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Y Gweinidog Adnoddau Naturiol a Bwyd
Minister for Natural Resources and Food



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Lord Dafydd Elis-Thomas AM
Chair
Environment and Sustainability
Committee

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Alun Davies

SCRUTINY SESSION OF 21 FEBRUARY 2013

I write in response to your letter of 4 March to the then Minister for Environment and Sustainable Development, which requested further information following his appearance before your Committee on 21 February.

As you know, earlier this month I was delighted to accept the post of Minister for Natural Resources and Food and I am pleased to attach, as an annex, responses to each of the questions raised in your letter.

I have written to you separately concerning your request for further information following my appearance before the Committee as then Deputy Minister for Agriculture, Food, Fisheries and European Programmes on the same day.

I look forward to working closely with your Committee.

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Natural Resources Wales (NRW)

We would appreciate a summary of the differences between the original Business Case figures and the updated business case costings that are to be agreed with the Natural Resources Wales executive on 1 April 2013. In doing so, can you please set out the following:

- Costs, benefits and net benefits;
- The impact of the pensions decision in terms of costs, benefits and net benefits; and
- The impact of the re-profiling of IT spend decision in terms of costs, benefits and net benefits.

Minister for Natural Resources and Food:

- The new information does not compromise the conclusions of the business case. Benefit after cost remains very positive, and the choice of options is unaffected. However, my officials and NRW staff are working to update the baseline that NRW will work to, taking account of the most up to date information. This work is unlikely to conclude before 1 April, largely because the staff concerned are focussed on ensuring successful delivery of NRW operations on vesting day. I understand that my predecessor has discussed this matter with you and I shall be happy to provide a finalised set of figures and supporting narrative to you and your Committee at the earliest opportunity after that date.

During the session, you told us that that NRW will need to exit support from the UK Environment Agency (EA) and Forestry Commission (FC) earlier than anticipated in the business case. We would appreciate more information on:

- The reasons for this change;
- Whether there is a link between this and the decision to re-profile IT investment;
- Details of any other impact this has on the business case figures; and
- An updated timeline for exiting support from the UK bodies.

Minister for Natural Resources and Food:

- Firstly, as a point of clarification, the earlier exit from IT support refers to the EA, rather than FC. Exit from FC systems will progress over a similar time period to that originally envisaged.
- The business case assumed that access to EA systems would be available for a period of between 3 and 5 years, depending upon the speed of business transformation in the NRW. However Defra's triennial review of service provision in England has identified the amalgamation of EA and Natural England as a possibility (and the review team has already held a meeting with members of the NRW programme team). In this situation continued widespread service provision to Wales would be a complicating factor for the EA.

- Under the circumstances, EA has indicated that it is only willing to provide transitional service support for two years via an ICT gateway to NRW systems. (It has also agreed to continue to provide IT support where it is providing long term services).
- Meeting this shorter timescale will require an accelerated development process as compared with the original assumption. We have therefore re-profiled ICT spend assumptions accordingly.

Action points

You agreed to provide us with:

The latest figures for the pension costs of the single environment body, and in particular the EA scheme's deficit;

Minister for Natural Resources and Food:

- Provision of the live pension scheme for NRW (Principal Civil Service Pension Scheme) is cost neutral for the organisation. There is currently a deficit within the closed section of the Environment Agency Pension Fund (EAPF). This deficit varies from day to day as a result of changing market conditions, and also varies according to the actuarial assumptions used.
- The latest figure shows that the pension fund can currently meet 84% of its liabilities. This deficit will require NRW to increase the level of employer contribution made to EAPF to 33% of payroll costs for ex-EA staff (from the 16.5% EA Wales currently pays). The cash equivalent figure is an additional £4.6m pa from 2014 to 2017. The contribution level after 2017 will be set by the detailed triennial valuation that will be carried out in 2016. As mentioned above, changing market conditions will inevitably lead to further changes to this figure, over the time period, which may be positive and negative.

When the breakeven point included in the business case for the single environment body is now expected to be reached;

Minister for Natural Resources and Food:

- A number of changes to both costs and benefits, both positive and negative, have arisen in the period between the business case completion and the delivery of NRW. As I mentioned above, NRW staff and programme team members are busy updating the business case assumptions including an updated NPV profile, which will provide the break even point. I will write to you after 1 April to clarify this point.

The amount of funding provided by the UK Environment Agency for the laboratory in Llanelli.

Minister for Natural Resources and Food:

- The EA has spent approximately £480,000 in this financial year in preparing the Llanelli laboratory to meet NRW's future needs.

Bovine tuberculosis

Can you please provide us with further information on why this £3.5 million is not required for bovine tuberculosis policy and why it has been transferred to fund Natural Resources Wales restructuring?

Minister for Natural Resources and Food:

- As the then Minister mentioned during the Committee, the majority of the £3.5m budget which was transferred during the supplementary budget motion relates to additional funding available from the European Commission (EC) towards TB testing and TB Compensation. This claim for additional funding is subject each year to approval by the EC of a UK Bovine TB Eradication Plan and is paid out retrospectively. The anticipated income for 2012-13 is £3m. This £3m income along with £0.5m from the £10m Eradication budget was unable to be committed during 2012/13, and so approval was given for funding to be re-allocated to support the NRW ICT Restructuring costs. This is due to NRW's access to the existing legacy systems ceasing after year 2 of vesting date, and as such the delivery of the NRW systems and networks has had to be accelerated, bringing forward increased capital and revenue spend into the programme budget and the first year of NRW's operation.

We further note that you agreed to look at how the budgets supporting bovine tuberculosis policy are presented and we look forward to seeing clearer budgetary arrangements in place when we come to scrutinise the draft budget for 2014-15 in the autumn.

- Agreed.

Natural Resource Management Programme

Can you please provide us with an update on when we can expect further information on natural resource management and a definition of the ecosystems approach?

Minister for Natural Resources and Food:

- The Programme is working towards the publication of the White Paper and the Environment Bill later this year. This will be our opportunity to explain the ecosystem approach.
- Nonetheless, there is a recognised international definition of the ecosystem approach - the Convention on Biological Diversity (CBD) defines the ecosystem approach as '*a strategy for the integrated management of land, water and living resources that promotes nature conservation and sustainable use in an equitable way recognising that humans with their cultural diversity are an integral part of ecosystems*'.
- An ecosystem approach is therefore about ensuring our decisions are based on an appropriate understanding of ecosystems and the services that they provide.
- This links with the purpose of Natural Resources Wales, as set out in its Establishment Order, to '*ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used*'.

- Embedding the ecosystem approach which offers a framework for natural resource management and decision making processes, including the potential for more integrated approaches to environmental management regimes such as Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) is an key component of the Natural Resource Management Programme.

The legislative programme

Can you please provide us with:

An updated timeline for the four Bills within your legislative programme, including timelines for consultation and expected dates for introduction;

Minister for Natural Resources and Food:

- As you will be aware, the Minister for Communities and Tackling Poverty will now oversee the introduction of the Sustainable Development (SD) Bill and the Minister for Housing and Regeneration will oversee the introduction of the Planning Bill and Planning Consolidation Bill.
- However, I can advise the following:

SD Bill

The White Paper "A Sustainable Wales Better Choices for a Better Future" was published on 3rd December and the consultation closed on 4 March 2013.

We anticipate that the SD Bill will be introduced in the autumn term.

Planning Bill

A comprehensive evidence base has been assembled to inform the Planning White Paper and underpin the Planning Reform Bill. The White Paper and draft Bill will be published before the end of 2013.

Environment Bill

As noted above, the Environment Bill White Paper will be issued for consultation later this year.

Control of Dogs (Wales) Bill

We published the draft Control of Dogs (Wales) Bill for consultation on the 23 November 2012; the consultation closed on the 1 March 2013 and we are currently considering the responses.

Confirmation of the Bills for which we can expect draft Bills to be published;

- As noted above, the draft Control of Dogs (Wales) Bill was issued for consultation last year. We also propose to issue a draft Planning Reform Bill alongside the Planning White Paper.
- We have published / will be publishing White Papers for the remaining Bills. We welcome the Committee's input into the consultations on our proposals set out in the White Papers.

Details of any plans you may have to divide any of the Bills into consolidation and additional powers Bills.

- We have previously announced our intention to split the proposed Planning Bill into two Bills. The first Bill, the Planning Reform Bill, will be published later this year. It will include new and amending legislation to improve the operation of the planning system. A second consolidating Bill will be introduced later. It will consolidate and re state existing planning legislation, including the Planning Reform Bill to create a single Welsh Planning Act.

Environment Bill

In addition to the confirmation of the timeline and details of the consultation process you have planned for this Bill (as requested above), can you please provide us with a list of policy areas that we can expect to be covered by this Bill?

Minister for Natural Resources and Food:

- In developing the options for the Environment Bill we are considering a range of provisions as part of the scoping work, including proposals for any legislative changes that might be required to support integrated natural resource management and other aspirations set out in the Sustaining a Living Wales Green Paper.
- As the detailed content of the Environment Bill is currently being considered, it is too early to provide a list of the policy areas that will be covered. We envisage however that the Bill will focus on providing for more integrated management of the natural environment in Wales and removing barriers in the current regulatory system that prevent such an approach. This in turn will deliver better long-term environmental benefit, whilst also delivering wider economic and social benefits in a more integrated way.

Control of dogs Bill

We will be receiving a factual briefing from your officials in relation to this Bill on 13 March. In addition to confirmation of the timeline for this Bill, I would be grateful for further information in relation to:

- **How it will interact with the planned breeding and micro chipping regulations; and**
- **The timeline for the introduction of the above regulations**

Minister for Natural Resources and Food:

- The three pieces of dog welfare legislation (Dog Breeding, Compulsory Microchipping and the Control of Dogs Bill) are part of a range of initiatives to promote responsible dog ownership and are set out in the Road Map on Dog Welfare which accompanied the consultation document on the draft Control of Dogs (Wales) Bill
- The Animal Welfare (Breeding of Dogs) (Wales) Regulations are currently in the legal translation process and will be laid in the Assembly in June this year. The Regulations will require licensed dog breeders to meet the high standards set out in the Animal Welfare Act, place a maximum staff: dog ratio in breeding kennels and require all puppies to be microchipped and registered to the breeder before sale.
- To further encourage responsible ownership legislation to require the compulsory microchipping for all dogs in Wales will be introduced. The consultation indicated strong support for compulsory microchipping and officials are considering the details. I welcome

the recent announcement by Defra that England would be introducing compulsory microchipping for all dogs by April 2016 and because of similarity of legislation will ensure that similar rules are in place although it is expected that we would have an earlier commencement simply because of the smaller number of animals to be microchipped.

Environmental Impact Assessment Directive

In light of the European Commission's proposals to review this Directive, we would welcome your views on these proposals.

Minister for Natural Resources and Food:

- I welcome the Commission's stated intention to reduce burdens on developers and competent authorities by reducing the number of projects that should be subject to EIA. However, the proposal as drafted will not achieve that objective. Many of the proposals will add significant time and cost burdens to developers and competent authorities. They also cover matters that go against the principle of subsidiarity and should be left to Member States to decide.
- I agree with the UK Government's stance of avoiding increased burdens on businesses. This fully reflects the Welsh Government's position on creating jobs and enabling growth in these tough times. So we will be probing the Commission about any additional burdens created by their proposal.
- Whilst challenging the Commission's view of the burdens created by their proposal, we do not want to lose sight of the opportunity to improve the application of the Directive, as the principles behind the changes support the Welsh Government's approach to sustainable development and natural resources management.
- We have asked the Secretary of State for Communities and Local Government to ensure Welsh Government officials remain an active part of the negotiation process.
- Officials will consult with key stakeholders from each sector on the Commission's proposal, which will inform future Welsh Government representations on any amended text that is put forward during the negotiation.

Operations of Forestry Commission Wales

You will be aware that the Auditor General for Wales published his follow-up report on the operations of Forestry Commission Wales in January. Can you please provide us with your response to the recommendations made by the Auditor General for Wales?

Minister for Natural Resources and Food:

- The report has been considered by Forestry Commission Wales's (FCW) Audit and Risk Committee (ARC) and NRW's Audit and Risk Assurance Committee (ARAC). An action plan has been developed to address the recommendations made in the report and to chart progress against them.

- Wherever possible, FCW are working to discharge as many of the recommendations as possible by 31 March, 2013. Where recommendations will require work that extends beyond this date, they will be the responsibility of NRW.

Water policy

You will be aware that we are currently undertaking an inquiry into water policy in Wales, with a focus on issues of competition and affordability. Can you please provide:

- Your current views on the introduction of competition into the non-household market in Wales (as outlined in the UK Draft Water Bill) and, should competition be introduced in England and not in Wales, what you will do to ensure that Welsh customers are not disadvantaged;

Minister for Natural Resources and Food:

- To date, we have not seen evidence to support the introduction of a competitive market for the water sector in Wales. Our position has not changed at this time, in that we remain to be convinced that the market reform proposals being taken forward in the Bill will deliver the best results for business customers in Wales.
- It is our view that the existing impact assessments which accompany the draft Bill do not provide enough evidence to support the case for non-household water customers in Wales switching their water and suppliers.
- In the draft Water Bill, we have included an order making power for Welsh Ministers to take forward proposals in the future for non-household water customers in Wales to switch their water and sewerage suppliers. We would only use these powers in the future if there was a justifiable case to do so, which delivered results for business customers.
- We are dedicated to developing policy options to ensure that water companies in Wales provide all customers with value for money and a sustainable and effective service. We will be consulting on our policy proposals in our forthcoming Water Strategy for Wales, which I intend to publish later this year.
- This is not about us not wanting to give business customers a choice. We are currently developing work for our Strategy which will look at options for delivering the best, value for money services for domestic and business customers in Wales. We intend to explore a number of ways to deliver efficiency gains, the introduction of elements of competition being just one of the potential options.
 - **A timescale for consulting on the proposed Water Strategy and explain the reasons for the delay to this consultation, as the *Programme for Government* states that you would be publishing a Water Strategy for Wales for consultation in Autumn of 2012.**

Minister for Natural Resources and Food:

- There is currently a significant amount of work underway to inform the policy development for the Water Strategy for Wales. This work is including engagement with stakeholders, both on an individual level and through a series of events and a review of literature and evidence available in relation to specific policy areas.

- This is a time of significant change for the water sector with the creation of Natural Resources Wales, a focus on Natural Resource Planning, the draft UK Government Water Bill and a change to a more outcomes based approach to investment for the next price review. Engaging with a range of stakeholders at this early stage is essential to ensure that any proposals are achievable and will deliver real benefits for the citizens of Wales.
- It is essential that the Water Strategy for Wales maintains a real Welsh identity and is in-keeping with our culture and values. We will be setting the context of the Strategy in the context of wider Welsh Government commitments, including the Programme for Government, the Natural Resource Management Programme, the Tackling Poverty agenda and the Sustainable Development White Paper.
- Our overall aim is to streamline and simplify the way we work and ensure we have legislation, regulation and planning processes that are effective and fit for purpose to manage our natural resources in Wales. We want a future where we are able to work more in a more integrated, holistic way to ensure that we deliver the best results for the citizens of Wales and that the work of Natural Resources Wales is able to contribute effectively to delivering environmental, economic and social benefits.

Waste policy

I would be grateful if you could please provide:

- **Details of when you are planning to publish or open consultation on the remaining waste sector plans (i.e. Industrial & Commercial; Public Sector; Agriculture; Draft Food Manufacture, Service and Retail; and the Municipal Sector Part 2);**

Minister for Natural Resources and Food:

- Since the publication of Towards Zero Waste, the overarching waste strategy document for Wales, in June 2010, a series of Sector Plans is being developed. The sector plans set out detailed actions to deliver the outcomes and targets laid out in Towards Zero Waste.
- The timeline for consultation and publication of the sector plans is as follows:
 - Following consultation, the Municipal Sector Plan - Part I was published on 10 March 2011 (the proposed Part II is being subsumed into the Waste Prevention Plan)
 - The draft Collections Infrastructure and Markets (CIM) Sector Plan consultation was launched on 10 March 2011 and the final plan was published on the 10th of July 2012
 - The draft Food Manufacture, Service and Retail Sector Plan was launched for consultation on 22 March 2011. The final plan is due to be published Spring 2013
 - The consultation draft of the Construction and Demolition Sector Plan was launched on 8 November 2011 and the final plan was published in November 2012
 - The consultation draft of the Industrial and Commercial Sector plan is scheduled for publication Spring 2013

- The consultation draft of the Waste Prevention Programme is scheduled for publication in Spring 2013
- The Consultation of the Public Sector Plan is scheduled for Summer 2013
- The Agriculture Sector Plan position paper shall be published in late 2013
- A delivery programme is being developed for the implementation of the actions set out in the plans. This programme will be completed during the course of 2014 after the final sector plans are completed
 - **An update on progress with the development of a Waste Prevention Plan for Wales (as required by the Revised Waste Framework Directive 2008/98/EC); and**

Minister for Natural Resources and Food:

- The draft waste prevention programme is scheduled to be launched later this month. It will cover the prevention of Household, Commercial, Industrial, Construction and Demolition waste streams. A key objective is to produce a document which fulfils the requirement of Article 29 of the revised Waste Framework Directive with regard to the production of Waste Prevention Programmes.
- The Waste Prevention Plan will set out a programme of work to meet the waste prevention targets (including the priority materials for waste prevention) described in Towards Zero Waste and set out the business case for doing so. The programme will take full account of the principle that Sustainable Development is the central organising principle of the Welsh Government, will seek to promote jobs and growth in a more resource and materials efficient economy, and will take account of the opportunity to align approaches with those being taken forward as part of the development of the Sustainable Development Bill.
- The final Waste Prevention Programme is scheduled for publication in December 2013.
 - **Information on any steps you will take to support emerging waste treatment technologies that may have the potential to provide a viable alternative to incineration.**

Minister for Natural Resources and Food:

- We keep alternative waste treatment technologies under continual review. The Regional Waste Plans assessed the known existing and emerging technologies, and we carried out a further detailed assessment of options in preparing the 2010 Wales Waste Strategy Towards Zero Waste.
- Local authorities are responsible for making decisions on the technologies that deal with their non-recyclable municipal waste. Each technology is evaluated on its merits when tenders are received by local authorities. The procurement exercises are technology neutral. We will remain technology neutral in our support for future procurements for the treatment of residual municipal waste

- For wastes that cannot be recycled the most sustainable alternative to landfill is energy recovery. This is fully in accordance with the waste hierarchy that puts energy from waste above landfill.
- Evidence gathered by the Welsh Government indicates that the treatment method most likely to deliver best the sustainable development outcomes identified in One Wales, One Planet and in Towards Zero Waste for residual waste is the “Use as a fuel of the residual municipal waste left after recycling in energy recovery plants with high energy efficiency”.
- It is for operating companies to bring forward new technologies and new processes are frequently brought to Government for consideration. There are several types of energy recovery, including incineration. Possible “alternatives” such as gasification and pyrolysis are under development. However, the latter two are usually regarded as “emerging” technologies because they are not in common use in Europe, are still subject to technological proving on a commercial scale, and indeed have failed in places – for example in Germany.

Climate Change

I would be grateful if you could please provide an update on progress made in developing indicators on the ‘wider contribution of others’ in order to measure their contribution to your carbon emission reduction targets.

Minister for Natural Resources and Food:

- We recognise that the desired level of emission reductions cannot be delivered by Government policies alone and there will need to be contributions from other stakeholders and the wider community in Wales.
- We are currently working to identify an appropriate set of indicators to represent the emission reductions being delivered outside of government policy drivers and within the wider public sector. We will provide an update on this in the Climate Change Strategy Annual Progress Report 2013.

Local Development Plans

You agreed to look at the recording of Local Development Plan hearing proceedings. Please provide us with details of how you intend to take this forward.

Minister for Natural Resources and Food:

- This is a matter for Planning Inspectorate Wales, who have provided the following response:
 - Transcription services are currently not provided at planning appeals or development plan/ community infrastructure levy examinations. In recent years the only occasions where this occurred was in respect of the Terminal 5 inquiry at Heathrow and the Dibden Bay inquiries. These were inquiries of national importance and can therefore be considered as exceptional in this regard.

- In the experience of the Planning Inspectorate, both in England and Wales, the transcription of inquiries, hearings and examinations is not necessary and would be a disproportionate cost. It should be noted that the Inspectorate conducts some 20,000 appeals each year, of which 12% are in the form of hearings and 2% public inquiries. In addition, about 80 development plan examinations take place. There is no evidence to indicate that the lack of a transcription service has created difficulties for Inspectors or other participants, or led to any successful challenges to decisions. Inspectors' notes are retained for a period after any event and can be requested under Freedom of Information. Likewise, should a High Court challenge depend upon what was said at an event, Treasury Solicitors may require affidavits from participants.
- LDP examinations deal with the main issues relating to the soundness of the submitted Plan and do not, therefore, report on every representation made in relation to the submitted proposals. Moreover, the aim is to create an inclusive environment, where all participants present feel able to take part. It might be suggested that the formal 'taking of evidence' could inhibit an open useful discussion. Examination documents relied upon by participants are published on the examination website, as are any Matters Arising Changes to the Plan that have come about from discussions at the hearing sessions. Any notes taken by the Inspector, or indeed a planning officer assisting with proceedings, would be written within the context of those published documents and need not record each and every word spoken at the event.
- Managing an inquiry or hearing and keeping a note of material points is by no means an easy task and draws upon the skills of the appointed Inspector. However, that is the role of the Inspector and is one of the reasons that entry requirements, training and monitoring of Inspectors is so high and vigorously enforced. We are not aware of any situations where a transcription of events would have been in the public interest, improved the decision making process or justified given the cost of providing such a service.