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Gweinidog yr Amgylchedd a Datblygu Cynaliadwy
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Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

Lord Dafydd Elis-Thomas AM
Chair of the Environment and
Sustainability Committee

7 November 2012

Dear Dafydd,

Thank you for your letter of 24 October 2012 about the draft Natural Resources Body for Wales (Functions) Order 2012.

The issues raised in your letter were also highlighted in some of the responses to the supplementary consultation which ended on 5 October. A summary of the issues raised in the consultation responses, together with the 107 responses received, will be published shortly on the Welsh Government's website at:

<http://wales.gov.uk/consultations/environmentandcountryside/singlebodyadditional/?status=closed&lang=en>

I am intending to lay the draft Functions Order on 15 November 2012. As a result of the consultation responses, a number of changes will be made to the draft order prior to laying. These changes will be explained in the Explanatory Memorandum which will be laid with the order; but, for ease of reference, I have included below my responses to the specific issues highlighted in your letter.

Nature conservation duties

I have recognised the concern of your committee and of some stakeholders about the possible weakening of CCW duties. The draft order that I will lay on 15 November will take account of that concern. The body's nature general conservation duties will be set out more fully in the order, and they will be more closely aligned with those of CCW where they apply to former CCW functions.

Self-permitting and internal consultation

I welcome your recognition that it is not appropriate to legislate for structures within organisations. My view is that it is for the body to take account of these factors and I will ask the body to ensure that their proposals reflect the intentions that were set out in the main and supplementary consultations.

Transparency and accountability

I agree with the point about the timing of publication of information. The draft order that is laid before the Assembly will therefore ensure that the scheme specifies the time within which information will be published and will require publication of information about applications as well as decisions. The draft order provides that the scheme requires the Welsh Ministers' approval, and I will expect to see reasonable provision for timeliness. The requirements of the body's publication scheme will be in addition to publication requirements that currently apply to the existing bodies.

Regulation of Investigatory Powers Act 2000

The Committee has queried whether the body's broader remit (compared to the Environment Agency) will mean that it applies the Regulation of Investigatory Powers Act 2000 (RIPA) powers more broadly. I do not intend that the broader remit of the body will result in any extension of the use of these powers. The body will only be able to exercise RIPA powers in cases where they are currently available, in connection with functions that are being transferred to the body from the Welsh Ministers and the Environment Agency.

The order will add the body to the list of relevant public authorities in RIPA; but that will not in itself enable the body to exercise the RIPA powers. Before the powers can be exercised, the Secretary of State will need to make an order designating the categories of the body's officers who can authorise use of the RIPA powers, and the circumstances in which they can do so. I intend to ask the Home Secretary to designate the body's officers to authorise use of the RIPA powers only in circumstances where the powers are currently available.

I would like to thank you for your helpful comments on the draft Functions Order and I look forward to providing more information when I attend the Committee on 28 November.

Best wishes,



John Griffiths AC / AM

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