

National Assembly for Wales  
Environment and Sustainability Committee  
NRW 2015 – 75  
Natural Resources Wales – Annual Scrutiny 2015  
Response from Friends of the Earth Cymru

April 2015

# Submission to the Environment Committee

in its scrutiny of

# Natural Resources Wales



**cyfeillion  
y ddaear  
cymru  
friends of  
the earth  
cymru**

## Natural Resources Wales

### Introduction

1. Friends of the Earth Cymru had an open mind about the formation of Natural Resources Wales (NRW) and the dissolution of its constituent bodies.
2. However, such serious concerns have arisen about NRW – particularly over governance, its independence from government, transparency, planning and integrity and honesty – that we consider the time has come to reconsider whether or not the current model is an appropriate one.
3. Professor Neil Kay conducted a review of environmental governance of the environmental agencies in Scotland in 2007<sup>1</sup>. It is worth quoting one section from Professor Kay's paper:
 

*“the lack of possible major gains from conventional merger are only one part of the problem... not only could subsequent problems be difficult to rectify (say by demerger), they could be difficult to identify in the first place given the nature of public bodies compared to private, and the lack of closely comparable bodies in a Scottish context for comparison purposes. **Not only could the merger be a mistake, it could be a merger that would simply be perpetuated indefinitely because the combined bureaucracy would make it more difficult to identify where things have gone wrong. If you want to pursue the policy objectives that SEPA and SNH set out in their remit, then if you did not have a distinctive SEPA and SNH you would probably want to invent them. That being the case, and looking at the balance of the argument, I would argue that there is no net case that can be made for a conventional merger between SEPA and SNH. It is something that could be expected to deliver few, if any benefits, entails severe risks on a number of counts, and is likely to destroy value for a number of reasons outlined above.**”*
4. The UK Government's triennial review of the Environment Agency and Natural England in 2013<sup>2</sup> also concluded that the two agencies should be retained as separate public bodies with separate purposes and functions. The review included an assessment of their compliance with principles of good corporate governance<sup>3</sup>.
5. The Environment and Sustainability Committee's report on the single environment body (NRW) in May 2012<sup>4</sup> identified concerns regarding transparency and the resolution of conflicts (separation of functions), and the loss of relationships between stakeholder organisations and (specialist) staff.
6. We regret that many of Professor Kay's fears – and indeed those of this Committee – have come to pass in the case of NRW. The question is: will this merger “be perpetuated indefinitely” even though it appears to have delivered few benefits, entails severe risks and is likely to have destroyed value?

<sup>1</sup> [www.gov.scot/resource/doc/921/0088306.doc](http://www.gov.scot/resource/doc/921/0088306.doc)

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/209382/triennial-rev-ea-ne.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209382/triennial-rev-ea-ne.pdf)

<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/209383/principles-corporate-governance-ea-ne.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209383/principles-corporate-governance-ea-ne.pdf)

<sup>4</sup> <http://www.senedd.assembly.wales/documents/s7329/The%20business%20case%20for%20a%20single%20environment%20body%20-%20Report%20-%20May%202012.pdf>

7. We recommend that there should be an independent review of environmental governance in Wales before the problems experienced manifest themselves in further environmental degradation, and before half of the staff of NRW have left (as is projected to happen within three years if the staff survey is to be believed – see paragraph 37). Such a review should consider the current arrangements alongside the risks identified in the Environment and Sustainability Committee’s report on the single environment body in May 2012, and the reviews of environmental governance and non-departmental bodies in England and Scotland.
8. This recommendation is not least because there are relatively few jurisdictions throughout Europe that have adopted the approach of placing regulatory and conservation environmental functions in one body. Northern Ireland and Sweden appear to be two such, and Northern Ireland is a case study in failures of environmental governance that surpasses all.
9. A useful indicator of good governance would be an assessment of NRW’s interpretation of and delivery of its purpose, duties and functions. Another would be an assessment of governance arrangements for compliance with legal obligations where potential conflicts of interest might occur (identified as potential risks in the creation of NRW) such as self-consenting and permitting, and the assessment of NRW’s own projects and plans under EU regulations such as the Environmental Impact Assessment Directive, the Strategic Environmental Assessment Directive and Habitats Directive.
10. An independent review of environmental governance would also be timely to inform the proposed Environment Bill, the draft of which included several provisions on the remit of NRW. Such a review should be set within the context of international, European and other environmental obligations, as well as new Welsh legislation, particularly the Well-being of Future Generations (Wales) Bill<sup>5</sup>.

## **Governance – The purpose of Natural Resources Wales**

11. The Welsh Government established NRW under two legal orders. Although the remit of the body did not fundamentally change from that of the legacy bodies, a new statutory ‘purpose’ was created<sup>6</sup>, which requires NRW to ensure that:
 

*“the environment (which includes without limitation living organisms and ecosystems) and natural resources of Wales are sustainably maintained, enhanced and used for the benefit of the people, environment and economy of Wales in the present and in the future”*
12. The Establishment Order<sup>7</sup> makes clear that the purpose does not give the body power to (a) do anything that it would not otherwise have the power to do, or (b) exercise any of its functions in a manner contrary to the provisions of any other enactment or any EU obligation. In simple terms, this

<sup>5</sup> <http://www.assembly.wales/laid%20documents/pri-ld9831%20-%20well-being%20of%20future%20generations%20%28wales%29%20bill/pri-ld9831-e.pdf> Part 2 (6)

<sup>6</sup> The Natural Resources Body for Wales (Establishment) Order 2012, Part 2 (4) – Purpose of the Body : <http://www.legislation.gov.uk/wsi/2012/1903/article/4/made>

<sup>7</sup> [http://www.assembly.wales/Laid%20Documents/SUB-LD-8922%20-%20The%20Natural%20Resources%20Body%20for%20Wales%20\(Establishment\)%20Order%202012-30052012-234816/sub-ld-8922-e-English.pdf](http://www.assembly.wales/Laid%20Documents/SUB-LD-8922%20-%20The%20Natural%20Resources%20Body%20for%20Wales%20(Establishment)%20Order%202012-30052012-234816/sub-ld-8922-e-English.pdf)

indicates that the purpose does not override the core statutory duties and functions that the body must fulfil under UK and EU law.

13. Whilst there is provision in the Establishment Order for the Minister to provide guidance to the body on the interpretation of its purpose in the delivery of its functions (Part 2.5 - Guidance with respect to the Body's purpose), no such guidance exists.
14. Notwithstanding our call for a review of environmental governance in Wales, the Committee might like to explore the absence of guidance on the statutory purpose of NRW, especially given that there is *"No shared understanding of what NRW is trying to achieve in its involvement in planning and development cases... staff are unclear whether they should be interpreting NRW purpose in their advice"* (see paragraph 27).

### **Governance – Economic considerations**

15. NRW has confirmed that it employs a grand total of two economists and one social scientist<sup>8</sup>. Part of the responsibility of these three staff members is presumably to weigh up the competing economic and social concerns of developments alongside the environmental impacts assessed by the 1,500 or so staff with particular specialist environmental expertise.
16. NRW has voluntarily adopted the Regulators' Code. This is a way of working designed by the UK Government for use by statutory bodies in England<sup>9</sup>. NRW describes how the Regulators' Code: *"is not statutory in Wales, although Welsh Government requires us to have regard to it... therefore we will adopt the Regulators' Code resulting in this being embedded into our regulatory approach"*<sup>10</sup>.
17. The Regulators' Code, which NRW has 'embedded into its regulatory approach', states that: *"When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities"*<sup>11</sup>.
18. The Committee may wish to explore to what degree it is desirable for the statutory environmental conservation body in Wales to be a vehicle for 'supporting or enabling economic growth', and how any conflicts between that (voluntarily adopted) economic growth function and its statutory environmental conservation function are resolved in practice.
19. The Committee may also wish to explore whether or not an organisation employing two economists (*vis a vis* 1,500 or so staff with environmental expertise) has the relevant expertise to discharge a function to support or enable economic growth.

<sup>8</sup> <http://www.senedd.assembly.wales/documents/s23273/Paper%205.pdf>

<sup>9</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300126/14-705-regulators-code.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf)

<sup>10</sup> <http://senedd.cynulliad.cymru/documents/s36821/03.02.2014%20Gohebiaeth%20-%20Cyfoeth%20Naturiol%20Cymru%20at%20y%20Cadeirydd.pdf> page 18 of 19

<sup>11</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300126/14-705-regulators-code.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf) para 1.2

20. There is disquiet in the conservation sector that a focus on facilitating developments has led NRW to downgrade ecological and conservation concerns. Evidence supporting this contention is presented below (particularly with relation to the Circuit of Wales – see paragraphs 30-33). It has also been eloquently stated by several other respondents to this call for evidence (see for example, that of Ivor Rees<sup>12</sup>).
21. Finally, we have grave concerns that the combination of the factors above has been used as a way to absolve Ministers from taking responsibility for weighing up the environmental, social and economic consequences of development. We consider the appropriate model to be for the environmental specialist to provide environmental information to the Minister, who then weighs up the environmental, social and economic consequences of development. It appears that NRW is to some extent becoming that *de facto* decision-making body – despite the tremendous imbalance in expertise – as a result of the creeping encroachment of economic considerations in the recommendations made and decisions taken by NRW. It means that contentious decisions are potentially determined away from the proper unit of democratic accountability: the Minister.
22. Emyr Roberts has stated publicly that “*we need to get the best possible solution for the environment*”<sup>13</sup>. It is difficult to reconcile getting the best possible environmental outcome when the organisation is moving towards a permissive approach for developments in pursuit of economic growth.
23. It is worth quoting the late Morgan Parry in his role as NRW Board Member in regard to the issue of economic consideration:  
*“I know that staff are finding it difficult to do anything other than give the same answer [on Circuit of Wales] as we would have done before vesting day. We are after all, required to advise planning authorities on the impacts of projects on protected landscapes, wildlife and other environmental assets, Nothing in our mission, our purpose or our business plan changes the balance of evidence we are required to consider in providing advice. We are not required to advise on the positive benefits for the economy and society and in my view we shouldn’t do that. That’s for the developer, the local chamber of trade, the CBI and all the other groups who promote economic development. It’s then up to the planning authority, as the democratically elected authority, to balance the competing views and come to a decision. How they do that is influenced by Planning Guidance, from WG. The only way our advice on issues such as Circuit of Wales is going to change is if we are directed by Government to have regard for other factors over and above the environmental ones. And that, I believe, would be a very sad day. As long as our advice was factually correct, based on sound evidence, and was consistent with our remit, and acknowledged the economic and social dimensions of the applicant’s proposal, I think we should support the staff. I also think we should patiently and modestly set out our opinion in the public domain, and emphasise the economic and social value of the national park, and if we did so we would retain public and political support, even if we make life a little difficult for the Government of the day”*<sup>14</sup>.

<sup>12</sup> <http://www.senedd.cynulliad.cymru/documents/s38763/NRW%202015%20-%2028%20Ivor%20Rees%20Saesney%20yn%20Unig.pdf>

<sup>13</sup> <http://www.bbc.co.uk/news/uk-wales-26827018>

<sup>14</sup> <https://naturiaethwr.files.wordpress.com/2014/02/cyngormorganparry1.pdf>

## Governance - Planning

24. NRW has a wide range of duties and functions. However, its role as a statutory adviser within the planning system is to provide independent and specialist advice to decision makers in government on the environmental impacts of proposed developments, and to provide advice on mitigation measures. It already has a statutory socio-economic duty, which does come into play in its advisory role, but its core duties relate to the environment, which after all, is its field of expertise. NRW's role in providing impartial specialist advice in this context is critical to good environmental governance within a sustainable development framework. NRW does not determine planning applications.
25. Correspondence from the Welsh Government indicates that it expected NRW's new statutory purpose to mean that the body would take a more permissive approach to development<sup>15</sup>. Alun Davies was also clearly of this opinion, complaining that *"the current NRW position [regarding the Circuit of Wales] does not reflect the totality of the statutory duties and the demands of the remit letter provided to NRW by the Welsh Government"*<sup>16</sup>.
26. NRW sought independent legal advice from a QC on this point, which was presented in a paper to the Board of NRW on Principles for Planning Advice in December 2013:  
*"Economic benefits which impact on the environment and natural resources do not satisfy the statutory purpose unless NRW considers that the development is sustainable"*<sup>17</sup>.
27. That same Board paper also highlights that staff involved in planning in NRW – by December 2013 at least – had:  
*"No shared understanding of what NRW is trying to achieve in its involvement in planning and development cases... staff are unclear whether they should be interpreting NRW purpose in their advice"*<sup>18</sup>.
28. The logical conclusion to be drawn from this legal opinion is that it is NRW's specific (prescriptive) duties and powers, rather than the new purpose, which are likely to be determinative of decisions we make with respect to planning, and that any legal challenge would focus on compliance with these specific duties.
29. An anonymous spokesperson from NRW recorded the following statements for BBC's *Wales Report* in March 2014:  
*"From day one of the new organisation it was clear that the Welsh Government Ministers and officials expected to have a strong day to day influence on the decisions and advice of Natural Resources Wales... Ministers and senior Welsh Government officials put pressure on NRW staff not to object to developments and not to support requests for applications not be called in... Officials*

<sup>15</sup> See email from Prys Davies to Ceri Davies and Trefor Owen here:

<http://gov.wales/docs/decisions/2014/environment/140801atn8610doc2.pdf>

<sup>16</sup> <https://naturaethwr.files.wordpress.com/2014/06/ati-request.pdf>

<sup>17</sup> <http://naturalresourceswales.gov.uk/content/docs/pdfs/our-work/board-meeting-agendas-minutes-and-papers/18-december-2013/paper-10-strategic-principles-for-planning-advice.pdf?lang=en>

<sup>18</sup> <http://naturalresourceswales.gov.uk/content/docs/pdfs/our-work/board-meeting-agendas-minutes-and-papers/18-december-2013/paper-10-strategic-principles-for-planning-advice.pdf?lang=en>



*have gone so far as to tell developers what NRW's position on a development plan will be, even before an application is submitted... NRW's Executive Team have not challenged the pressure being applied by the Welsh Government, and they themselves have put substantial pressure on staff to come up with the right answer for the Welsh Government, even where there is no evidence to support it."*

30. NRW's failure to get to grips with its planning obligations is exemplified in one of the worst cases by the Circuit of Wales application. For chapter and verse on the case, the Committee is invited to read the following articles:

<https://naturaethwr.wordpress.com/2014/01/15/cylchdaith-rasio-blaenau-gwent-i/>  
<https://naturaethwr.wordpress.com/2014/01/23/cylchdaith-rasio-blaenau-gwent-ii/>  
<https://naturaethwr.wordpress.com/2014/03/26/cylchffordd-rasio-blaenau-gwent-iii/>  
<https://naturaethwr.wordpress.com/2014/03/28/cyfweliad-emyr-roberts/>  
<https://naturaethwr.wordpress.com/2014/06/06/dylanwad-alun-davies/>  
<https://naturaethwr.wordpress.com/2014/11/24/cylchffordd-rasio-blaenau-gwent-mwy-fyth-o-lygredd/>  
<https://naturaethwr.wordpress.com/2015/01/09/cylchffordd-rasio-blaenau-gwent-beth-sydd-a-chnc-iw-guddio/>

31. A very brief synopsis of each article follows:

- NRW made a sudden U-turn on its strong opposition to the development based on an agreement with the developer of dubious quality that explicitly states it is not a legal contract. The Welsh Government has already spent £2 million on helping the scheme get to fruition and has promised £15 million more in the future.
- Concerns about the noise impact of the development on the National Park simply vanished from consideration by both NRW (from whom this formed one of the five bases of objection) and the Welsh Government. This was despite the Head of Environmental Health and Chief Planning Officer for Blaenau Gwent recommending refusal on this ground alone.
- One of the NRW Board Members (Harry Legge-Bourke), and at least two senior NRW staff members (Emyr Roberts and Graham Hillier) appear to have broken the Nolan principles through their actions relating to the Circuit of Wales.
- It appears that local authorities can give planning permission for a scheme the scale of the Circuit of Wales without obtaining input from the statutory environmental adviser (NRW).
- Alun Davies probably broke the Ministerial Code through attempting to influence NRW's planning advice on Circuit of Wales (this has subsequently been borne out through Sir Derek Jones' report).
- NRW concealed Board papers about the Circuit of Wales that raised serious environmental concerns *after* the date on which NRW had described the environmental factors as being of no greater than local significance. NRW appears to have a problem with transparency and openness (see below).

32. The Committee may wish to explore NRW's explanation for many of the questions that are posed about its role in permitting the Circuit of Wales and in planning matters generally.

33. The Committee may wish to commission or recommend the establishment of an independent investigation of the Circuit of Wales affair.

34. The Committee may wish to explore the problems that could stem from planning authorities granting planning permission for environmentally damaging schemes prior to receiving advice from the statutory environmental advisor, and explore means of redressing this planning inconsistency<sup>19</sup>.
35. The Committee may wish to consider at a later date whether or not the current arrangements for Planning Inspectorate Wales – in light of its relationship with the Welsh Government – fulfil the requirements of Article 6.1 of the European Convention on Human Rights<sup>20</sup>.

### Governance – Staff survey

36. We understand that the Committee has received a copy of the NRW staff survey. It reveals that there are serious problems with the management of NRW.
37. 17% of staff want to leave the organisation either as soon as possible or within the next 12 months. A further 30% see themselves staying for ‘at least a year’ but not three years. For any organisation – but particularly one employing many hundreds of highly specialist staff – these results must be horrifying. It leaves slightly more than half the 2,000 or so staff as wanting to remain with NRW for at least 3 years, or a desired<sup>21</sup> attrition rate of 1 staff member per work day.
38. Clearly there are serious management problems within the organisation:
- 9% of staff have *personally* experienced bullying or harassment at work *in the last 12 months*
  - Just 20% of staff feel that the organisation is managed well
  - 26% think that senior managers are sufficiently visible
  - 22% have confidence in the decisions made by senior managers
  - 14% think that change is managed well in the organisation
  - 17% think that changes made by the organisation are usually for the better
  - 26% feel they have the opportunity to contribute to decisions that affect them
  - 33% feel safe to challenge the way things are done in the organisation
  - 15% think that different parts of the organisation work well together
39. Based on the figures above it would not be overstating things to suggest that there is a management crisis in the organisation. After all, only 23% of staff believe that senior managers will take action on the results outlined above. It is highly unusual in such circumstances for such a crisis to emanate from anywhere other than the top of the organisation.
40. The Committee may wish to explore why staff feel so disenfranchised from their organisation. The Chair and Chief Executive may not be the most illuminating witnesses in this regard; consideration should be given to interviewing (possibly *in camera*) rank and file staff members.

### Transparency

<sup>19</sup> See <https://naturaiaethwr.wordpress.com/2014/03/28/cyfweliad-emyr-roberts/> for fuller details

<sup>20</sup> See <https://naturaiaethwr.wordpress.com/2014/11/24/cylchffordd-rasio-blaenau-gwent-mwy-fyth-o-lygredd/> for fuller details

<sup>21</sup> From the point of view of staff



41. It is worth quoting extensively from a paper presented to the Board of NRW<sup>22</sup> by the Communications Directorate in October 2013 in order to set out the context in which some of NRW's failures can be scrutinised:

*“Good communications is essential in helping Natural Resources Wales deliver its priorities, outcomes and services...”*

*The reasons why we need to communicate effectively can be summarised as:*

*a) To fulfil a specific legal or statutory requirement to provide public information about our work. For example, public consultations around sites that we designate or sites that we regulate.*

***b) As an integral ‘tool’ for achieving our outcomes; recognising that communications is a powerful delivery tool in its own right.***

*c) To help the public understand our work, especially where they are directly affected. For example, community relations work around sites such as Newborough, **or contentious sites...***

*Natural Resources Wales needs to establish itself as a credible organisation with a clear purpose, vision and priorities. **It needs to be open in the way it operates, establish trust in the way it works and build a strong profile.***

***Public respect and trust in public bodies and Government has declined due to a number of high-profile issues. This means that all public organisations are under heightened scrutiny and need to be more transparent and open in their communications than ever before.***

***Honesty, transparency and accessibility will form the foundation of our communications.***

*The organisation has made good progress in the first six months in achieving its communications objectives. **Notable achievements include... Reputational management around issues such as Circuit of Wales”***

42. The UK Government has a clear drive towards transparency. It states that :

*“openness and transparency can save money, strengthen people’s trust in government and encourage greater public participation in decision-making”<sup>23</sup>.*

43. The Welsh Government *“has followed the principles of openness in government for many years”<sup>24</sup>.*

Regrettably, the Welsh Government’s Code of Practice on Public Access to Information is no longer available on the Welsh Government website, although an archived 2007 version is available<sup>25</sup>.

Principle 1 of the Code is ‘maximising openness’: *“We will be as open as possible”.*

44. Natural Resources Wales itself *“aims to be as open and transparent as possible”<sup>26</sup>.* In this endeavour, it has adopted the Information Commissioner’s model publication scheme.

45. The purpose of the scheme:

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<sup>22</sup> See “Our approach to Corporate Communications” here: <http://naturalresources.wales/media/3585/october-16th-2013.zip>

<sup>23</sup> <https://www.gov.uk/government/topics/government-efficiency-transparency-and-accountability>

<sup>24</sup> <http://gov.wales/about/foi/?lang=en>

<sup>25</sup>

<http://webarchive.nationalarchives.gov.uk/20080814090248/http://new.wales.gov.uk/cisd/publications/codeaccessinfo2007/codee.pdf?lang=en>

<sup>26</sup> <http://naturalresources.wales/about-us/contact-us/request-information/publication-scheme/?lang=en>

*“is to make the maximum amount of information readily available at minimum inconvenience and cost to the public”<sup>27</sup>.*

46. It appears that transparency is a difficult concept for some in NRW. An email from the late Morgan Parry to fellow Board Member Madeleine Havard states:

*“Emyr clearly thinks he doesn’t need to respond to requests from the Board. I spoke to Peter M earlier and he says Emyr was reluctant to [send a copy of the final Circuit of Wales submission] because of his paranoia about putting things in the public domain, Fols etc”<sup>28</sup>.*

47. NRW appears to have concealed at least one Board paper. A paper exists (obtained under Freedom of Information provisions) that is not recorded on the Board Papers section of the NRW website, which raised serious environmental concerns over the Circuit of Wales *after* the date on which NRW had described the environmental factors as being of no greater than local significance<sup>29</sup>.

48. The Committee may wish to explore the reasons for this paper not being a public document, and to ascertain whether or not other examples of such unpublished Board papers exist.

49. At present the Disclosure Log (a list of responses to information requests) is not operational on the NRW website<sup>30</sup>. We hope that it is being updated to take account of the following criticisms<sup>31</sup>:

- NRW does not publish the information revealed under Information regulations in the same location as it lists the information requests. This is very poor practice.
- NRW requires people to send an email to the information team in order to obtain information that has previously been revealed by Information regulations. This is extremely poor practice: one of the principal purposes of Information regulations is that anyone should be able to freely examine information that has been revealed, not have to sift through information requests and email the body in order to examine them.
- NRW itself determines whether or not it will make public information requests:  
*“Please note that the disclosure log does not list everything that has been released under the Access to Information Legislation. The criteria for disclosing responses include:*
  - *A substantial public interest*
  - *Demonstration of internal procedures*
  - *Demonstration of how public money has been spent or information concerning resources”*

50. The Committee might like to explore who is best placed to determine whether or not there is ‘substantial public interest’ in information disclosed by Information regulations: the public themselves or the body that is under scrutiny.

51. The Committee may also wish to confirm that the information disclosure practices of NRW – practices which have no parallel within the public sector in Wales in their ability to obfuscate and

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<sup>27</sup> <https://ico.org.uk/media/for-organisations/documents/1153/model-publication-scheme.pdf> p3

<sup>28</sup> <https://naturaethwr.files.wordpress.com/2014/02/emyr-paranoia.pdf>

<sup>29</sup> <https://naturaethwr.files.wordpress.com/2014/11/130831-circuit-of-wales-update-2-sept.pdf>

<sup>30</sup> <http://naturalresources.wales/about-us/contact-us/request-information/disclosure-log/?lang=en> No information available as of 14:00 on 10 April

<sup>31</sup> <https://naturaethwr.wordpress.com/2015/01/09/cylchffordd-rasio-blaenau-gwent-beth-sydd-a-chnc-iw-guddio/>

conceal – will be updated to the standards of being “*as open and transparent as possible*” that NRW itself espouses, that some in the organisation rail against but that the public rightly expects.

52. NRW appears to make a virtue of failing to provide broadcast interviews:

*“Throughout recent months the [Circuit of Wales] case has received substantial local and national media coverage. NRW has provided information to the media when requested but generally declined interviews”<sup>32</sup>.*

53. This, again, seems poor practice and appears designed to avoid being held accountable for topics that NRW finds uncomfortable. It also appears to be counter to the approach apparently adopted by the Communications Directorate, notably that “*all public organisations are under heightened scrutiny and need to be more transparent and open in their communications than ever before*”.

54. The Committee may wish to enquire as to the rationale for declining interviews on subjects of “*substantial local and national*” interest.

### **Integrity and honesty**

55. The Nolan Principles are a set of ethical standards expected of public office holders. They apply to anyone who works as a public office-holder, including all people appointed to work in non-departmental public bodies<sup>33</sup>.

56. There can be little doubt that they apply to the Chief Executive and Chair of the largest non-departmental environmental body in Wales.

57. Evidence has arisen that appears to show the Chief Executive to have misled the public on national radio. In an interview on Radio Cymru<sup>34</sup>, the following exchange occurred:

*“John Walter: But there was no pressure on you to change your mind [on NRW’s original opposition to the Circuit of Wales application], and having changed your mind, do you think that your relationship, and your image, has been tarnished?”*

*Emyr Roberts: There was no pressure on us at all...*

*JW: ...from no one, from the local authority or from Welsh Government?*

*ER:... no, not at all...*

*JW:... no one spoke to you at all, [it was] only your decision as an agency?*

*ER: Plenty of people spoke to us, but...*

*JW:... the Government and the local authority?*

*ER: **The Government didn’t speak to us at all, the local authority didn’t speak to us at all... There was no pressure on us**<sup>35</sup>.*

58. The Chair of NRW, Peter Matthews, also appears to have misled the public and Members of this Committee. Appearing before this Committee on 7 May 2014 he said:

<sup>32</sup> <https://naturiaethwr.files.wordpress.com/2014/11/130831-circuit-of-wales-update-2-sept.pdf>

<sup>33</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

<sup>34</sup> John Walter, 26 March 2014

<sup>35</sup> <https://naturiaethwr.wordpress.com/2014/03/28/cyfweliad-emyr-roberts/>

*“Let me make it clear to this committee, and in public, that **there is no political interference or pressure on what we do from anyone**... I would say that the idle speculation driven in the media is unfounded, and I take this opportunity of rebutting it completely”<sup>36</sup>*

*“We let the executives get on, so decisions—and I do not want to mention any particular decisions—that have been a bit controversial where some people have been disappointed with the decision we took and some people have been pleased with the decision we took have been determined by our own technical people on the basis of evidence that they have given. **I have not applied pressure; Emyr has not applied pressure; and the Minister has not applied pressure to us.** We have gone about our business as a professional, wise organisation, using the evidence that is available to us”<sup>37</sup>.*

59. But it is manifestly clear that pressure was applied on Natural Resources Wales. The inquiry by Sir Derek Jones into the Alun Davies affair found:

*“The Minister for Natural Resources and Food should therefore ensure that his interactions with NRW could not be regarded as an attempt to influence NRW’s exercise of its professional responsibilities or lead to a perception that NRW had been unduly influenced”<sup>38</sup>.*

*“The content of Mr Davies’ emails indicates that he was taking a very clear position on the Circuit of Wales application”<sup>39</sup>.*

*“The focus of the emails is a criticism of the approach that NRW was taking towards the Circuit of Wales application... Mr Davies says ‘I am very anxious that this development goes ahead’... the emails could therefore give rise to the perception either that Mr Davies was using his Ministerial portfolio responsibilities to influence the way in which the Circuit of Wales application was dealt with by NRW; or, if that were not the intention, the effect could nevertheless be the same”<sup>40</sup>.*

60. The First Minister himself stated that: *“it is clear to me that the Ministerial Code was breached”<sup>41</sup>.*

61. An email from a senior Welsh Government official to two Directors of NRW in May 2013 asks:

*“... what if anything we might want to do relating to other ‘residual’ CCW objections within the planning system. Is there anything that we should be doing if it appears that the main risk to such developments are the environmental objections raised by CCW”<sup>42</sup>.*

62. It should be noted that CCW objected to the Circuit of Wales development on environmental grounds.

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<sup>36</sup> <http://www.senedd.assembly.wales/documents/s27378/7%20May%202014.pdf> para 41

<sup>37</sup> <http://www.senedd.assembly.wales/documents/s27378/7%20May%202014.pdf> para 46

<sup>38</sup> <http://www.assembly.wales/deposited%20papers/dp-1432-11-16%20report%20to%20carwyn%20jones%20am,%20first%20minister,%20from%20derek%20jones,%20permanent%20secretary,%20regarding%20observance%20of%20the/dp-1432-11-16.pdf> para 47

<sup>39</sup> <http://www.assembly.wales/deposited%20papers/dp-1432-11-16%20report%20to%20carwyn%20jones%20am,%20first%20minister,%20from%20derek%20jones,%20permanent%20secretary,%20regarding%20observance%20of%20the/dp-1432-11-16.pdf> para 58

<sup>40</sup> <http://www.assembly.wales/deposited%20papers/dp-1432-11-16%20report%20to%20carwyn%20jones%20am,%20first%20minister,%20from%20derek%20jones,%20permanent%20secretary,%20regarding%20observance%20of%20the/dp-1432-11-16.pdf> para 59

<sup>41</sup> <http://www.bbc.co.uk/news/uk-wales-politics-28111244>

<sup>42</sup> <http://gov.wales/docs/decisions/2014/environment/140801atish8610doc2.pdf> Email from Prys Davies (WG) to Ceri Davies and Trefor Owen (NRW), 29 May 2013

63. Emyr Roberts' contention that *"the local authority didn't speak to us at all"* is flatly contradicted by a letter from the Director of Operations (south Wales), Graham Hillier, to Alun Davies on 28 June 2013:  
*"At our meeting on 18 June I promised you an update on progress by today. This follows several meetings held between the applicant's consultants, ourselves and Blaenau Gwent CBC over the last 10 days"*<sup>43</sup>.
64. New additional information has subsequently come to light to indicate that officials in NRW anticipated that Alun Davies would try to persuade them to drop NRW's objection to the development<sup>44</sup>. We look forward to sharing that information with the Committee.
65. The Nolan principles require holders of public office to observe:  
*"Integrity: Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them or their work...  
Honesty: Holders of public office should be truthful"*<sup>45</sup>.
66. The Committee may wish to explore how, in light of the facts outlined above, the insistence by Emyr Roberts and Peter Matthews that NRW came under no pressure from Welsh Government or any other source (in relation to the Circuit of Wales), and that the local authority made no contact with NRW, squares with the Nolan principles of integrity and honesty.

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<sup>43</sup> <https://naturaethwr.files.wordpress.com/2014/03/circuit-of-wales-outline-planning-proposal.pdf>

<sup>44</sup> "we opposed the [Circuit of Wales] proposal initially because of the environmental impact. But what happened then, the local authority Blaenau Gwent gave outline permission to the application and we looked at the situation and decided that the best way of getting the best outcome for the environment was to work together with the developer..." Emyr Roberts  
<https://naturaethwr.wordpress.com/2014/03/28/cyfweliad-emyr-roberts/>

<sup>45</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>