



Sustainability Committee Inquiry into Environmental Delivery Options

Questions to Wales Environment Link

March 2011

Wales Environment Link (WEL) is a network of environmental and countryside Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the government and the environmental NGO sector in Wales. Its vision is to increase the effectiveness of the environmental sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector.

Wales Environment Link values the opportunity to take part in this important inquiry, and is pleased to provide additional information on the following questions, as requested by the Sustainability Committee.

1. Do you believe some functions currently performed by the delivery bodies could be delivered by the Welsh Government? If not, why not?

We consider that robust, independent advice, based on the best available science, is essential to the transparency and quality of decisions taken by government and other public bodies.

Examples of functions currently undertaken by the agencies that benefit from their independent status: where an agency exercises regulatory powers over Government (e.g. Environment Agency) or has quasi-judicial powers (e.g. through a statutory or advisory role related to a planning or licensing system, or the protection and designation of sites, areas or landscapes of national conservation significance) for which the Assembly Government is the ultimate decision-maker. A lack of independence in such cases could leave the Assembly Government open to challenge under EU legislation or the Human Rights Act.

The integrity and transparency of the evidence given to Government is essential for the public to have confidence that they have bodies who are acting on their behalf as environmental guardians. Therefore, we do not believe that this transparency would be well served if these functions were inside Government. It will be essential for any new environmental body or bodies to retain the breadth and depth of expertise they need to provide this kind of advice to Government (there is a risk that taking functions – and staff – into government would lead to a loss of specialist knowledge and expertise overall, because of the civil service culture of moving staff between departments).

However, it is also important to note that problems could arise from bringing the current suite of functions into one body, and ultimately it might not be possible to bring all functions together. For example, as Wales' nature conservation adviser, CCW has a remit to advise the

other agencies on regulatory and management matters (e.g. advising the EA on discharge consents). Careful thought must be given to how credibility and transparency can be maintained in relation to these functions.

Further, it is possible that other functions currently undertaken by the agencies could be delivered by Government and vice versa. We note that the Public Bodies Bill, as currently drafted, would allow such transfers to take place, as well as allowing environmental functions of other public bodies to be transferred. We hope and expect that any such decisions will include careful consideration of what functions are most likely to benefit from independence from government.

WEL has not yet developed a view on any specific functions that could be so transferred, partly because the detail of the discussions that have been held between the agencies and WAG has not so far been made available.

2. If a merger were to go ahead what disruptions would you foresee this having in the short and long term?

Any merger will need an investment of additional funding in the short term. This must NOT be taken from existing environmental budget lines, otherwise, delivery will be damaged through the transition period. Ministerial assurances on this point would be beneficial.

It is also inevitable that many staff in the agencies, and in Government, will be redeployed on researching and implementing any changes. Indeed, agency staff have already been deployed on this. Again, front line delivery must be protected from this as much as possible. For example, there are some very challenging deadlines to meet, such as our international commitment on designating a network of marine protected areas by 2012. Work on this timetable is already slipping behind. Much of the workload sits on a very few marine science and policy staff in CCW. Any disruption to their capacity will make it highly likely that we will not meet these commitments. Reporting on Natura 2000 sites is also due in 2012, and could also potentially be adversely affected by any disruption to the capacity of agency staff.

There is a particular area of complexity and concern around EA Wales' work. Many specialist services are shared across England and Wales. Separating these, redefining staff roles and contracts and agreeing new arrangements with EA in England on shared services and budgets has the potential to disrupt much of the vital work the Agency undertakes.

3. Do you believe a merging of the delivery bodies would lead to a loss in expertise and in the services delivered?

A merger would not necessarily lead to a loss of expertise in key agency functions, but care must be taken to ensure that loss of expertise is avoided. Such a loss would be much more likely if any functions were taken into Government. The civil service system of rotating staff through different departments would dilute the specialist expertise required to provide a sound evidence and advice base.

There will have to be careful consideration of access to expertise from the EAW and FCW as they are de-merged from their England/GB counterparts. It may be possible to replicate some of this expertise within Wales, where it currently resides elsewhere. However, there will also have to be provision for accessing expertise outwith Wales. Any such costs must be factored into budgets for change.

It must be recognised that expertise is already being lost from the agencies: in particular WEL members have noted loss in biodiversity expertise from CCW, which has not been replaced. Therefore, there is an opportunity for a realistic assessment to be made so that the expertise

within the new body, or bodies, is proportional to their obligations within the Section 42 list, so that the number of experts can sustain the level of support, advice and advocacy required by the number of species in the different taxonomic groups.

4. How do you believe a new body could build on and improve the relationships between other organisations and sectors?

There are many examples where application for planning permission or licensing and permitting, currently deal with several staff from different agencies. It should be possible to plan that a new body simplifies these systems, removing duplication and speeding up processes by planning them in a more integrated way. The private sector will particularly appreciate this. Private land owners whose land includes designated sites, for example, might also see benefits.

From the point of view of NGOs, and possibly the private sector, there may be scope for improved communication with a single environmental body, which could make engagement easier and more straightforward, particularly for smaller organisations that lack capacity to build relationships with three separate agencies. Internal benefits are also likely to arise if data is available across the board, rather than one agency being required to pay another for data to report on similar/related objectives (e.g. under the Water Framework Directive and Habitats Directive).

5. Do you believe stakeholders outside of the statutory agencies and the Welsh Government have been adequately involved in the discussions so far?

No. The details of the discussions that have taken place, and the analyses undertaken so far, are not in the public domain. We have seen no analysis of the feasibility of a three way merger or any other option.

A Living Wales – the NEF consultation – did include a short note on the review, and it listed the questions that were to be considered as part of it (in total amounting to half a page). The note explained that the review was “looking principally at the potential benefits of restructuring activities of the EAW, the CCW and the FCW to enable them to take a more integrated and sustainable view of environmental management based on the ecosystems approach”. No proposals or options were presented. The questions were for consideration as part of the review, rather than being consultation questions that respondents could address using the information provided. For example, one question was “What are the detailed costs and benefits of change?” Therefore, while this consultation was able to test the water in terms of the idea of a single body (and WAG has now published the initial views gathered <http://wales.gov.uk/docs/desh/consultation/110225nefsummresponsesrefreshen.pdf>), it can in no way be considered to represent adequate involvement of stakeholders. Non-statutory stakeholders have still not been invited to participate in the review. We consider full participation to be essential as more detailed proposals are developed.

When the Countryside Agency, English Nature and parts of the Rural Development Commission were merged in England, Defra set up a group for stakeholder organisations to exchange views and ideas on delivery, outcomes, governance, vision and values. WEL suggests setting up a working group in Wales, so that we, and other stakeholders, can participate fully in the review.