of the 1990 Act referred to in the Bill is amended by adding reference requiring SDPs to have regard to or to consider National Natural Resources Policy and the area based approach for Natural Resources Management.

We also consider that the Committee should emphasise the importance of the SDP having to have regard to the coordinating processes and timetables between the plans referred to above and the SDP, as well as the coordinating processes and timetables of other National regional plans including:

- National Natural Resources Policy
- The Wales National Marine Plan
- The Wales Infrastructure Investment Plan
- Climate Change Strategy
- Area Natural Resource Management statements
- The Local Development Plan
- Well Being Plans
- National Park and Area of Outstanding Natural Beauty Management Plans
- Regional Transport Plans

The Committee should also seek provisions requiring information on the coordinating processes to be set out in secondary legislation.

We reiterate that specifically some environmental issues such as flood risk, climate change mitigation and adaptation manifest themselves at regional or national spatial scales, such as large river catchments and coastal process cells. These and other environmental issues should be firstly addressed at the national spatial planning level, integrating the National Natural Resource Policy, the Wales National Marine Plan and the National Development Framework in order to most effectively influence strategic and local development decisions.

Changes to Local Development Plan Procedures

We generally welcome the proposals to refine the LDP process and for LDPs to be in conformity with the NDF and, where relevant SDPs. However, guidance will be required on how any conflict between the different authorities are to be resolved, particularly if they still remain at the examination stage of the LDP.

We consider that where there is sufficient evidence to support a joint LDP, they can be a useful tool in providing a local/sub-regional framework to resolve conflict between land allocations and the capacity of the environment to accommodate change in relation to for example flood risk, water resources or Natura 2000 sites.

Frontloading the development management process by making provision for pre-application services

We welcome the potential to influence the design and siting of applications at the pre-application stage of a proposal to try and ensure that environmental impacts are minimised, and that any opportunities for enhancement of green and blue infrastructure and access to green space provision are explored.

Our experience of the pre application stages of applications for Nationally Significant Infrastructure Projects (Planning Act 2008), however, has demonstrated how resource intensive this stage can be for consultees. Pre application consultations can frequently involve reviewing a number of iterations of information submitted by applicants before an application is finally submitted to the decision maker. It is therefore important that expectations of what applicants can expect from consultees at this stage, and what consultees can expect from applicants, is clearly established at the outset.

Although we fully recognise the value of pre application consultation, currently it is often above our current statutory obligations and can be resource intensive. Consequently we are not always able to provide a consistent level of pre application service across Wales. NRW is working to develop and standardise this service in recognition of these factors. As part of this our Board has asked us to look at the options, benefits and costs of introducing a charging element for non-statutory advice, learning from the models being used and developed by organisations who already offer this service, including those being adopted in England. NRW is currently seeking views on options to charge for non statutory planning services as part of a consultation on our charging scheme for 2015-16.

The introduction of a statutory requirement at the pre application stages for DNS and major applications for statutory consultees to provide substantive responses will need to be considered as part of our service improvements and options for charging. A statutory element in the pre application stage needs to be tightly defined otherwise we suggest there could be unintended consequences on statutory consultees.

We note that provision is made to expand on the detail of the proposals in secondary legislation, with further detail provided in the current Welsh Government consultation – Frontloading the Development Management system – which identifies that bespoke advice will be required to ensure full consideration of the proposals and site. NRW will be responding to this consultation in January.

We also note that statutory consultees will be required to produce an annual monitoring report detailing compliance with the requirement to provide substantive responses as pre-application advice, and within the specified timescales. We consider that the indicators currently proposed are a good starting point but could be improved by greater emphasis on outcomes as well as outputs, for example by linking this to the indicators emerging from the Wellbeing of Future Generations (Wales) Bill.

Introducing a new category of development to be known as Developments of National Significance to be determined by the Welsh Ministers

NRW supports the proposed Developments of National Significance (DNS) category in principle for developments which are of 'National' significance. The Bill and secondary legislation will need to clarify their links with the NDF and the spatial expression of major development and infrastructure arising out of National Policy Statements and other non-devolved Plans and Programmes. Additionally, it will be important that their thresholds and criteria are clearly set out.

We note the provision for secondary connected consents in respect of certain applications, including DNS, to be dealt with by the Ministers. Whilst this has the potential to speed up the determination of proposals by allowing them to be considered simultaneously, implementation of the proposal, and resource implications need to be carefully discussed between Government, statutory consultees and local planning authorities.

It will also be important to consider the resource implications for NRW of inputting to the Nationally Significant Infrastructure Project (NSIP) and DNS processes when applications are submitted simultaneously, as is likely to occur, and the balance that is to be struck in trying to ensure that both processes are adequately resourced. This is possibly an unintended consequence of the Bill and an area where there is the potential for conflicting priorities.

Streamlining the Development Management system

We support the principle of streamlining the Development Management system to deliver a system that provides greater certainty for all involved, and that is effective, efficient, proportional and transparent. We particularly welcome the proposal to update decision notices as conditions are discharged or varied.

Changes to Enforcement and Appeal procedures

We generally support the principle of changes to improve the planning appeals process. However again, many of the provisions will be referred to in secondary legislation, where the detail of the proposals will be important.

Although we are generally supportive of some changes being provided by an applicant to improve a scheme once the appeal has been registered, they can, depending on the scale and nature of the change, add considerable delay to the appeals process. We therefore support the principle of generally not allowing alterations to a scheme. However, we consider that there should be an exception for amendments to be allowed by applicants where they would overcome consultee/3rd party objections, and avoid a subsequent application having to be submitted, which would add more cost and time requirements to all concerned.

Changes in relation to applications to register town and village greens.

We note the changes proposed to applications to register town and village greens. However it is important to recognise the importance of these areas of green space to both urban and rural communities, many of which will have been enjoyed by communities for a number of years and have recognised health and well being benefits associated with them.

2. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them

Critical to implementation of the Bill will be clarity of the integration and interrelationship between other on- going legislative and policy proposals, notably the Well Being of Future Generations Bill, The Environment Bill, the Review of Designated Landscapes and The Wales National Marine Plan.

Careful consideration needs to be provided to the resource implications in the context of the current review of Public Service Delivery, particularly where bodies are required to provide advice to assist determination of applications by Welsh Ministers or their appointed body. This needs discussion nationally between WG, statutory consultees and Local Government, and solutions considered at a National and Regional Scale to help ensure a resilient planning service locally.

Loss of fees for bodies that would ordinarily determine connected secondary consents, but which will still be required to allocate staff resources to assist in their consideration.

Our experience from Nationally Significant Infrastructure Projects is that considerable resources can be required to assess an application as submitted and to ensure the project has evolved in an iterative way, addressing advice and any concerns provided at the pre application stage. Whilst there may be a time saving at application stage our experience is that substantial resources are still likely to be required at that stage without necessarily benefitting from the savings outlined in the Regulatory Impact Assessment. This will require careful management.

3. The extent to which the Revised Bill takes account of the Committee's recommendations in their scrutiny of the Draft Planning (Wales) Bill

No comment.

4. Any unintended Consequences arising from the Bill?

Please see comments above in relation to implications for charging for non statutory pre application advice, and consultee input into DNS proposals and the relative balance to be given to that when simultaneous input into NSIPs is also required.

5. Financial implications of the Bill, as set out in the Regulatory Impact Assessment

Whilst we welcome opportunities to speed up the planning process, and recognise that secondary connected consents have the potential to speed up the determination of proposals by allowing them to be considered simultaneously, implementation of the

proposal, and resource implications need to be carefully discussed between Government, statutory consultees and local planning authorities.

Careful consideration will need to be provided to the resource implications in the context of the current review of Public Service Delivery, particularly where bodies are required to provide advice to assist the determination of applications by Welsh Ministers or their appointed body.

Further, there will be a loss of fees for bodies that would ordinarily determine connected secondary consents. Those bodies will still be required to allocate staff resources to assist in their consideration by the Welsh Ministers or appointed body, but will not receive the fee income to contribute to the costs of the work involved.

These issues should be part of a discussion nationally between WG, statutory consultees and Local Government, and solutions should be considered at a National and Regional Scale to help ensure a resilient planning service.

6. Appropriateness of the powers for Welsh Ministers to make subordinate legislation

We agree with the principle of Welsh Ministers having the power to make subordinate legislation, subject to that such legislation being developed and informed by:

- a clear evidence base
- engagement with key stakeholders and interest groups – including statutory consultees, and
- a transparent process.

7. The measurability of outcomes from the Bill

The Well Being of Future Generations Bill, State of Natural Resources Report and the move toward a common evidence base for Natural Resources Policy, Area Natural Resources Statements, the Wales National Marine Plan, National Development Framework, SDP/LPD, Well Being Plans and National Park and AONB Management Plans, and the Planning (Wales) Bill all provide the opportunity to deliver an integrated framework to address environmental, social and economic challenges. Such a framework should be viewed as complementary and mutually supportive and ensure a joined up approach to decision making that is based on a sound environmental evidence base and optimises potential benefits to environmental, social and economic interests.

Annex 2

NRW's strategic objectives for engagement with the planning system

The Board adopted in December 2013 our proposal for a new approach, with increased emphasis on working at the strategic level and adopting a solutions-based culture. The recommended strategic objectives are as follows:

(i) Principles

We will:

- Engage proactively with the planning system - this is an important means of delivering sustainable development, natural resource management and positive outcomes for Wales' natural heritage
- Engage proactively with regeneration and economic development initiatives - to ensure that initiatives take account of environmental constraints and natural resource management and that consequential developments are sustainable
- Focus our efforts on providing evidence and advice on strategic and spatial plans – to steer development to appropriate locations and minimise future conflicts at the individual application level
- Use the same natural resource evidence base throughout NRW – to ensure consistency of advice
- Encourage early engagement with developers - to influence and identify any problems and creative solutions at an early stage.
- Ensure our statutory advice is a reasoned opinion reached after due consideration, weighing our full range of relevant purposes, duties and guidance – to ensure we comply with our legal duties. Specific duties must be complied with, where these are engaged
- Provide objective and expert environmental advice, based on good place-based knowledge - to assist decision makers in discharging their duties. We recognise that in balancing their duties, decision-makers may come to a different conclusion to NRW on the acceptability of any residual risk or impact of a particular development.

(ii) Ways of working

We will:

- Ensure our responses are as clear, unambiguous, and consistent as possible
- Ensure that our internal processes in providing statutory planning advice are designed and implemented to prevent conflicts of interest (for example where we are the applicant or landowner as well as the statutory consultee)

- Ensure transparency of decisions by being able to explain the reasoning behind our advice, and by publication of decision documents in contentious cases
- Adopt a positive approach. This means trying to find the right solution for the environment and the developer. It means avoiding objecting if we can. However, if it is not possible to find the right solution for the environment, either because the applicant is unwilling or unable to modify proposals, or because the development is sited in the wrong place, we may need to object. If the impact raises issues of national importance, we would need to object.
- Use a risk-based approach in our reactive work, responding to individual applications. This means directing our resources to developments likely to produce significant effects and affecting important and sensitive sites/areas
- Use standing advice where appropriate as it has value in responding to less complex applications and can reduce workloads; however, this does not replace the need for place-based and bespoke advice, particularly in more complex cases
- Charge for non statutory (eg pre-application) advice - where we can demonstrate that this will deliver improved customer service and better environmental outcomes
- Work in partnership with the LPAs and PINS - to deliver joint outcomes, training initiatives and to manage the consultations which are sent to NRW
- Work with developers and their sector groups to clarify the role of NRW (viz providing advice not making decision); identify common evidence needs and solutions
- Work with other statutory consultees such as Cadw to clarify our respective roles in planning and share evidence

(iii) Outcomes:

- Developers seek and take our advice at an early stage so that the siting and design of new development is influenced, encouraging development which avoids negative impacts, is within environmental limits and sustainable
- Decision-makers are taking natural resources into account as a result of our clear and well-targeted advice, so protecting these resources and achieving sustainable development
- Opportunities for environmental enhancement are identified and delivered through the planning system
- Improved relationships and customer satisfaction due to the quality and clarity of our responses and provision of the right information at the right time.

- NRW's role in the planning system is understood by our customers and stakeholders
- Improved compliance with response deadlines



Royal Town Planning Institute
Cymru (RTPI Cymru)
PO Box 2465
Cardiff
CF23 0DS
Tel +44 (0)29 2047 3923
email walespolicy@rtpi.org.uk
Website: www.rtpi.org.uk/rtpi_cymru

7 November 2014

e-mail response sent to: ES.Comm@wales.gov.uk

Dear Sir/Madam,

Response to: The Environment and Sustainability Committee inquiry into the general principles of the Planning (Wales) Bill

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 23,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

The following response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

We welcome the opportunity to provide evidence to the Environment and Sustainability Committee on the Planning (Wales) Bill. We support the evidence based approach taken by the Welsh Government and the general thrust and spirit of the proposals set out in the earlier Positive Planning consultation. We were pleased that many of those provisions were carried through into the Bill. We strongly believe there is a need to embed a new proactive and confident culture within planning in Wales, to boost well-being and sustainable economic prosperity and to create better places for our communities to live and work. Planners, politicians, consultees, developers, and the general public, all have a role to play in achieving this.

Our evidence follows the Committee's terms of reference and is set out below. In addition we would draw the Committee's attention to [our response to the draft Planning \(Wales\) Bill and Positive Planning consultation](#).

We are also conscious of the series of parallel consultations that the Welsh Government have published relating to supporting secondary legislation and approaches and we will be responding to these.

If you require further assistance, have any queries or require clarification of any points made, please contact RTPI Cymru on 029 2047 3923 or e-mail Roisin Willmott at walespolicy@rtpi.org.uk

Yours sincerely,



Dr Roisin Willmott MRTPI
Director
RTPI Cymru

A. RTPI Cymru's views on the general principles of the Planning (Wales) Bill including the need for legislation in the following areas:

1. *The requirement to produce a national land use plan, to be known as the National Development Framework;*

- 1.1 We support the principle of a National Development Framework (NDF). We believe it is currently a missing part of the system in Wales and is required as a matter of expediency.
- 1.2 RTPI Cymru believes that the NDF should set out an express vision reflecting general national goals with stated outcomes. The NDF would need to be evidence based, deliverable, and validated. It should be a coherent national development strategy whose policies and proposals are integrated with the Wales Infrastructure Investment Plan (WIIP) and Natural Resources Policy (NRP) and with the National Transport Plan (NTP). We believe that the WIIP, NRP and NTP should be incorporated within the NDF to ensure a cohesive and integrated approach, and with a consistent set of consultation arrangements. Together these can provide an effective strategic framework which can gain widespread acceptance and be linked to investment and funding priorities.
- 1.3 We note para 3.18 (pg 14) of the Explanatory Memorandum (EM), sets out the principle roles of the NDF, and we support these roles.
- 1.4 It is unclear how the NDF will fit with other plans and policies, including those mentioned above or and how it will take account of sustainable development goals and outcomes and link to the Well-being of Future Generations Bill and other Bills. This is a fundamental weakness of the Bill, and could expose the NDF to risks of ineffectiveness in the future.
- 1.5 The NDF should be based on evidence and therefore should be the starting block to spatially influencing national policy, as well as seeking to interpret and apply national policy spatially.
- 1.6 Para 3.21 of the EM sets out the process for agreeing the NDF, including the consultation process, however it is not clear on how matters will progress if the National Assembly for Wales scrutiny disagrees with the proposals made by the Welsh Government. Who will arbitrate at this stage?
- 1.7 In developing the role of the Assembly in the approval of the NDF, there will be a need to ensure that Assembly Members are given access to the training that will ensure that they have the full set of skills required to fulfil a decision-making role on planning matters. They will need to be supported in these processes by individuals with the competences that will ensure the soundness of the proposals in the NDF, much in the

same way that officers of the Planning Inspectorate work with Local Planning Authorities (LPAs) in the preparation and adoption of their Local Development Plans (LDPs).

- 1.8 It is important that the NDF new system enables sufficient flexibility for regional and local circumstances to be considered at the Strategic Development Plan (SDP) and LDP level.

2. *The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues;*

- 2.1 RTPI Cymru believes that there is a need for strategic planning on a scale between national and local. We support more joined-up thinking both across, and between, tiers of Government.
- 2.2 Paras 3.29 and 3.35 of the EM explain that SDPs would “allow larger than local issues such as housing demand, search areas for strategic employment sites and supporting transport infrastructure, which cut across a number of local planning authorities, to be considered and planned for in an integrated and comprehensive way”. (para 3.29) Para 3.35 states, “where an SDP covers an LDP area, the LDP should be rationalised so that it only focuses on local matters, particularly site specific allocations, in accordance with the scale and location of growth set out in the SDP. Issues such as the overall level of housing, employment and retail provision will have already been addressed and do not need to be repeated.”
- 2.3 While this para sets out the proposals to rationalise the LDP where an SDP covers an LDP area, it does not explain how local considerations will then be taken into account such as local retail (not strategic) and small housing sites etc. It also does not explain how the LDP will be handled if only part of an area is included with an SDP area.
- 2.4 Transitional arrangements for the adoption of the new set of plans, needs consideration. For example, should it be possible to produce an SDP before the NDF has been adopted? Also, what happens to the current LDPs once an SDP is adopted? Do they have to be rationalised at the same time, to avoid contradictory policies?
- 2.5 Para 3.3.1 (pg15) of the EM explains that “for each area a Panel will be established to prepare and keep under review the SDP. It will have sole responsibility for approval and adoption of the plan and some minor incidental duties. The Panel will comprise locally elected members from the LPAs within the area and one third representation from social, economic and environment organisations.” We believe that how Panel members are appointed is important and for those other than LPA nominees, a process mirroring that followed for public appointments in Wales would seem appropriate, open and transparent and consistent with the Nolan principles - with vacancies advertised, an interview process, and appointments ultimately made by the Minister. We believe transparency in selecting Panel Members will be important to maintain trust and buy-in from local communities, local authorities and businesses. This type of model would encourage a focus on competencies rather than a focus solely on the inclusion of specific bodies. We believe that Members recruited in this way would invariably be high and would help to maintain a focus on delivery and on statutory purposes.
- 2.6 A requirement is also required to ensure that a balance of interests from the economic, environmental and social sectors are recruited to the Panels, to avoid dominance by one particular interest.
- 2.7 You may also be interested our briefing paper, [Strategic Planning in Wales \(November 2013\)](#).

3. *Changes to Local Development Plan procedures...*

3.1 *Notification of LDP withdrawal*

In relation to the notification of LDP withdrawal, paras 3.42/3 sets out that LPAs can withdraw at any time before submission, however it is unclear what would happen if the LDP was in the early stages or still required work to be done, and Ministers disagreed with the withdrawal, who would then carry out the work to get the LDP to a standard for approval/examination?

3.2 *Welsh Ministers' power to direct preparation of Joint Local Development Plans*

We believe that joint plans should be prepared only where there is organisational and political will. Otherwise there is a risk that plans will be viewed as 'imposed'. The Williams report and the subsequent Devolution, Democracy and Delivery White Paper – Reforming Local Government is moving this debate forward. [Our response to the reforming local government consultation](#) is available on-line.

3.3 *Joint Planning Boards*

- 3.3.1 Ultimately, the new planning system should reflect the principle of subsidiarity with decisions always being taken at the lowest appropriate level in organisational hierarchies. Powers of direction should focus on key priorities and used only exceptionally.

4. *Front-loading the development management process by making provision for pre-application services;*

4.1 *Requirement to carry out pre-application consultation*

- 4.1.1 We support a national approach to a pre-application consultation service, there is a need for greater consistency between LPAs across Wales in terms of the pre-application service they offer.
- 4.1.2 We support the principle of a statutory requirement for pre-application engagement with specified persons, likely to include the public and statutory consultees in the planning application process, where a development is of a description specified in a development order under subordinate legislation, including Developments of National Significance (DNS) and major developments.
- 4.1.3 However, we raise concerns regarding the resourcing of this service and would welcome confirmation of how this would be managed, particularly in relation to statutory consultees.
- 4.1.4 Paras 3.56 – 3.61 discuss the role of communities and statutory consultees in this process however, the role of the LPA in this process is unclear and further clarification is required.

4.2 *Requirement to provide pre-application services*

- 4.2.1 Charging for pre-application services has already been introduced by a number of LPAs, leading to significant improvements in service resources and quality. It is essential that proposed legislative changes build on this experience to achieve similar improvements across the whole of Wales.
- 4.2.2 In our response to [Realising the potential of pre-application discussions \(2011\)](#) we commented that clarity is needed over the status of pre-application advice, in particular the disclaimer which is often attached by Local Authorities, i.e. that the advice is offered without prejudice to the formal consideration of an application. We recognise that the ability of the LPA to make firm commitments will always be limited by the statutory process to follow once an application is submitted. However, all parties need to be open and realistic about the process and their expectations and required outcomes of the process.

5 *Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;*

- 5.1 RTPI Cymru supports the introduction of a new category of Developments of National Significance (DNS). The NDF will be the principal Development Plan guiding decisions on these applications which places a significant onus on the NDF being evidence based and robust.
- 5.2 Performance standards and a process of monitoring needs to be set out for Ministers determining applications.
- 5.3 The RTPI Cymru briefing paper on [Infrastructure Decisions \(November 2013\)](#) can be viewed online.

6. *Option to make applications direct to Welsh Ministers*

- 6.1 Where an authority is deemed to be poorly performing, the areas of poor performance and the root causes of the poor performance need to be established and then an appropriate response should be developed and implemented. There needs to be a range of options available. The option to make applications direct to Welsh Ministers should be an option of last resort and discouraged. Any decision made by a Welsh Minister should be done in accordance with the LDP and local consultations carried out. As with decisions for DNS, performance standards and a process of monitoring needs to be set out for Ministers determining applications.
- 6.2 The Planning Advisory and Improvement Service (PAIS) could act as peer support.
- 6.3 Our briefing paper on [Culture Change \(November 2013\)](#) can be viewed online.

7. *Streamlining the development management system;*

7.1 *Planning Committees and Delegation*

- 7.1.2 RTPI Cymru supports the recommendations set out in the report on Planning Committees, commissioned by ourselves, which would lead to a more consistent and efficient approach.

7.2 *Decision Notices*

- 7.2.1 We support the reason for this proposal. However detailed regulations and guidance will be required on how to handle this efficiently and effectively so that it does not become a burden and a process targeted for stopping or slowing development.
- 7.2.2 In April 2014 we responded to the Welsh Government consultation on the "[Review of Planning Conditions Circular and Model Conditions](#)". In response to Q6 we supported a more structured decision notice but highlighted some of the conflicts and problems that arise round decision notices. Q7 may also be of interest as it deals with some of the issues raised at 3.92 of the EM - identifying approved plans in a condition.

7.3 *Statutory Consultees*

- 7.3.1 We support these proposals in principle, however, we believe that statutory consultees must be properly resourced to respond to requests for pre-application advice and in relation to planning applications. It is essential that they are able to deliver on the pre-application services and respond to LPAs and Welsh Government consultations.

7.4 *Design and Access Statements*

- 7.4.1 RTPI Cymru supports the use of Design and Access Statements (DAS), however we do support their removal in relation to more basic applications in order to focus their use on more significant planning applications where they can add value. We did not support their complete removal from the system in our response to the draft Bill, and would continue to recommend they remain for at least Major Development applications and ideally for all applications except for minor ones, such as householder applications.

8. *Changes to enforcement and appeal procedures*

8.1 We support in principle the proposed changes.

B. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.

9.1 There are two principal and interlinked areas which are potential barriers to the implementation of these provisions:

9.1.1 The first relates to resource allocation. Public services are facing hard choices in how to deploy their resources. Unfortunately resources for planning services are often given a low priority compared to other competing areas. We believe this is a false economy. Planning services need to be appropriately resourced in order to deliver for communities. Planning plays an important role in ensuring the right development goes to the right locations. Those wishing to invest in an area, which can range from a householder improving their home through to employment investment or a large housing scheme, need to have a service which can direct them appropriately to fulfill the Wales' ambition of well-being.

9.1.2 The second relates to the culture of those operating with the planning system; this is not just the LPA officers and councillors, but all involved. Whilst legislation can set the tone, it cannot guarantee players will engage in a positive manner. Creating an improved understanding of what the planning system at a national and local level is trying to achieve and trust of all involved, would help with this.

C. Whether there are any unintended consequences arising from the Bill.

We have not identified any unintended consequences at this stage.

D. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill).

Please see our comments in paragraph 9.1.1 above.

E. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

We consider these powers to be appropriate.

F. The measurability of outcomes from the Bill, i.e. what arrangements are in place to measure and demonstrate the fulfilment of the Welsh Government's intended outcomes from making this law.

We consider these to be proportionate.

We welcome the inclusion of a statement relating to Ministerial targets for the administration of the DNS process and would like to see more detail of this intention contained in secondary legislation.

EVIDENCE OF WELSH PLANNING CONSULTANTS FORUM AS PRESENTED TO WELSH GOVERNMENT ENVIRONMENT and SUSTAINABILITY COMMITTEE

3rd DECEMBER 2014

General

The reforms set out within the Bill are generally supported by WPCF although it remains to be seen what effect these measures have on the delivery of new development on the ground and also the time lag which will inevitably occur in implementing these proposals.

The Welsh Government's objective to create a positive planning system which facilitates rather than regulates development is supported by WPCF, which we recognise will be achieved via legislative and policy / procedural reforms.

The WPCF accept that it is very difficult to enforce cultural change within the existing system, which will require strong and continued leadership from and within the Welsh Government if this objective is to be met.

One of the main recommendations of the Independent Advisory Group related to the balance of penalties and incentives for promoting good performance. WPCF notes, however, the absence of any meaningful incentives within the Bill with a preference for penalties for non-delivery which it considers to be a missed opportunity.

Detail

The WPCF welcomes the opportunity to contribute to the reform process and commits to continuing this role throughout the subsequent stages of the Bill preparation. In terms of the detail of the Bill WPCF comments as follows:

1. WPCF is generally supportive of the provisions of the Bill. However, it will need convincing that the Welsh Government is sufficiently resourced (both in terms of having sufficient capacity and appropriate skills / expertise), or aware of the resource requirements necessary to undertake, the roles that it has potentially created for itself via the Bill.
2. Also, WPCF is concerned that too many of the provisions of the Bill are to rely on voluntary agreements and collaboration; if it is to be effective there is a need for more statutory requirement.
3. (Q1) WPCF supports the proposed role of the PAIS provided the requirement of LPAs to respond is set within a statutory framework, not an advisory or optional framework. Also, the membership of the PAIS should be dominated by members who use the planning system on a daily basis.
4. (Q3) WPCF supports Competency Frameworks provided they are applicable to all practitioners and members who will have a role in determining applications. Such a framework should apply equally to the Welsh Government.
5. (Q4) The concept of a National Development Framework is supported provided it is land-use focussed, unambiguous, and contains policies that are required by statute to be then reflected within LDPs (as proposed to be revised) and Strategic Plans. The NDF

should also have a level of detail which provides a clearer context to that contained within the existing Wales Spatial Plan with quantum of development set at the national level for SDPs and LDPs to follow.

6. (Q5) WPCF fully supports the proposed amalgamation of PPW and MPPW as any proposal to simplify the planning process must be good for the service.
7. (Q6) WPCF absolutely supports the concept that a core set of development management policies should be prepared which are then adopted by every LPA in Wales. Clearly, however, no two areas are alike and there will obviously, therefore, be an additional need for bespoke policies of particular relevance to the areas that they are to be applied to. With the proposed reduction in the number of LPAs in Wales, however, the number of those bespoke policies should be far less than would be the case under the current local government structure.
8. (Q7) WPCF agrees with the Government on its proposal in respect of the appeals process provided that the Welsh Government is adequately resourced; the Welsh Government is required to meet the same statutory determination periods as LPAs; and a system of appeal is introduced that allows applicants to effectively challenge Welsh Government failure to meet statutory determination deadlines (with no special discretion for the relevant Minister).
9. (Q8/9) WPCF agrees in essence with the proposed categories and thresholds for DNSs although is surprised that the categories do not include NSIPs as defined by the Planning Act 2008. It is therefore wrong of the Bill to suggest that all nationally significant applications in Wales will be determined by the new framework.
10. (Q10) It is agreed that DNSs should be subject to mandatory pre-application notification and consultation. However, it is essential that the level of the consultation is proportionate to the scale of the project and the determining body involved.
11. (Q11) WPCF has no problem in principle with the charging of a fee for pre-application advice for prospective DNSs. However, if WG is to implement such a proposal it must be set within some form of relevant Performance Agreement and WG must also accept that it will then have to work to the protocols, provisions and programme laid down in that Agreement.
12. (Q12) WPCF has no argument with the proposal that the Planning Inspectorate is the most appropriate body to process DNS applications. However, if it is to do so it must be adequately resourced for that function.
13. (Q13) The principle that only one round of amendments to DNS applications should be allowed is supported. However, that will require a commitment from consultees, particularly statutory consultees, that they must participate fully with applicants at the pre-application stage in an attempt to minimise the need for subsequent amendment.
14. (Q14) The proposal to deal with connected consents is fully supported.
15. (Q15) Call-ins and appeals have historically taken far too long to process and determine and the lack of an obvious statutory deadline for determination has been a significant

deterrent to investment. Future call-ins and appeals should therefore follow the same rigid process, timescales, and commitments as NSIP examinations. There should be no discretion to Welsh Ministers to grant themselves additional determination time beyond the pre-set statutory periods.

16. (Q17) WPCF does not support the submission of Draft Statements of Common Ground at the appeal submission stage largely because it is nigh impossible to secure commitments from LPAs to their participation in producing SoCGs until effectively the eleventh hour. In reality, therefore, any SoCG submitted with the appeal documentation will be no more than a first draft produced by the appellant. A requirement to submit a bi-lateral SoCG at the submission date will lead to unacceptable delays and to the LPA and/or statutory consultee having control over the appeal submission date. That will be unacceptable to WPCF.
17. (Q18) WPCF considers that the method of handling an appeal should be set by statute, not by PINS.
18. (Q19) WPCF does not support the suggestion that no changes should be made to a proposal once an appeal is submitted. The appeal process can bring out matters that are germane to the proposal, yet are not of such significance to change the nature of the proposal. In such circumstances, and provided that no third parties are prejudiced by the changes, such changes should be allowed so as to avoid having to repeat the exercise at significant cost to both parties.
19. (Q20) WPCF fully supports the proposal for Welsh Ministers to initiate an award of costs if it determines that there has been unreasonable behaviour on behalf of one of the parties such that an appeal should have been avoided.
20. (Q21) WPCF does not support the introduction of costs for appeals lodged on the basis of the failure of the relevant authority to determine the application within the statutory determination period. However, WPCF would have no objection to Welsh Ministers recovering their costs if they conclude that an appeal could have been avoided had the LPA or appellant acted reasonably in the first place such that an appeal could have been avoided.
21. (Q22) WPCF supports the introduction of a Commercial Appeals Service provided it is affordable and not laden with additional bureaucracy.
22. (Q23) WPCF considers that the merger of LPAs to create a smaller number of larger units is long overdue. WPCF also considers, however, that collaboration is not the way to introduce such efficiencies. Merger should be statutorily required within a prescribed time-frame even though, in the meantime, collaboration should be promoted in order to make early progress.
23. (Q24) There is no particular justification in planning terms for National Park Authorities to retain their planning functions. The priority should be to reduce the number of LPAs overall irrespective of whether there is a NP involved or not.

24. (Q25) WPCF accepts that Strategic Development Plans should only be prepared in identified areas.
25. (Q26) WPCF agrees with the proposed scope of the proposed SDPs other than they should also cover retailing provision.
26. (Q27) WPCF supports the proposed partnership approach to the production of SDPs provided the relevant Panels are truly representative of all of the interests of the area covered and it is capable of meeting strict deadlines.
27. (Q28) WPCF does not consider the proposed approach for the production of LDPs will be “light touch”. LDPs should be clear, succinct, documents that add detail to and reflect the policies and aspirations of the SDP if there is one.
28. (Q28) WPCF is concerned to learn more about what is proposed for LDPs in locations where no SDP is proposed.
29. (Q30) WPCF considers that all authorities involved in development management, and especially the Welsh Government which will arguably be involved in the more significant proposals, should produce annual performance reports. However, WPCF is concerned that those reports should then be scrutinised by an independent body that is not itself involved on a day to day basis in development management.
30. (Q31) WPCF supports the option of submitting applications for major development in areas with poorly performing planning authorities to Welsh Ministers provided the Welsh Ministers are adequately resourced and accept that they will be required to meet the performance expectations of the LPAs. WPCF also makes the point, however, that this mechanism should not be necessary if local government is reorganised such that the number of LPAs is reduced but their individual performances is improved as a result.
31. (Q32/33) WPCF fully supports the production of Joint Local Development Plans and that LDPs should have statutorily set end-dates beyond which they cease to have effect.
32. (Q34) WPCF is ambivalent in respect of Place Plans. Provided they have a clear purpose and are reflective of higher-tier plans they are supported. If they are merely another layer of bureaucracy, however, they are not supported.
33. (Q35) WPCF is fully supportive of any reasonable measure that simplifies and speeds up the planning process. It fully supports the proposal, therefore, that matters of principle should not be considered if an application fully accords with an allocation in the Development Plan. For that to work, however, the status of an LDP or SDP allocation will need to be statutorily firmed up such that it is tantamount to an outline permission.
34. (Q36) An applicant should definitely be able to appeal in the event that an LPA fails to register an application within a reasonable and statutory period of time, which is similar to the system operative in England.
35. (Q37) WPCF supports the removal of the mandatory requirement for DASs.
36. (Q39) WPCF does not support local variation within a national scheme of delegation for decision making on applications.

37. (Q41) WPCF is firmly of the view that the ability of objectors to rely on village green applications should be restricted such that they cannot be made when a site has been allocated in an adopted Plan.
38. WPCF considers that, depending on size, local authorities who are designated as local Planning authorities should be allocated a minimum budget to provide them with the chance of delivering the service in the manner expected.
39. WPCF also considers that any fee increases (15% is proposed at present it is understood) should not be levied by those authorities deemed to be “non-performing”. A base date should also be set for the identification of non-performing authorities which should be sooner (e.g. 2014) rather than later.

14th November 2014



Cymdeithas y Cyfreithwyr
The Law Society

General principles of the Planning (Wales) Bill **The Law Society submission** November 2014



Introduction

1. The Law Society is the representative body of over 141,000 registered legal practitioners in England and Wales. The Law Society negotiates on behalf of the profession and lobbies regulators, governments and others.
2. This submission has been prepared by the Law Society's Planning & Environmental Law Committee ('the PEL Committee'). The PEL Committee comprises 19 practitioners specialising in planning and environmental law, drawn from a cross-section of the profession, public and private sectors and covering both England and Wales.
3. The PEL Committee was pleased to have the opportunity to contribute to the development of the evidence base for the Planning (Wales) Bill ('the Bill') and to be represented on the Independent Advisory Group ('IAG'), whose recommendations have in large measure been adopted by the Welsh Government.
4. In February 2014, the Law Society responded to the consultation on the Welsh Government's White Paper, *Positive Planning: Proposals to Reform the Planning System in Wales and the draft Planning (Wales) Bill* and the Environment and Sustainability Committee ('the Committee') is referred to that response in the report on consultation.¹ The Law Society also gave evidence to the Committee's pre-legislative scrutiny inquiry.
5. The Law Society welcomes this further opportunity to contribute to the debate by responding to the Committee's inquiry on the general principles of the Bill.
6. The Law Society notes that the Welsh Government has issued, in parallel with the introduction of the Bill, a series of consultations on proposals to exercise the powers proposed in the Bill and the Law Society will be responding to those consultations in due course. As a result, this submission has sought to confine itself to the provisions of the Bill and the underlying principles, but on occasion some discussion of future secondary legislation has proved unavoidable.

Part 2 - Development planning

National Development Framework ('NDF')

7. Consideration of the NDF by the National Assembly for Wales ('the National Assembly') is a vital element of giving legitimacy and standing to the NDF. The National Assembly will presumably wish to conduct its own scrutiny of the NDF which may involve the taking of evidence from the Welsh Government and interested parties prior to recommendations being formulated, as well as taking its own expert advice on the soundness of the plan laid before them. The Law Society considers that 60 days is likely to be the minimum period for such an exercise to be conducted in a way that would usefully contribute to the making of the NDF. The Law Society would wish to be assured that the Committee is satisfied that proper scrutiny and formulation of recommendations can be conducted within this period.

¹ A copy of that submission accompanies this submission for ease of reference.

Strategic Planning

8. The Law Society notes that the Committee's pre-legislative scrutiny recommendations expressed concern about the "democratic deficit" in the proposals for Strategic Development Plans ('SDP') in designated areas, referring to uncertainty as to how the planning competence framework would apply and the need to ensure that the local voice was heard.
9. The Law Society considers that there are governance concerns about the strategic development plan panels ('SDP panels'). The argument for the introduction of a significant nominated element at this level of the development plan hierarchy does not appear to be fully developed. The Explanatory Memorandum at paragraph 3.31 refers to one third of an SDP panel comprising "representation from social, economic and environmental organisations". The Bill² provides for nominated members of an SDP Panel to be appointed by the SDP Panel after they have been nominated by a "nominating body". It is not clear whether the nominating bodies are to be other public bodies (for example, Health Boards) or non-governmental bodies. In the latter case, what assurance will the ministers be seeking with regard to their internal governance before adding them to the list of nominating bodies?
10. Paragraph 3.29 of the Explanatory Memorandum envisages that SDPs will enable "larger than local" issues which cut across several local planning authorities (such as housing demand) to be considered in an integrated and comprehensive way. SDP Panels will therefore be of great importance in addressing those "larger than local" issues that have, to date, proved to be intractable under the current arrangements (as shown by the evidence base). The Law Society questions whether the nomination arrangements as currently proposed are sufficiently robust and transparent to contribute to the standing of SDP Panels in the eyes of the public.
11. The only comparable situation within the current planning system is the appointment of independent members to National Park Authorities by the Welsh Ministers. These appointments are made under well-established arrangements for public appointments. Those arrangements ensure that the independent members bring a range of backgrounds, skills and local knowledge, which complement the knowledge and skills of the elected members. Given that three SDP Panels are envisaged, the number of nominated members will not be large. The Law Society would invite the Committee to consider whether adopting the model of ministerial appointment using the public appointments process would be more transparent and thereby command greater confidence.
12. The Law Society considers that the Committee's concern about the application of the competence framework to the nominated members is well made. However, this is another aspect of a problem identified by the IAG³, which pointed out that the member training has hitherto been focussed on the training of members to sit on development control committees and that, under the local authority cabinet system of government, the LDP is the responsibility of the cabinet. The development of a training and competence framework for members of the SDP Panels - whether elected or nominated - should be an early priority for the Planning Advisory and Improvement Service.

² See Schedule 1, paragraph 4 and the new schedule 2A, paragraph 4 to the Planning and Compulsory Purchase Act 2004.

³ See IAG recommendation 64 and the preceding discussion.

Community and Local Councils

13. The Law Society notes the Welsh Government's support for the idea of town and community place plans. Such plans can be important to the credibility of the planning system when local councils prove they have the capacity to produce a credible, good quality plan. However, while the Law Society supports the Committee's pre-legislative view that a panoply of neighbourhood plans should not be introduced in Wales, it is unclear as to how the Welsh Government envisages place plans acquiring status in the plan hierarchy. The Committee may wish to explore this question further with the Government.

Part 3 - pre-application procedures

14. While welcoming the proposed statutory framework for pre-application consultations, the Law Society would make two points:
 - i. The Law Society recognises the designation of the types of development that will be subject to pre-application consultation, but questions whether basing the requirement on the existing definition of "major development"⁴ alone is sufficient. There are categories of development which, while not constituting "major development", can nevertheless bring about significant change to their surroundings. Proposals for wind turbines are a case in point; the present publicity requirements for notifying neighbours of applications bear no relationship to the wide areas over which such vertical structures can be viewed. A more appropriate trigger might be the need for a screening under the Environmental Impact Assessment Regulations.
 - ii. Bearing in mind the emphasis that has been placed by the Welsh Government on creating a planning system that operates consistently across the local planning authorities, the Committee may wish to enquire further into the reasons why the Bill does not address the question of charging for pre-application advice. Paragraph 3.64 of the Explanatory Memorandum mentions that some local authorities make a charge under powers to charge for discretionary services, although this power will no longer be available if pre-application advice becomes a mandatory service.

Part 4 - applications to Welsh Ministers and developments of national significance

15. The Law Society is generally supportive of the principles of the proposed system for determining applications for developments of national significance ('DNS') similar to that created by the Planning Act 2008 for Nationally Significant Infrastructure Projects (NSIPs), (albeit with some significant difference referred to further below). The projects covered by Part 4 of the Bill are of a size that would be considered 'nationally

⁴ Town and Country Planning (Development Management Procedure) (Wales) Order 2012, Part 1, paragraph 2 defines "major development" as: a) the winning and working of minerals or the use of land for mineral-working deposits(4); (b) waste development; (c) the provision of dwelling houses where— (i) the number of dwelling houses to be provided is 10 or more; or (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i); (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or (e) development carried out on a site having an area of 1 hectare or more;

significant' (in the UK sense) and ought to benefit from a similar streamlined regime; although as the Law Society noted in its submission on the White Paper, the provisional list of schemes does not include significant highway schemes.

16. However, care must be taken that, when introducing a lower threshold for projects that already come under the Planning Act 2008 regime in Wales (principally electricity generation), this does not result in small projects having to go through an unduly onerous process for their size. Paragraph 3.71 of the Explanatory Memorandum states that energy generation projects in the range of 25-50 MW are proposed to be categorised as DNS in Wales. The Law Society is unclear as to the basis for this range; it is not explained in the Explanatory Memorandum or the White Paper for the Bill. The Law Society would suggest that this is a matter the Committee could usefully explore further.
17. Where DNS applications are made directly to the Welsh Government, there will need to be appropriate resources in place to handle them. The Bill makes provision for the Welsh Ministers to appoint persons to exercise functions in relation to DNS, including processing and deciding planning applications for DNS. The Explanatory Notes state that it is anticipated that such persons would be appointed from the Planning Inspectorate Wales. The Law Society welcomes the Welsh Government's intention to maintain the Planning Inspectorate as a joint Wales and England agency. The Inspectorate now has experience of running over 50 applications in both Wales and England under the Planning Act 2008, supported by the extensive use of IT systems capable of handling large documents. This experience is of direct relevance to the proposed Welsh DNS system.
18. The Law Society welcomes the inclusion of machinery for dealing with "secondary consents", but it is noteworthy that the Bill does not seek to replicate the Planning Act 2008 system through the creation of a separate category of "development consent orders" granting planning permission and other consents. The Law Society suggests that there should be powers for the Welsh Ministers to adopt a single permission or consent covering both planning permission and the secondary consents, and for this to be a "live" document like the proposed new form of planning permission.
19. The Law Society would remind the Committee that the IAG recommended that non-devolved ancillary consents for nationally significant infrastructure schemes in Wales under the Planning Act 2008 (mainly large electricity generation schemes) should be determined by the Welsh Ministers rather than by local planning authorities (IAG Recommendation 25). As the Law Society understands the position, the clauses in the Bill relating to secondary consents do not extend to ancillary consents for schemes under the Planning Act 2008. The Law Society believes that three questions merit further examination by the Committee:
 - a. Would determining ancillary consent issues at national level within Wales facilitate greater co-ordination of decision-making?
 - b. If separate statutory provision is not made, would the Welsh Ministers consider calling-in ancillary consent applications under existing powers and, if so, is policy guidance on calling-in in such circumstances required or envisaged?
 - c. If call-in powers are to be used what might be the parameters? A potential example of a "greater than local" ancillary scheme meriting call-in could be the very large sub-station schemes connected with the export of wind energy from the TAN 8 strategic search areas. On the other hand, should applications for

workers' housing required for a scheme remain with the local planning authority as a matter best determined locally?

20. The Law Society notes that the consideration of DNS can be by a combination of methods and the Explanatory Memorandum states that written representations and hearings are envisaged for these applications. This should enable the examination system used under the Planning Act 2008 to be largely replicated. However, there is no indication that there is an intention to replicate the use of a panel of "examiners" covering various disciplines, as under the Planning Act 2008, as opposed to a single inspector. The Law Society would suggest that the Committee could usefully seek further explanation of the Government's thinking on this. It may be that the use of assistant planning inspectors is envisaged, but the Law Society thinks there is merit in providing for the appointment of a panel in appropriate cases.
21. Clause 24 of the Bill would allow both DNS and applications made directly to the Welsh Ministers to be determined by an appointed person. However, the Law Society considers that decisions on nationally significant developments should always be reserved to the Welsh Ministers and not delegated to planning inspectors. This would be in line with the changes to the Planning Act 2008 system made by the Localism Act 2011, which requires decisions on development consent orders to be taken by the Secretary of State.
22. The Planning Act 2008 process is currently being amended to deal with issues around the amendment of development consent orders to take account of the changes that are inevitable in any complex project. The Law Society would suggest that further consideration should be given to this in relation to the Bill's proposals - for example, is it envisaged that the Welsh Ministers will handle variation applications?

Part 5 - Development Management

23. The Law Society generally welcomes the provisions on development management in Part 5 of the Bill.
24. However, the Law Society is disappointed that the package of reforms to section 106 of the Town and County Planning Act recommended by the IAG, and supported by the Committee in its pre-legislative comments, have not been adopted. We will not repeat what is said in our response to the White Paper save to mention recent evidence of the need for reform. Members of our Committee have seen a number of cases in recent months where Welsh local authorities, as landowners, have been hampered in trying to dispose of surplus land by the inability to sell the land with planning permission and subject to obligations secured under section 106. These issues seem to have arisen as local authorities have been accelerating their programmes of asset realisation.
25. There is also some concern that there may be unintended consequences from the prohibition on amendments to planning applications once an appeal against refusal has been made. This prohibition may mean that some applications which have been refused but subsequently rendered acceptable to the local planning authority by the negotiation of amendments with the applicant, would have to start again afresh if they had already entered the appeal system after being refused. This could be avoided by allowing the Inspectorate, with the agreement of the parties, to return an application that has been refused for amendment, re-consultation and re-determination by the local planning authority.

Part 6 - Enforcement and appeals

26. The Law Society welcomes the proposed changes to enforcement legislation set out in Part 6 of the Bill. These changes bring greater clarity and certainty to areas where there were some anomalies and omissions, and overcome some of the emerging differences between Welsh and English legislation where circumstances and objectives are similar.
27. Section 38 (inserting a new section 173ZA into the Town and Country Planning Act 1990) is welcomed. This provision should help to avoid unnecessary enforcement action where development is acceptable provided it has necessary controls imposed on it by way of conditions or limitations applied to a planning permission for development already carried out. It benefits those who have carried out development without permission, local planning authorities ('LPAs') and interested persons who could be affected by it in bringing forward an open and fair consideration of the acceptability of the development.
28. Sections 39 to 41 are supported as they prevent the anomaly whereby a deemed planning application was held to be made even where no appeal under ground (a) was made or argued. Moreover, they (together with section 30) provide a single avenue for seeking a planning permission and avoid the present duplication of process which leads to delay and uncertainty.
29. Section 42 has benefits for the decision-maker, LPA and interested persons in that it avoids legal pitfalls and simplifies the evidence gathering and presentation at appeal. However, it could delay what may, in the end, be an acceptable proposal by having it go through the process afresh.
30. Section 43 is welcomed and supported as it places appeals under section 215 of the Town and Country Planning Act 1990 in the most appropriate place for determination by those familiar with the issues that they involve.
31. Section 44 is welcomed in respect of the inclusion of the written representation format of appeal in the costs regime. This will undoubtedly assist in ensuring that the most appropriate format for determination of appeals is chosen. The Law Society also supports the ability of the Planning Inspectorate/Welsh Ministers to initiate and recover costs in appropriate circumstances, subject to the acceptability of the particular circumstances to be set out in secondary legislation. However, the Law Society would suggest that the Welsh Ministers should only be able to initiate an award of costs if there is unreasonable behaviour by one of the parties: they should not be able charge their costs to the parties on every appeal, whether or not there is unreasonable behaviour. As currently drafted, section 44 does not limit the Welsh Ministers' ability to initiate costs to cases of unreasonable behaviour.

Part 7 - Town and Village Greens

32. As stated in the Law Society's response to the *Positive Planning* consultation in February, applications for registration of a town or village green are frequently pursued in order to frustrate development that has been found acceptable in planning terms. Applications can be made at virtually no cost to the applicants and the non-statutory procedures for determining applications do not carry any costs sanctions against unreasonable behaviour. However, the costs to a landowner of challenging such an

application can be very considerable and frequently have to be borne in order to protect an already significant investment in obtaining planning permission.

33. The Law Society welcomes the provisions made in the Bill to restrict the right to make an application where land has already entered the planning system and the inclusion of a provision that will enable landowners to submit declarations that their land is not being used "as of right". The Law Society supported similar proposals in England and maintaining consistency between England and Wales is helpful to practitioners and their clients.

The Welsh Language

34. The Law Society notes that there has been comment on the role that the Bill should play in promoting the use of Welsh and it has been suggested that the impact of a development on the Welsh language should be made a material consideration that would be sufficient, alone, to justify refusing planning permission. The Law Society is broadly content that the current policy guidance on the Welsh Language and LDP preparation, and the revised TAN 20, sit comfortably within the overarching purpose of the planning system suggested by the IAG and supported by the Committee in its pre-legislative scrutiny report. The Law Society does not have a settled view on the desirability of further provision in the Bill but should the National Assembly be minded to go beyond the present position, the Law Society would pose a number of questions that it considers ought to be answered as part of the debate:

- i. Should a fundamental tenet of the existing system - that decisions are reached by correctly identifying the material considerations and then conducting a balancing exercise in which decisions are to be taken in accordance with the development plan unless the material considerations indicate otherwise - be overridden?
- ii. If the Welsh language is to become an overriding material consideration, has the discipline of land use planning developed sufficiently robust and objective methods to assess the effect of development on use of Welsh, so that developers can be confident that planning decisions based on Welsh language considerations are robust and evidence-based?
- iii. Is the degree of primacy to be afforded to Welsh in planning decisions compatible with other rights entrenching respect for family life and freedom of movement of individuals under human rights and European law?

Compulsory Purchase

35. The Law Society welcomes the Committee's support for the IAG's proposals in relation to bringing together compulsory purchase order ('CPO') powers applying in Wales.
36. There is also an aspect of the relationship between CPO powers and the proposed Welsh DNS system as it now appears in the Bill that merits further comment from the Law Society. Under the Planning Act 2008, a development consent order ('DCO') can contain CPO powers. The Welsh Government's approach of keeping the Welsh DNS process squarely within the planning system precludes a similar approach to associated CPOs. In several of the categories of development proposed to be designated as nationally significant, there are existing CPO powers under other legislation. The normal approach to CPO is to satisfy Ministers that there are no

obvious planning impediments to implementing CPO powers if granted. The result of this is a sequential approach where planning permission is in place before the examination of a CPO begins. The DCO approach of bringing CPO powers within the DCO examination process resolves this issue for schemes subject to the Planning Act 2008 system. The requirement to resolve potential planning impediments for other CPOs derives from circular guidance rather than being a statutory rule. The Law Society would suggest that the Welsh Government should examine how to enable NSP applications for planning permission and secondary consents to be considered in parallel with the granting of CPO powers where the applicant has such powers available and believes they are required for the scheme in question.



INTRODUCTION

1. The UK Environmental Law Association (UKELA) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. The organisation attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.
2. UKELA prepares advice to UK Governments with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared by the Wales Working Party..
3. UKELA welcomes the, primarily evidence based, proposals to introduce a revised planning system that that is transparent, flexible, focused on continual improvement, appropriate for facilitating development that meets the needs of the people of Wales, and encourages collaboration. However, UKELA is keen to ensure that any legislative proposals do not diminish environmental protection measures. In this respect, UKELA is concerned about the absence of detailed information on how the planning system will help deliver national outcomes under the Well-being of Future Generations (Wales) Bill and support implementation of the Environment Bill proposals.
4. UKELA's views on the Bill's current provisions are set out below:

The requirement to produce a national land use plan, to be known as the National Development Framework

5. There appears to be a sound case for establishing a National Development Framework to support the preparation and development of LDPs; set the context for national policy objectives; and provide a tool for the delivery of natural resources and planning objectives. However, there are concerns about the abandonment of the notion of spatial planning as the concept is considered vital to developing an approach which clearly integrates economic, social and environmental concerns. It is, therefore, important

that the National Development Framework addresses planning for future generations and sustainable development in order to demonstrate clear linkages with the Well-being of Future Generations (Wales) Bill.

6. It is noted in the Bill's Explanatory Memorandum that there is an emphasis on providing businesses with opportunities to identify areas for development, whilst there is no reference to identifying areas for environmental protection and enhancement. In order to ensure that the three pillars of sustainable development are given equal status in any such framework there should be mention of the importance of identifying areas for environmental protection and enhancement in the legislation. .

The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues

7. If a strong and comprehensive National Development Framework is to be introduced for a relatively small country such as Wales, there does not appear to be a case for developing Strategic Development Plans (SDP) and establishing associated Strategic Planning Boards for particular areas. The need for Strategic Development Plans is not particularly evident and they have the potential to introduce an unnecessary layer of bureaucracy to the planning system. Furthermore, matters to be considered by the SDP will not necessarily include all relevant local planning issues and there is concern that some of issues to be considered may be more relevant for local determination.
8. Clarity is needed on how SDPs will link with LDPs and the local well-being plans to be developed by the new Public Services Boards proposed under the Well-being of Future Generations (Wales) Bill. It is suggested that any Strategic Planning Panels set up should have a responsibility to liaise with Public Services Boards.
9. It is pleasing to note that the areas for SDPs have not been identified in the Bill. UKELA has some concerns about strategic planning in areas that may not covered by SDPs and whether SDP areas will be defined according to transport/economic features or environmental/natural resource management requirements, neither of which necessarily respects administrative boundaries.
10. There is a likelihood that planning for those areas not covered by Strategic Development Plans may be overshadowed and decisions on the areas to be covered by the plans may pre-empt those in the report of the Williams Commission on Public Service Governance and Delivery in Wales.
11. Overall, UKELA is concerned that there could be a danger of local issues not being given full weight if decisions are made on a wider geographical basis. In addition, care needs to be taken to ensure that Strategic Development Plans do not cover issues that are more appropriately dealt with at a local level.

Schedule 2A - Strategic Planning Panels (SSP)

12. This schedule, which details how the SPPs will operate, appears to place a great deal of power in the hands of Welsh Ministers in the following respects:

In providing regulations on the membership of SPPs: the Bill provides that the regulations are to stipulate (a) the total number of members of the panel, (b) the number of local planning authority members, and (c) the number of nominated members. In the interests of local democracy, UKELA's view is that only maximum numbers should be stated.

In appointing nominated members of the SPPs: the Bill provides that the Welsh Ministers will publish a list of persons who are to be nominating bodies and that if the nominating body nominates a person for appointment in response to a request from a strategic planning panel, the panel must appoint that person as a nominated member of the panel. In our view the Bill should be more specific about the nature of nominating bodies and the qualifications of nominated members in order to ensure that panels comprise individuals with appropriate skills and expertise.

13. The Bill should also give the SPP the discretion to decide whether or not to appoint a person suggested by the nominated body. Indeed, the initial appointments to a strategic planning panel under this paragraph are to be made by the local planning authority members of the panel; there does not appear to be a valid reason for deviating from this practice.
14. UKELA strongly agrees that the chair and deputy chair of a SPP should be appointed from its local planning authority members and that the meetings should be open to the public. However, the Bill should be specific as to where the notice of the meeting of the SPP and the record of business should be published to ensure complete openness and transparency. This is particularly important given Wales's obligation to ensure adequate public participation in environmental decision-making under the 1998 Aarhus Convention.
15. UKELA notes that local authorities are required to fund SPPs but must accept the calculation of costs provided by the Panel, which will, of course, include unelected members. The issue of accountability is very relevant here. UKELA is concerned about the limited provision for accountability of SPPs in the Bill; apart from basic reporting requirements to send copies of the financial reports and annual report to the constituent local planning authorities and Welsh Ministers, the only other provision is for financial accountability to the Auditor General for Wales.

Changes to Local Development Plan procedures

16. It could be argued that all local authorities are dependent to some extent on developments outside their immediate geographical boundaries and it is acknowledged that in view of the limited size of some authorities, and the current difficult financial climate, the case for the merger of LPAs could be justified provided that account is taken of availability of expertise and resources.
17. If it is decided to go ahead with Strategic Development Plans in addition to LDPs and powers are introduced for establishing joint LDPs, Wales could end up with a four tier development planning system, which appears excessive for a relatively small country and possibly lead to confusion over the status of SDPs and joint LDPs.

Front-loading the development management process by making provision for pre-application services

18. The aim of encouraging the use of pre-application services is to be welcomed, along with the proposal to make this compulsory for developments of national significance and other major developments. This should improve the efficiency of the planning system by reducing the number of “call in” applications and planning appeals. However, care will need to be taken to ensure that both statutory consultees and members of the public are given the opportunity to comment on development proposals at an early stage and that the latter group is equipped to respond fully within required timescales. There should also be care taken to ensure that the system encourages and not deters developers from coming forward with projects.

Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;

19. Providing a ‘one stop shop’ for developers in gaining planning permission and related permits for nationally significant development is clearly important to ensure a more effective system of approval. However, it is equally important to ensure that the decision maker on such consents has the necessary expertise to fully consider the impacts of proposals on the environment. Consultative processes that currently exist in the provision of such consents should not be by-passed by the transfer of power from specialist agencies to the Welsh Government.
20. The Bill grants Welsh Ministers very wide powers to declare that a consent, necessary for a development of national significance, should be decided by them (s62F); and there is no appeal against such a declaration. There is also a very wide power to require a ‘relevant person to do things in relation to a secondary consent’ (s62G); and to make regulations regulating the manner in which such consents are to be dealt with by Welsh Ministers that may include provision:
- (a) about consultation to be carried out by the Welsh Ministers before a secondary consent is granted or refused;

- (b) requiring a person to provide a substantive response to any consultation carried out by virtue of the regulations.

21. UKELA believes that the basic requirements for consultation on such consents should be outlined in the Bill or that it should at least be a duty of Welsh Ministers to include this in regulations. There is also a very wide power for Welsh Ministers to direct LPAs to 'do things' in relation to applications for developments of national significance that would otherwise have been decided by them.

Streamlining the development management system

22. The introduction of the Planning Advice and Information Service (PAIS) and a competence framework for planners and elected representatives together with a core set of development management policies for consistent application should help in improving the efficiency and the effectiveness of the planning system in Wales. However, this view is predicated on there being a clear understanding of what is needed and that support services are developed to address these evidenced needs.

23. Whilst there may be circumstances in which it is appropriate for Ministers to intervene and take over the responsibilities of a poorly performing authority, there is an evident danger that the focus may be on time scales taken to reach decisions rather than the quality of the decision and the development outcomes for the local area.

Local Planning Authority Committees

24. The details of the provisions for this very important power to regulate LPA Planning Committees in the current Bill are written very broadly. Welsh Ministers can direct that any planning function be discharged by a committee, subcommittee or officer of the authority; and can 'prescribe the terms of the arrangements' for the discharge of functions by a planning committee. Welsh Ministers also have the power to make regulations prescribing "requirements relating to the size and composition of a committee or sub-committee by which a relevant function is to be discharged." This provides Welsh Ministers with significant power, which, together with the failure to set out the most effective size and composition of committees is of concern to UKELA.

Planning Hearings

25. Once again Welsh Ministers are provided with a wide power to prescribe the procedures to be followed in any inquiry, hearing or proceedings by way of written representation (s323A). This includes any (a) inquiry or hearing or (b) proceedings on an application, appeal or reference that is to be considered on the basis of representations in writing, which will cover, therefore, the procedures on applications for DNS and planning appeals.

There is no provision to protect the basic rights of individuals to make representations in these processes. The focus is only on the efficiency of such proceedings with reference to the power to include in regulations time limits for submitting representations in writing and any supporting documents; and generally for different classes of proceedings or an individual proceeding. Rules may also be introduced to enable Welsh Ministers to proceed to a decision, taking into account only such written representations and supporting documents as were submitted within the time limit; and to proceed to a decision even though no written representations were made within the time limit. This is of crucial importance and UKELA is very concerned that there is no reference in the Bill to the setting of minimum time limits in order to protect the rights of interested individuals.

Changes to enforcement and appeal procedures

26. UKELA has some concern about the absence of a third party right of appeals in such circumstances as approval for a development that contravenes the adopted development plan. We are of the view that a provision for third party appeals in clearly defined circumstances should be specified in the Bill.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation)

27. There seems to be some inconsistency in making the passage of regulations under s.62D(3) of the TCPA 1990 (enabling Welsh Ministers to set criteria for Development of National Significance (DNS)) subject to the affirmative resolution procedure whereas s.62D(6) (enabling Welsh Ministers to describe the type of applications to be dealt with as Developments of National Significance) is subject to the negative resolution procedure (NRP). It is not clear that the latter is simply a technical matter – as stated, and presumably the justification for the use of the NRP. Surely the ‘type’ of application to be dealt with as a DNS must be one that satisfies the criteria for DNS. If one is a non-technical matter then surely so must be the other.

Dr Victoria Jenkins

Dr Haydn Davies

UK Environmental Law Association Wales Working Party

7 November 2014

24 Heol y Gadeirlan / Cathedral Road
Caerdydd / Cardiff CF11 9LJ
Ffôn / Tel: 029 20 320500
Ebost / Email: info@wao.gov.uk
www.wao.gov.uk

Mr Alun Ffred Jones AM
Chair, Environment & Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Date: 25 November 2014
Our ref: HVT/2238/fgb
Page: 1 of 3

Dear Alun

THE WELL-BEING OF FUTURE GENERATIONS (WALES) BILL: DISCUSSIONS BETWEEN THE MINISTER FOR NATURAL RESOURCES AND THE AUDITOR GENERAL

I am writing to provide the Committee with an update on the discussions between my lawyers and policy officials and those of the Welsh Government, following the Minister's meeting with me on 4 November 2014.

The main issues that have been the subject of discussion have been our disagreement as to the requirements of existing audit duties in relation to the Bill, and our disagreement as to the National Assembly's legislative competence to introduce new duties on the Auditor General in relation to the Bill:

- In terms of the disagreement as to existing audit duties, the Welsh Government had been of the view that the Auditor General's existing duties in the audit of the accounts of local government and NHS bodies meant that the Auditor General was under a duty to consider the effectiveness and efficiency in the "setting of well-being objectives and taking all reasonable steps to achieve the objectives" (paragraph 390 of the Explanatory Memorandum).
- On the National Assembly's legislative competence, the Welsh Government had been of the view that providing a new duty relating to economy, efficiency and effectiveness on the Auditor General was outside competence.

As the Committee is aware, the advice provided to me by Peter Oldham QC indicated that neither of these Welsh Government views of the law were correct.

The Minister and I met to discuss these matters on 4 November. That helpful meeting was followed by a meeting of our respective lawyers on 17 November, and a series of meetings between our officials held between 19 and 25 November. As a result of those discussions, the Minister has agreed a Policy Note with me, a copy of which is appended to this letter.

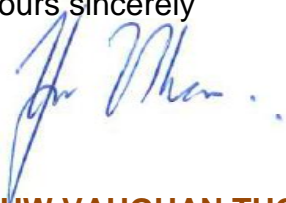
I welcome the Welsh Government's proposal of a duty as it is implicit recognition that, in the absence of an existing duty to review the effectiveness of compliance with the Bill, there is indeed a need for a new duty on the Auditor General. It also serves to acknowledge that there is no existing duty on the Auditor General to audit the effectiveness of the setting of well-being objectives (and the Welsh Government has agreed to amend paragraph 390 of its Explanatory Memorandum accordingly). I also welcome the Welsh Government's acceptance of my suggestion that, in the interests of timely and proportionate reporting, the provisions for reporting on the exercise of such a duty should not be tied to an annual cycle but should instead provide some alignment with the Future Generations Commissioner's Future Generations report.

In my view, the enclosed Policy Note sets out a role for the Auditor General that will provide a reasonable degree of consistent audit examination of the setting and achieving of well-being objectives across the Welsh public sector. The Minister has indicated to me that the Policy Note will be translated into an appropriate Government amendment to the Bill, and I await sight of the precise wording of the proposed duty.

I should be happy to provide further explanation if the Committee would find that helpful.

Given the interests of the Public Accounts Committee and the Finance Committee, I am copying this response to Darren Millar AM and Jocelyn Davies AM. A copy also goes to Gareth Jones at the Welsh Government.

Yours sincerely



HUW VAUGHAN THOMAS
AUDITOR GENERAL FOR WALES

Enc: Annex: Policy note agreed between the Minister for Natural Resources and the Auditor General for Wales

cc Mr Darren Millar AM
Ms Jocelyn Davies AM
Mr Gareth Jones OBE

ANNEX: POLICY NOTE AGREED BETWEEN THE MINISTER FOR NATURAL RESOURCES AND THE AUDITOR GENERAL FOR WALES

WELL-BEING OF FUTURE GENERATIONS BILL

As suggested by the Auditor General to the Committee, we agree that there should be a new duty on the Auditor General that requires him to examine and report on the application of the governance approaches in both the setting and also the achieving of objectives by public bodies. We are also in agreement that the Auditor General should lay before the Assembly a report on the finding of those examinations in a way that allows the reports to complement the Future Generations Commissioner's FG report and to lay (and therefore publish) the reports.

Proposed Role of the Auditor General

The Welsh Government has proposed that the Auditor General would regularly examine how the bodies have applied the five identified governance approaches of sustainable development. This means looking at the arrangements they have in place to ensure that they take account of the long term, the need for an integrated approach, working with others, involving people, and taking preventative action in both setting and taking steps to meet their well-being objectives.

The Auditor General would therefore be able to consider issues such as whether the body can show that it has organised itself to have robust mechanisms and procedures in place and whether these are actually being used, that is, are the governance approaches being applied when the body is making key decisions about setting well-being objectives and also when taking steps to achieve them.

Such an examination would not be a simple tick box exercise to review whether or not the body actually has well-being objectives but would be an examination of how seriously the public sector is taking sustainable development. How the Auditor General carries out this examination should be at his discretion so that he has flexibility to do so in a proportionate way.

It is not envisaged that under this duty the Auditor General would look at whether the objectives are the 'right' objectives, but whether the public body has gone the right way, i.e. embedded the governance approaches in setting the objectives, and then achieving them.

Ty Cambria / Cambria House
29 Heol Casnewydd / 29 Newport Road
Caerdydd / Cardiff
CF24 0TP / CF24 0TP

Ebost/Email:
Emyr.roberts@cyfoethnaturiolcymru.gov.uk
Emyr.roberts@naturalresourceswales.gov.uk

Ffôn/Phone:
0300 065 4444

Alun Ffred Jones AM
Chair of the Environment and Sustainability
Committee,
National Assembly for Wales,
Cardiff Bay,
Cardiff
CF99 1NA

24 November 2014

Dear Mr Jones

INQUIRY INTO THE PUBLIC FORESTRY ESTATE IN WALES

I am writing to thank you for a copy of your letter sent to the Minister for Natural Resources on 28th October 2014.

The Inquiry highlighted a number of areas for concern and we have made good progress on many of the issues you raise. To take forward matters in an open and transparent way we have used the Inquiry to help build an Action Plan together with Welsh Government Forest Policy Branch and forest sector representatives to tackle the areas for improvement in partnership.

We will be able to report progress through this mechanism on the Ten Areas for Action:

1. Improved quality of communication with forest sector
2. Improved transparency on forestry regulation and compliance
3. Improved transparency of forests facts and figures for timber production, forecasting and supply
4. Improved management of timber production and supply from Welsh Government Woodland Estate and the Welsh Forest Resource
5. Recognition of *Woodland for Wales* outcomes and the forest sector when taking forward Integrated Natural Resource Management and an 'ecosystems approach' to decision making
6. Set out the role and purpose of the Welsh Government Woodland Estate and its strategic priorities to best deliver WG policy priorities

7. Improve support for the forest sector to deliver against Welsh Government policy priorities through well targeted funding, advice and guidance
8. Promote the interests of forestry
9. Provide assurance of sufficient forestry skills in Natural Resources Wales
10. Reporting on progress

I am copying this letter to the Minister for Natural Resources.

Yours sincerely,



Emyr Roberts

**Prif Weithredwr
Chief Executive**



Llywodraeth Cymru
Welsh Government

Carl Sargeant AM /AC
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources

Eich cyf/Your ref
Ein cyf/Our ref SF/CS/3185/14

Alun Ffred Jones AM
Chair
Environment and Sustainability Committee

21 November 2014

Dear Alun Ffred

Further to our appearance before the Committee on 23 October for its financial scrutiny session, you wrote to the Finance Committee on 7 November setting out a range of issues on which you required further information. These are set out in full at **Annex 1** below.

We also note a number of other issues on which we agreed to provide further information during the scrutiny session. These are set out at **Annex 2**.

We trust that this has addressed the Committee's queries in full and look forward to continuing to work closely with you in the future.

Yours sincerely

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources

Rebecca Evans AC / AM
Y Dirprwy Weinidog Ffermio a Bwyd
Deputy Minister for Farming & Food

Issues raised in your letter of 7 November 2014

1.1 Clarification on whether the £5 million revenue reduction to the 2014-2020 RDP BEL will be returned to delivery of the Programme

The £5 million reduction is a baseline reduction to the MEG as a whole, and it is clear to me that due to the nature of the RDP and the spend profile of a multi year demand led programme, I will need to review the domestic budgetary requirements on an annual basis. My priority is clear. I will ensure that the RDP domestic budget in each financial year will be sufficient to support the commitments within the programme. The RDP programme demands flexibility and, with a flat line domestic RDP budget, I have to use as many tools and flexibilities as I can within my remit which will inevitably mean that I will need to redirect resources where the need is greatest in line with my priorities.

1.2 When is approval *{of the RDP}* likely?

I intend to update the Committee as soon as formal approval has been received from the European Commission.

1.3 How the Environment Bill supports new funding mechanisms

The Environment (Wales) Bill will put in place modern statutory processes to help plan and manage our natural resources in a more joined up way and will provide NRW with new powers to enable them to lead this work. It is proposed that the Bill will extend NRW's existing powers to undertake experimental schemes. This could include the ability to trial Payments for Ecosystem Services (PES) mechanisms. PES will enable us to understand and recognise the value of the services provided by the natural resources on which our economic growth relies, so that we can protect them and improve the social and economic well-being of Wales.

2.1 Tables of domestic spend alongside European allocations for 2015-16

As soon as formal approval has been received from the European Commission I will be in a position to review the programme for 2015/16 and the corresponding domestic and European allocations. Once I have a profile of expected spend, I will update the Committee as soon as possible.

4.2 Local Authority costs of implementing new and forthcoming animal welfare duties

Local authorities in Wales already have the duty to enforce the Animal Welfare Act 2006, including licencing duties. The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 contain the power for local authorities to set their licencing regime to recoup reasonable costs associated with issuing a licence. They will also be able to appoint appropriate inspectors to enforce on their behalf.

Whilst we have developed Regulations on dog breeding and intend to bring forward legislation on microchipping, we recognise the connection between that and the Anti-social Behaviour Crime and Policing Act 2014 (ASBCP). We expect local authorities to fully utilise the opportunity to enforce the legislation with flexibility in mind. The Welsh Government officials will work with local authorities and other key stakeholders to develop enforcement guidance.

The Anti-social Behaviour Crime and Policing Act 2014 is a piece of UK legislation that was taken forward on the basis of reducing complexity and the burden caused to local authorities and the police by the number of Anti-social Behaviour Orders. In carrying out their assessment the UK Government Home Office made it clear that, whilst there may be costs for local authorities under the new proposals, these would be offset by the removal in the Act of other responsibilities for which funding is already in place. Moreover, the Home Office anticipated there should be cost savings under the new proposals although they were not able to fully quantify these.

Local authorities are being given the power to seek a reasonable recovery of costs associated with issuing a licence under the proposed new secondary legislation Dog Breeding Regulations in Wales which is similar in approach to that contained in existing Breeding legislation under the Breeding of Dogs Act 1973 (as amended). I have met with local authority and Welsh Local Government Association representatives and our discussions centred around affordability and willingness to keep this in sight. Our officials are working with local authorities to help facilitate the development of the processes, such as templates, and the monitoring required during the first year of implementation.

As regards microchipping, the Welsh Government has to undertake a Resource Impact Assessment and that will be developed alongside the final drafting of the Regulations.

5.2 The cost of replanting the forestry estates and where these are covered in the NRW draft budget

Natural Resources Wales estimates that the costs of replanting on the forest estate in 2015/16 as a consequence of Phytophthora Ramorum will be £1.7 million. In the first instance I would expect the NRW board to identify how they might look to cover these costs within their total operating budget of £180 million.

7.1 The processes, timetable and plan for monitoring implementation of WAO recommendations on Glastir

I am not able to release the information you have requested on the Auditor General's report on Glastir until after the Public Accounts Committee have received the Welsh Government response to the report. This information will be presented to PAC during an evidence session arranged for 2 December. Following this session I will provide the Committee with a copy.

8.2 Approved Nature Fund projects

The Nature Fund will be funding the activity outlined against 2014-15 in the successful project proposals.

The 'How to apply' was clear that we are allocating resources from the Nature Fund in this financial year 2014/15. As operational activity began in November, following a protracted funding allocation process, we have extended the timetable to allow a limited number of activities, where applicable, to be profiled for delivery in quarter 1 of 2015/16. This will optimise the public benefit derived from the project outcomes. The Nature Fund budget as defined below will be accurately profiled following the receipt of all the individual project financial profiles. The resultant 2014/15 and 15/16 profile will be managed within the [divisional/departmental] budget.

We know that some proposals will include activities, defraying expenditure following the Nature Fund operational period that may run over into future years. We asked projects to clearly indicate where additional financial support will be necessary to deliver the proposal, and how the project benefits would be sustained in the future.

The 'How to Apply' document also stated that, where a proposal is based over a number of years, we will work with successful proposals to help identify relevant funding and advice for the duration of the proposal. It also stated that, although long term funding routes would vary, the intention is that most of the funding for successful proposals in future years will be met from the Rural Development Programme, where eligible.

The information provided on the deliverability of projects in 2014-15 and sustainability of the benefits was appraised as part of the Nature Fund appraisal process.

Project	Lead	Amount	Description
Coed Cymru and Rivers Trust	Coed Cymru	£658,500	This project is led by Coed Cymru collaborating with River Trusts and local landowners and delivers action directly in several of the Nature Action Zones. The project will focus primarily on the farmed landscape within the river catchments. The project proposes to work with 300 farmers in 10 river catchments. Activity includes woodland creation for riparian areas, woodland management, hedgerow restoration.
Natural Buzz	Keep Wales Tidy	£130,000	The project led by Keep Wales Tidy aims to maximise multiple ecosystem services of currently undervalued green sterile spaces – mowed areas on industrial estates, school and hospital grounds, business parks and roadside verges and transform them into a blaze of wildflowers.
Elwy Valley Habitat Improvement	Conwy County Borough Council	£180,000	The project aims to work with landowners to deliver improvements such as carrying out soft engineering works on identified sections of river bank, comprising reprofiling, seeding and planting of native trees to a 7.5km stretch of the River Elwy between two villages (Llangernyw and Llanfairtalhaiarn) in the Conwy Valley Nature Action Zone. Currently this section

			of river currently has unstable banks for 80% of its length due to a lack of trees and free access by livestock which increase bank collapse and erosion.
Llyn Landscape Partnership	Gwynedd County Council	£200,000	This collaborative project led by Gwynedd County Council aims to build resilience through the integrated management of terrestrial coastal habitats in the Llyn Peninsula Nature Action Zone by striking a balance through agricultural use, conservation of key habitats and provision of access through the Coastal Path.
Unwanted Vegetation and the Restoration of Peatlands	Snowdonia National Park	£132,000	This collaborative project led by Snowdonia aims to restore areas of peatland, a priority habitat in three Nature Action Zones (Conwy Valley, Berwyn and Migneint & Llyn Peninsula) and the establishment of a strategy for the future restoration of peatland in North-West Wales.
Long Forest Phase 2	Keep Wales Tidy	£190,000	The Long Forest is a community engagement project aimed at encouraging local groups, landowners, schools and businesses to become more actively involved in the management of hedgerows, associated linear woodland features and ancient trees. Volunteers will gain training and knowledge in hedgerow management activity with wider benefits relating to water quality and flood alleviation
Peatland Push Cymru	Montgomerys hire Wildlife Trust	£59,000	<p>The project led by Montgomery Wildlife Trusts aims to deliver sustainable land management on the ground through the creation and restoration of habitats on a 24ha smallholding, delivering water quality and quantity benefits while enabling habitat connectivity in the Cambrian Mountains Nature Action Zone.</p> <p>The project will pilot the establishment of a mechanism which will support landowners within the area to directly market the green growth opportunities generated from their holdings</p>
North Wales Moors Futurescape	RSPB	£241,800	The project led by RSPB Cymru places the Berwyn and Migneint Nature Action Zone as the focus for conservation action

Programme			and sustainable land management at a landscape scale. Delivery will be through a broad partnership willing to take action to achieve a shared vision for a sustainable countryside.
Connectivity Work in the Duhonw Catchment	Robert Powell Blaenbwch	£128,000	This collaborative farmer led project takes practical action at landscape scale and seeks to build ecosystem resilience with the establishment of wildlife corridors which will deliver wider environmental benefits including improved water quality and storage within the catchment. Some 19,500m of corridors will be established to the Welsh Government agri-environment specification.
Managing Woodland Resources in Conwy	Golygfa Gwydyr	£125,000	This project will build the capacity of the community in Conwy manage public and private woodland resources and thus realise economic, social and environmental benefits for participating communities, making them more sustainable and less dependent on public funding. Community engagement will enable greater value for money contracting for large- and small-scale public commissioning whilst ensuring that community benefits are realised through direct action by the community, or contractual community benefit clauses where appropriate.
Pond Connections	Amphibian and Reptile Conservation (ARC) Trust	£63,000	This project led by ARC Trust bring partners together for pond creation and restoration and habitat restoration for over 30 sites in the south Wales Valleys Brecon Beacons and Pembrokeshire Coast Nature Action Zones. It includes an extensive volunteer programme and looks to use local resources and contractors.
Castlemartin Peninsula	The National Trust	£144,000	The partnership project is a combination of web mapping which will provide the evidence for the development of a toolkit for organisations and communities to address habitat and biodiversity loss. The project also sees activity to improve habitats in the catchment, land management works and volunteer and community engagement.
Future Fisheries	The Wildlife Trust of	£62,000	This partnership proposal is to provide information to help promote low impact

Living Seas	South and West Wales		fishing practices which will enable species and habitats to recover. This information is not readily available at present and using this will help to engage fishermen in taking forward a sustainable approach to fishing.
Ecosystem Enterprise Partnership (EEP) - Ecobank	Pembrokeshire Coastal Forum	£150,000	This project led by Pembrokeshire Coastal Forum aims to create a partnership framework between land managers, business, industry and commerce, government and third sector to reduce emissions to the Milford and Cleddau catchments with improved local environment use for public and biodiversity benefits.
Pollinators for life project	Torfaen County Borough Council	£282,100	This project led by Torfaen County Borough Council aims to undertake a range of initiatives to promote long term sustainable land management and to improve habitats and conditions for all pollinating species across the South Wales Valleys.
Elenydd Purple Moor Grass	Cambrian Mountains Initiative	£152,000	This project led by the Cambrian Mountains Initiative undertakes and evaluates different approaches to the management of Molinia and researches potential uses of Molinia. This has the potential to deliver multiple ecosystem benefits such as securing an economic return for farm businesses through harvested Molinia.
Black Mountain Heathland Restoration	Brecon Beacons National Parks	£201,500	This project led by Brecon Beacons National park focuses on the development of a land management partnership, development of a 10 year bracken control programme, and direct action to restore vegetative cover and heather management and Molinia.
Berwyn and Migneint, Black mountains and Radnor upland recovery	FWAG	£241,800	This project managed by FWAG aims to support landscape-scale species recovery and wider ecosystem service delivery. The project will focus on restoring and safe guarding peat bogs to deliver a suite of benefits such as carbon sequestration, water retention, flood risk alleviation and restoration of heather habitat.
Eastern	Torfaen CBC	£280,000	A large South Wales partnership project

Valleys Uplands Project			taking place in South East Wales Valleys composed of 3 interrelated elements developing a regional natural resource management for the uplands; a number of capital projects around fencing, land management, reducing crime and creating fire breaks and contribution for outreach and crime prevention engaging with commoners and land use stakeholders to share best practice.
Llynfi Valley Woodland Creation	NRW	£627,000	The Welsh Government is also directly investing into a woodland creation project in the Llynfi valley. This project is led by NRW, directly involving the local authority Health Trust, schools and communities to implement 30ha of native woodland planting and integrated community focused infrastructure.

Issues discussed at scrutiny session where further information was requested

Information on the sale of forestry by Natural Resources Wales and clarification around the definition of non-essential public estate

Natural Resources Wales is intending to sell 277ha of Welsh Government owned farm land. This represents only 0.2% of the land it manages on behalf of the Welsh Government, which is a total 126,000ha. Much of the farm land which is being sold (235ha or 85%) is occupied by farmers with secure tenancies. This means that Natural Resources Wales is unable to use the land and therefore selling it gives the tenants the opportunity to purchase the freehold outright.

It is estimated that the total land intended for sale will generate approximately £1.2 million. This will be reinvested to manage the Welsh Government woodland estate in order to maximise the benefit for the people, economy and environment in Wales.

Natural Resources Wales has also sold three old depots inherited from predecessor bodies which were not in active use.

Details of identified Natural Resources Wales ICT spend for next year

The total ICT set up expenditure for 2013-14 was £8.1m and is projected to be £13.3m in 2014-15. In the future the projected costs for the move into ICT transformation are £8.1m in 2015-16 and £3.9m in 2016-17. Therefore, the total projected expenditure on ICT by Natural Resources Wales between 2013/2014 and 2016/2017 is £33.4m.

Information on the possible impact in Wales of the UK Government's changes to the Energy Company Obligation

Recent changes to the Energy Company Obligation (ECO) by the UK Government have resulted in significant reductions in the amount of ECO that can be leveraged for schemes in Wales. Developments in the achievements of ECO targets by energy companies are impacting on the price that energy companies are prepared to pay for every tonne of carbon saving delivered. The price per carbon tonne has reduced from around £150 per tonne to as little as £25 per tonne.

Despite the changes we will continue to develop a range of actions and will leverage investment in partnership with internal colleagues and external partners.

As a result we will continue to deliver energy efficiency improvement through area based schemes across Wales.

Clarification regarding £35m capital budget for Fuel Poverty Programme (BEL 1270)

A query was raised on the notes accompanying the BEL table which was submitted to the Committee as part of the evidence. The comments were that the 2015/16 budget includes £35m awarded in the final budget of 2014/15. This comment was potentially interpreted that £35m from 2014/15 was underspent and carried forward. Indeed, the comment was to

inform the committee that in 2014/15 the Finance Minister awarded £35m to Fuel Poverty in both financial years 2014/15 and 2015/16, and that the draft budget for 2015/16 includes this £35m announced in 2014/15. I can also confirm that the £35m in 2014/15 remains fully committed.

The figures for the number of Ynni'r Fro schemes and their spread across Wales as well as an assessment of the value for money they provide

Outlined below are the Ynni'r Fro Schemes in place across Wales.

Convergence	
Anglesey	5
Bridgend	4
Caerphilly	1
Carmarthenshire	11
Ceredigion	15
Denbighshire	1
Gwynedd	14
Merthyr Tydfil	2
Neath Port Talbot	3
Pembrokeshire	8
Rhondda Cynon Taff	9
Swansea	3
Torfaen	1
Blaenau Gwent	4
Conwy	4
Vale of Glam	1
	86
Competitiveness	
Monmouthshire	2
Powys	10
Wrexham	1
Flintshire	2
Cardiff	1
Total	16

An internal economist was commissioned to undertake a cost benefit analysis of the programme in 2013. This work established that the 20 projects identified in the research, (which were those sufficiently well advanced to provide robust data), will generate £11.8 million in net benefits over the lifetime of the installations, with benefits of £1.36 generated for every £1 invested from the programme.

There are 6 projects currently in the planning process awaiting determination. There are also a further 6 projects that have received pre-planning advice from the relevant Local Planning Authority, but have not yet submitted a formal planning application. 4 of these projects are located in south Wales, 1 in mid Wales, 3 in north Wales and 4 in west Wales.

The predicted cost of the badger vaccination programme in the intensive action area for the next financial year 2015/16 and clarification of why it is predicted to cost more than in the first two years of the scheme

The original predicted cost for year one of the project was £1.1m. An annual mark-up of £0.1m has been added to cover the increase in incremental staff salary costs as well as to cover general increases in equipment, accommodation and facilities costs.

The variation between the predicted cost for 2015/16 and the actual cost reported for the first two years is mainly due to:

- Costs published in the Annual IAA Badger Vaccination Report only reflect the actual costs incurred during the field operational phase of the project between April and November. The costs were presented on this basis for year one as the report was published on completion of the first year's operational phase and before the end of the financial year.
- Further costs were incurred after producing the report, during the non operational phase of that financial year. There is also an overlap of expenditure incurred at the end of a financial year that are to support the operational phase within the IAA of the following year.

The costs for year 2 were published on the same basis to provide a year on year comparison. This was stated in paragraph 45 of the report:-

"The costs cover the delivery of the field operational phase between April and November 2013, and also include expenditure that was incurred prior to this, during the preparation stage such as the purchase of various items of equipment and consumables".

Information on the financial implications of the Control of Horses (Wales) Act 2014

The first six months of the Control of Horses (Wales) Act saw the new powers being used to good effect by at least 9 local authorities who reportedly used it on at least 30 separate occasions.

Many of the local authorities have not as yet used the powers, this is believed to be due to the impact that the legislation has had i.e. it has raised the profile of the problem, made it less acceptable to fly graze and as a result brought about a change of behaviour by those owners who have previously been inclined to fly graze their animals.

Local authorities are currently unable to provide detailed figures in respect of the actual costs accrued under the Control of Horses (Wales) Act 2014. A number of authorities who have used the powers believe that on average it is costing approximately £150 per horse for seizure. Costs for keeping horses for the 7 day period vary from £10 - £12 per day with a further £200 for identification and transport in cases where the horse is rehomed or £200 for euthanasia and disposal costs where the only option is to humanely destroy the horse. These figures do vary depending on the numbers involved and in most cases do not include local authority officer time.

Prior to the Act coming into force local authorities reported that the average cost to seize, impounding and disposal of a horse could amount to as much as £500 per horse per day. During the period November 2011 to December 2012 it was estimated that around £1.2 million was spent in dealing with the issue in South Wales alone.

A commitment has been given to fully evaluate the Act within 3 years of it coming into effect.

Provision for the cost of implementing the Agricultural Sector (Wales) Act

I have allocated £183k to support the implementation of the Agriculture Sector (Wales) Act as can be seen in the BEL table supplied to the committee as part of the evidence. The Budget has not yet been assigned a BEL number, but it is provisionally entitled "AWB" and is under the Action "Develop and deliver overarching policy and programmes on Agriculture, Food and Marine".

The Agricultural Sector (Wales) Act 2014 provides provisions for the Welsh Ministers to make an interim wages order before the proposed Agricultural Advisory Panel is established.

Due to the abolition of the Agriculture Wages Board in 2013 and the UK Government's decision to refer the Agricultural Sector (Wales) Bill to the Supreme Court for consideration, no new rates of Agricultural Minimum Wage have been set since 2012. An interim wages order made under the 2014 Act will allow us to bring wages in line with current economic and employment conditions in the agricultural sector in Wales.

An interim wages order is expected to come into force in 2015 and any proposed increase to the pay levels of agricultural workers will be subject to statutory public consultation.

Information on the co-ordination of Government spending on food promotion events

My Department is currently working on developing a Food Tourism Action Plan in collaboration with Visit Wales and in consultation with a range of public, private and voluntary stakeholders with the aim of encouraging greater co-operation and collaboration across the Food and Tourism sectors in Wales.



Pwyllgor Cymunedau, Cydraddoldeb a
Llywodraeth Leol

Communities, Equality and Local Government
Committee

Alun Ffred Jones AM
Chair
Environment and Sustainability
Committee

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

21 November 2014

Dear Alun Ffred

Inquiry into poverty in Wales

The Communities, Equality and Local Government Committee is currently undertaking an inquiry into poverty in Wales. The inquiry has been divided into four strands, each one focussing on one particular issue within the subject of poverty. Each strand is self-contained, with its own terms of reference, but together will form an overarching piece of work.

The four strands are:

- Strand 1: poverty and inequality
- Strand 2: the impact of welfare reform on poverty in Wales
- Strand 3: in-work poverty
- Strand 4: community-based approaches to tackling poverty

We have received written evidence on Strand 1 of the inquiry, which can be viewed using the following link:

<http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?ID=138>

We are in the process of hearing oral evidence on Strand 1, and this is likely to conclude in the early part of next year, with our report following in due course.

In preparation for the next phase of our inquiry, we have issued a call for written evidence on Strand 4. This will close on 30 January 2015.

I wanted to bring your attention to the Committee's work on this subject, as issues relevant to the work of the Environment and Sustainability Committee,

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg / We welcome correspondence in both English and Welsh
Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol / Communities, Equality and Local Government Committee
Gwasanaeth y Pwyllgorau / Committee Service
Ffôn / Tel : 029 2089 8032
Eboest / Email : CELG.Committee@wales.gov.uk

including your inquiry into energy efficiency and fuel poverty, may be raised during our evidence-gathering. If there are any points that you would like to make the Committee aware of in relation to our inquiry, they would be gratefully received; we will inform you of any outcomes that may arise from these points.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Christine Chapman'.

Christine Chapman AC / AM

Cadeirydd / Chair

I am very pleased to be able to submit evidence to the members of the Environment & Sustainability Committee. Having watched the Senedd TV recording of the Committee's meeting last Wednesday 5th November 2014 on the subject of Electronic Collars used with invisible boundary fencing.

Brief History

Before the 2010 ban, the animal-activated electronic boundary fencing system was in use for decades in Wales without any adverse reports from the Police, Animal Welfare organisations or the veterinary community. In the Draft Legislation of 2009, this animal-activated boundary fencing system was actually permitted to be used under certain criteria, but it was included in the final legislation at the last minute without recourse back to the Assembly to be debated as a separate item as the then Minister Elin Jones was persuaded by her officials that it would be easier to implement the law with both types of collars included. The whole Assembly voted in favour of a ban on the human-activated dog training collars, many unaware that it also encompassed the animal-activated invisible boundary fencing collars..

I met with Nick Ramsay AM with one of his constituents last year and he expressed surprise that the boundary fencing system had been included in the law and he stated " This is not what we voted for".

There are 'clear blue water' distinctions between the two types of electronic collar which will be addressed later in this paper.

It is worth noting, that the RSPCA will not rehome rescue cats & dogs in homes that are situated near a main road. Below is an article in a national newspaper and can be read here:

<http://www.dailymail.co.uk/news/article-2254729/RSPCA-destroys-HALF-animals-rescues--thousands-completely-healthy.html>

Scientific Research

There has never been any scientific studies undertaken for invisible boundary fencing electronic collars nor for electric livestock fencing. The 3 year DEFRA AW1042 study that the RSPCA and the Dog's Trust referred to during the meeting last week, was exclusively to do with human-activated training collars for dogs. These 'clear blue water' distinctions between these two types of collars have been highlighted many times in my submissions through the Petitions Committee under the Chair of William Powell AM. To add weight to my evidence, I am enclosing a letter from Companion Animal Welfare Council which was contacted by the Petitions Committee last year for their opinion of this campaign to lift the ban on animal-activated boundary fencing electronic collars. An excerpt reads "*It is therefore our conclusion that presently, on the balance of probabilities, the element of the Welsh ban which extends to these boundary fencing systems is not conducive to the promotion of good welfare, and may increase animal suffering*".

There is a currently a scientific study sponsored by the cat charity Feline Friends currently underway assessing this boundary fencing with cats, but this is not due to be completed until late 2015 at the very earliest.

Fencing Collar Films

I would respectfully urge those members of the Environment and Sustainability Committee who have not been involved with the Petitions Committee to view two very short films. They clearly demonstrate how the boundary fencing collars works in practice with cats and dogs using the gentle training protocol devised by the American Kennel Club. One film is in Welsh with English subtitles and the second is from the Feline Friends Charity in English.

The bilingual film can be viewed here:

<http://www.youtube.com/watch?v=X7vkMnHnEOg>

and the English film here:

<http://www.jacobwhittaker.co.uk/pics/FelineFriends.mp4>

Save our Welsh Cats & Dogs From Death on the Roads

Misuse

As there is no human input into the operation of the animal-activated fencing collars, there is zero potential of misuse.

Most pet owners adore and cherish their pets as one of the family and the cost of professionally installed invisible fencing system is from around £600. If any pet owner is intent on deliberate cruelty there are far simpler ways.

Electronic Training Devices

Human-activated training collars for dogs are completely different from animal-activated fencing collars as:

- a) they do not carry any warning alerts
- b) the human can repeatedly activate the correction using variable commands during the day.
- c) they are used to train dogs in more complex tasks than simply remaining within the animal's home territory.
- d) only the human activated collar is capable of giving a variable duration of the electronic correction.

Clearly demonstrated on the 2 films mentioned, once the pet is trained for the accredited UK boundary fencing collars, it doesn't receive a correction again as it avoids the warning zone by some margin. The pet has been trained to understand that the warning sound says "don't go any further". This is in stark contrast to the claim made by the RSPCA CVO James Yeates that in case of malfunction, the collar will repeatedly shock the pet. This is absolute nonsense.

Livestock fences

No one seems to voice concern about long-term psychological damage to horses or cattle if they bump into a livestock fence (which incidentally carry no warning alerts). People accept that the animal simply learns never to do it again. The same is true of cats & dogs using the invisible boundary system.

[Copy of an email earlier this year from a petitioner in North Wales to his Assembly Member](#)

"I am writing to ask for your support in lifting the ban on invisible fencing which is the only way we can protect our dogs.

I understand that the Minister, Alun Davies, has agreed to a review of this legislation in the summer.

My wife and I have lived in Llandegla, North Wales for 20 years. Our property is in gardens of 6 acres.

We own two little dogs, who are very precious to us. We are surrounded by sheep farming land on all sides. Our dogs are too little to make all our fences secure.

For example, if a rabbit digs under the fence our dogs can follow. Our dogs do not chase the sheep, however the sheep run from our dogs. This is enough to make them abort when they are in lamb.

The farmers have every right to shoot our dogs, as this is their livelihood. Our invisible fence is the only possible way to protect our dogs, and be responsible citizens living in this area" (sic)

I have other letters of support from Welsh owners of invisible boundary fencing systems which I can provide to the Committee if they so wish (minus names & addresses).

After the DEFRA AW1402 report was published, the charity Feline Friends contacted DEFRA to enquire if they had any plans for restrictions on invisible boundary fencing. Below is a cut & pasted copy of DEFRA's reply:

Save our Welsh Cats & Dogs From Death on the Roads

----- Original Message -----

From: ccu.correspondence@defra.gsi.gov.uk

To: Cats@feline-friends.org.uk

Sent: Tuesday, June 18, 2013 2:16 PM

Subject: Response to your Query : - Ref:DWOE000313575 - AW1402 and AW1402A

Dear Mrs Fawcett,
PET TRAINING AIDS

Thank you for your email of 11 June about pet training aids. I have been asked to reply. A copy of the final report is available on the Defra website

at: <http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&ProjectID=17568&FromSearch=Y&Publisher=1&SearchText=1402a&SortString=ProjectCode&SortOrder=Asc&Paging=10#Description>

While research showed no evidence that e-collars cause long-term harm to dog welfare when used appropriately, Defra wants to ensure electric dog collars are used properly and manufactured to a high standard.

We will work with the Electronic Collar Manufacturers Association to draw up guidance for dog owners and trainers advising how to use e-collars properly and to develop a manufacturers' charter to make sure any e-collars on sale are made to high standards. A ban on e-collars could not be justified because the research provided no evidence that e-collars pose a significant risk to dog welfare. For a ban to be introduced there would have to be evidence showing they were harmful to the long-term welfare of dogs. **There are no proposals to place restrictions on the use of electronic containment fences.**

Yours sincerely,

Adam Broderick Defra - Customer Contact Unit
Department for Environment, Food and Rural Affairs (Defra)

I have also met with Elin Jones AM and have requested a further meeting with her now that this subject has arisen. I have to date, received a sympathetic ear. Whilst she was a member of the Petitions Committee, she called for a review of the legislation for "unintended consequences".

Watching the Senedd TV reply, I was taken aback at the wildly inaccurate comments given by the RSPCA Cymru's PR officer Chris O'Brien and CVO James Yeates. I had an open, pleasant conversation at length with O'Brien this time last November having beforehand sent information and the two short films to Claire Lawson, Head of Policy. I also asked them for a meeting which was declined.

Despite my best efforts, the RSPCA Cymru is still confusing the human-activated electronic training collars for dogs with the animal-activated electronic collars linked with the animal activated invisible boundary fencing systems, which are freely used all over Scotland, Irelands North & South and also in England as these countries did not follow Wales's example.

In addition, in April this year, another national newspaper reported that the Society was "full to capacity" with abandoned cats and CVO James Yeates was quoted as saying that "there is a shortage of available good homes for them". This can be read here :

www.mirror.co.uk/news/uk-news/rspca-full-cat-crisis-charity-3341187

As if that is not enough, 18 months after the Welsh ban came into force in 2010, the RSPCA's former CVO Chris Laurence (who was also a former Director of the Dog's Trust) was discovered by the media to be using a boundary fencing system linked to electronic collars at his own home near Chippenham, Wiltshire, to prevent his own cat and dog getting run over by traffic. This can be read here :

<http://www.dailymail.co.uk/debate/article-2020343/Dogs-Trust-veterinary-director-Chris-Laurence-Hypocrisy-bunny-hugger.html>

Save our Welsh Cats & Dogs From Death on the Roads

I sincerely hope that the points I have raised will raise awareness within the Committee of the harmless invisible boundary fencing system as it is undoubtedly a force for good.

Lastly, I would be very pleased to introduce a professional trainer to the Committee at a day and time of its choosing to demonstrate this system.

I look forward to hearing from you in due course.

Monima O'Connor
13th November 2014.

PS I am sending this note by hard copy with a DVD of the films and including an photocopy of a 2010 RSPCA Wiltshire Annual Report cover showing an advertisement for an invisible boundary fencing system on the inside front cover.

Mr Alun Jones AM
The National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA
26th November 2014

Dear Mr Jones,

Shechita UK speaks for the Jewish Community on matters relating to the protection of the provision of kosher meat in the UK, and seeks to raise awareness of the Jewish religious humane method of animal slaughter for food, shechita.

We therefore noted with interest the recent meeting of the Environment and Sustainability Committee of the Welsh Assembly at which discussions focused in part on religious slaughter.

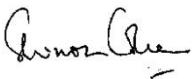
Following the committee meeting, members of the Jewish community were disappointed and concerned that a discussion of this nature had taken place without representatives of religious communities present. Members had the opportunity to hear from both the BVA and the RSPCA but did not have the opportunity to hear a response from either the Jewish or the Muslim community.

We would be very keen to make a presentation to the committee and the next available opportunity and wonder whether that might possible at some point next year?

In the meantime, I have enclosed a short briefing from Shechita UK on the subject and I wonder if you would be good enough to circulate it to members of the committee for their reference. If we can provide any further information to you or any other interested member of the committee we would be delighted to meet to offer a full briefing at your convenience.

I look forward to hearing from you.

Yours sincerely,



Shimon Cohen
Campaign Director

PARLIAMENTARY BRIEFING

What is Shechita?

Shechita is the Jewish religious humane method of animal slaughter for food. It is the only method of preparing meat and poultry in accordance with Jewish tradition.

Shechita is performed by a highly trained 'Shochet' and is a very swift and efficient procedure. The 'chalaf' (the surgically sharp instrument used) incises the structures at the neck of an animal. Blood supply to the brain ceases immediately, all consciousness is irreversibly lost and with it, the ability to feel pain. It is quick, effective, safe and it ensures that the animal is not subject to any avoidable pain.

What is the difference between Shechita and conventional mechanical slaughter?

Conventional mechanical slaughter uses industrial methods which would simply not be permitted for Shechita. In conventional mechanical slaughter a high throughput of animals must be maintained for commercial reasons and this creates many animal welfare issues, such as where lairage workers use electric prods or push and kick the cattle in order to usher them more quickly along the production line.

However, the main difference between Shechita and conventional mechanical slaughter is in the way that the animals are stunned.

Shechita conforms with the EU Definition of stunning - '*any intentionally induced process which causes loss of consciousness and sensibility without pain, including any process resulting in instantaneous death*,' - by causing immediate cerebral perfusion - whereas mechanical methods may include captive bolt shooting, gassing and electrocution by by tongs or water. These methods frequently go wrong (see European Food Safety Authority figures below) leaving the animal in great, prolonged distress.

Many people are unaware that these methods were originally conceived by large scale factory abattoirs to speed up the process and stop the animal thrashing around at the point of slaughter so that the production line could be moved on more quickly. It was latterly adopted by animal welfare organisations and considered a tool for raising levels of animal welfare. However, the evidence in support of the animal welfare benefits is inconclusive and failure rates considered by many to be unacceptably high.

What are the animal welfare benefits of the Shechita Method?

By contrast, the Shechita process has to be slow and methodical. Any animal or bird which is even slightly harmed prior to slaughter is not considered suitable for kosher consumption. Therefore special care is taken to ensure that the animals are extremely well treated and calm ahead of slaughter, not only because it is mandated by Jewish law but also because any other approach would make kosher meat production near impossible.

What does the science say?

Many academics believe (See Regenstein, Grandin) that Shechita is at least as humane as other methods if not preferable, for the animal welfare benefits outlined above - while others believe that conventional mechanical slaughter is preferable. Most agree that making any assessment of the pain felt by an animal is incredibly difficult. As a result, the Government's position has always been that the scientific evidence in this area is inconclusive. No study has ever replicated Shechita in a laboratory environment and therefore no accurate scientific assessment of Shechita has ever been carried out.

The All Party Group on Beef and Lamb, based at Westminster concluded in recent report that "there is research and further analysis to be undertaken on the measurement of pain in animals at the time of slaughter."

What is the Jewish community's view on labelling?

The Jewish community is not against food labelling. In fact we invented it (the Hechsher) in order to identify food which is appropriate for kosher consumption. We are also fully supportive of calls for the labelling of the amount of meat, slaughtered according to the Shechita method, which finds its way into the mainstream market.

However if there is going to be labelling according to provenance of food, it must be comprehensive and even handed.

It seems incongruous to us to pre-suppose that consumers do not have a right to know that an animal has been slaughtered by mechanical methods or mechanically stunned prior to slaughter by one of the legal methods that include captive bolt shooting, gassing, electrocution, drowning, trapping, clubbing or any of the other approved methods, nor would it include incidences of mis-stunning, which by law are all recorded in slaughterhouses.

Labelling a meat product "not stunned before slaughter" suggests that no stun takes place at all, when Shechita in fact incorporates an effective stun at slaughter. One dimensional labelling such as this is pejorative and discriminatory, effectively placing religious slaughter methods in a second class category. We call upon all those concerned with animal welfare and with consumer rights to join us in calling for truly comprehensive food labelling.

Some numbers regarding mis-stunning:

Data on mis-stuns is difficult to come by but The European Food Safety Authority's (EFSA) report on the "Welfare Aspects of Animal Stunning and Killing Methods (2004)" found that the failure rate for penetrating captive bolt stunning in conventional mechanical slaughter of cattle may be as high as 6.6% and that for non-penetrating captive bolt stunning and electric stunning this can rise to as high as 31%. A 2013 "Study on the Various Methods of Stunning for Poultry" stated that the percentages for poultry would be at 4%.

These studies are both Europe wide and somewhat outdated, one might prefer to rely instead on anecdotal reports from the Department for the Environment, Food and Rural

Affairs which suggest that current UK standards and improved stunning techniques mean that mis-stuns may now be at 1% across the board.

In the UK that would equate to 26,000 cattle mis-stunned, 100,000 pigs mis-stunned and 9.5 million poultry mis-stunned. The total quantity of cattle slaughtered for the Jewish community is around 20,000 with community slaughtering around 1 million chickens. We frequently ask animal welfare organisations why they are so much more focused on the tiny number of animals slaughtered for the kosher market rather than on the millions of animals who are mis-stunned every year – we are yet to receive a response.

Recently FSA statistics on mis-stuns were released following a parliamentary question on the topic. They showed that an unrealistically low number of mis-stuns had been recorded in the UK. For example in 2011, only 6 cattle were officially reported as having been mis-stunned. Following a series of follow up parliamentary questions, George Eustice MP, Parliamentary Under Secretary of State for Farming, has now conceded that these statistics may not be complete and that they may only represent a fraction of the actual number and the FSA will endeavour to improve its reporting methods in the future.

A note on terminology:

Please note that we are careful never to refer to '*ritual slaughter*' – there is no ritual involved in Shechita and it is a term used by opponents to portray it as some sort of medieval or barbaric practice. We instead simply use the word Shechita or 'religious slaughter'. We would very much appreciate if parliamentarians would help us by using these terms.

For more information on this topic please contact:

Shimon Cohen

020 7284 6947 or
07836 728790

scohen@theproffice.com

Mark Frazer

020 7284 6961 or
07876 402678

mfrazer@theproffice.com

Hounding Out Puppy Farms Agenda Item 7.7

A non-commercial set-up such as Hunt kennels, need not have been included in the legislation as they are not in the business of selling either puppies or breeding bitches. However, as they are included, a separate set of guidelines should be in place to accommodate dogs kept as packs so that their welfare needs are met and are not compromised. In a meeting with the Minister Rebecca Evans on the 6th of November, the Minister agreed to a separate set of guidelines and I await instruction from her officials.

- Puppies bred at hunt kennels are not for a sale. Hound puppies are never sold.
- Breeding hounds is a very selective process. Hounds selected to breed are chosen for confirmation, soundness, good health, working ability and physical and mental attributes.
- Hound puppies do not end up in domestic situations.
- Hounds are kept as packs; they eat, sleep, work and play together, naturally as pack animals. Special attention is paid to individuals who may be slightly shy in nature, for example, they get to eat first.
- Exercising a pack is very different to exercising many breeds with different needs. Hounds go out on walk together.
- Requiring more than one person to maintain a pack of hounds is neither practical nor justifiable. The staffing level required for keeping hounds is different to the requirements of keeping a variety of breeds, such as may be found in commercial dog breeding situations.
- Hunt kennels are already inspected by their representative organisation which is governed by the Council for Hunting Association. The Council for Hunting Association would be prepared to report to the Welsh Government. Hunt kennels that feed flesh / operate as collecting centres are already inspected by DEFRA and Trading Standards.
- Hunt kennels across Wales have contributed positively to the proposed microchipping legislation and most have microchipped. Many hunts already microchipped their hounds.
- To include hunt kennels in the same guidelines as those already set out for commercial kennels would be detrimental to their welfare as there are elements in the current guidelines that quite simply cannot apply to hounds kept as packs and their welfare would be seriously compromised. For example “each dog must have a bed of its own” would simply not work at kennels due to the nature in which they rest, together and rarely as individuals.

If you have any questions please contact Rachel Evans, Director for Wales for the Countryside Alliance on 07825337978 or rachel-evans@countryside-alliance.co.uk