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# FORESTRY DEVOLUTION REVIEW

## INTERDEPARTMENTAL GROUP REPORT EXECUTIVE SUMMARY

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The Review was carried out by officials from:

**The Cabinet Office (Chair of the Review Group)**

**The Forestry Commission**

**The Department for Environment, Food and Rural Affairs**

**Scottish Executive Environment and Rural Affairs Department**

**Welsh Assembly Government Agriculture and Rural Affairs Department**

**HM Treasury**

**Northern Ireland Forest Service.**

## EXECUTIVE SUMMARY

### SECTION 1 - BACKGROUND AND TERMS OF REFERENCE

1. When Forestry Ministers announced the conclusions of the quinquennial review of the Forestry Commission's Forest Enterprise executive agency in May 2001, they also announced their intention to review the administrative arrangements for forestry in the light of continuing experience of the devolved structure. During autumn 2001 Forestry Ministers decided to proceed with the Review and agreed the terms of reference which were:

*“To review the current administrative arrangements for delivering sustainable forestry policies in England, Scotland and Wales and the UK's international commitments, including options for further devolution of these arrangements.”*

2. This report presents the conclusions and recommendations from the Review carried out by an Interdepartmental Group of officials from the Cabinet Office (Chair of the Review Group), the Forestry Commission, Department for Environment, Food and Rural Affairs; Scottish Executive Environment and Rural Affairs Department; Welsh Assembly Government Agriculture and Rural Affairs Department; HM Treasury and the Northern Ireland Forest Service.

### SECTION 2 - CURRENT ADMINISTRATIVE ARRANGEMENTS FOR FORESTRY

3. The UK Government transferred responsibility for forestry to Scottish Ministers and the National Assembly for Wales in 1999 as part of a wider programme of constitutional reform. The UK Government retained responsibility for forestry in England and for international issues. Separate arrangements apply in Northern Ireland, where forestry has been fully devolved since 1922.

4. Prior to devolution, domestic forestry policy statements were usually expressed at a UK or GB level. The most important change in the domestic forestry policy environment in recent years has been the preparation and publication of Forestry Strategies for England, Scotland and Wales. The strategies set out the devolved administrations' priorities and programmes for developing and implementing forestry policy. Forestry policy in Northern Ireland is currently under review.

5. The Forestry Commission together with its executive agencies, Forest Enterprise and Forest Research, is the main government department in Great Britain responsible for advising Ministers on, and for implementing, forestry policy in each of the three countries comprising Great Britain. Following devolution, the Commission now reports separately in England, Scotland and Wales to, respectively, the Secretary of State for Environment, Food and Rural Affairs, Scottish Ministers and the Welsh Assembly Government. The Commission is funded separately by Scottish Ministers (covering its activities in respect of Scotland), and by the National Assembly for Wales (covering its activities in respect of Wales). Funding from the UK Parliament covers the Commission's activities in respect of England and those areas, such as plant health, international policy, research, pensions and direct support for the Forestry Commissioners, which are either reserved or, by agreement, carried out on a Great Britain-wide basis. The Forestry Commission, as a Cross Border Public Body, has played a co-ordinating role and worked with the devolved administrations on a number of issues where the devolved administrations have agreed that a collaborative approach would be mutually beneficial. The Department of Agriculture and Rural Development's Forest Service agency is responsible for a similar range of forestry functions in Northern Ireland.

6. The establishment of the Rural Affairs Departments in each country, each with a more integrated policy remit, has been a significant change in the machinery of government. The Rural Affairs Departments operate a range of measures under the different Rural Development Programmes, including a number that are relevant to forestry policy aims, for example the Farm Woodland Premium Scheme.

### SECTION 3 - STAKEHOLDER CONSULTATION

7. The Review Group carried out a consultation exercise and invited views from over 600 organisations with an interest in forestry. The consultation document invited views on whether the current administrative arrangements for forestry could be improved upon and if so, how. Eighty-five responses were received in time for inclusion in the analysis of responses. Six broad groupings of comments, relevant to the Review, emerged from the detailed analysis of responses.

(i) *Effectiveness of the current arrangements.* About one quarter of respondents commented that the current arrangements were operating effectively and a number of these suggested ways in which the current arrangements could be enhanced.

(ii) *Co-ordination of policy and common GB/UK handling arrangements.* Many respondents suggested that a high level of co-ordination was needed to ensure consistency of approach. Several of these respondents also commented that it would be important for the devolved administrations to have a strong level of input to the development of the UK's international policies; especially if the devolved administrations were to have responsibilities for the delivery of these policies. Three-quarters of those respondents raising the issue proposed that the Forestry Commission should be the lead government department for this work. In the absence of the Forestry Commission, many respondents proposed that a body similar to the Joint Nature Conservation Committee should replace it. The most frequently cited cross-cutting issue concerned standards and supporting guidelines for sustainable forestry policy. The positive experience of developing the UK Forestry Standard and UK Woodland Assurance Scheme was the most frequently cited example of the benefits of such an approach. In addition a UK or GB-wide approach to forestry plant health and pest control was seen as important.

(iii) *Devolution/integration with Rural Affairs Departments in England, Scotland and Wales.* This was the most frequently raised area of interest with 117 comments received. The majority of respondents saw scope for closer integration of the policy and delivery functions with the Rural Affairs Departments in England, Scotland and Wales. Thirty-five respondents commented that forestry should have a strong and visible champion (the Forestry Commission) within government and were concerned that amalgamation with the Rural Affairs Departments could lead to forestry's profile becoming marginalised. Twenty respondents called for closer integration of forestry delivery programmes and incentives with those of the Rural Affairs Departments.

(iv) *Role and organisation of Forest Enterprise.* Thirty-three comments were received in connection with Forest Enterprise. The most frequently cited issues were the need to strengthen Forest Enterprise's lines of accountability to the three devolved administrations and also the need to strengthen the relationship between Forest Enterprise and the three National Offices.

(v) *Organisation of forestry research.* The majority of respondents raising the issue argued for retaining forestry research as a GB-wide activity of the Forestry Commission and believed that the existing arrangements should continue. A small number of respondents were concerned that research interests in Wales were not properly recognised given the absence of a Forest Research station in that country. There was a recognition that the arrangements for identifying research priorities and commissioning processes should provide the opportunity for greater influence and input by the devolved administrations, through the Forestry Commission's National Offices.

(vi) *Resources (i.e. funding) available for forestry and the Forestry Commission.* The most frequently expressed view was that the resources currently available to forestry were insufficient which meant that there was under-delivery of policy aims. There were also concerns that the ability to deliver sustainable forestry outputs, especially social and environmental outputs, was illogically constrained by the link to income for timber sold by Forest Enterprise.

## SECTION 4 - KEY ISSUES

8. Based on the analysis of the present administrative arrangements and the responses to the stakeholder consultation, the Review Group identified four key issues. These were:

(i) *The balance between country and common GB/UK handling arrangements.* A small number of forestry policy statements, and the UK Forestry Standard, pre-date the devolution of forestry policy. They continue to operate by agreement with the devolved administrations. However, the Review Group noted that:

- Uncertainty existed over the mechanism for involving the devolved administrations.
- It was not clear who took ultimate responsibility for ensuring that individual country interests had been adequately considered when drawing up common UK standards or agreements.

(ii) *Administrative arrangements for managing the forestry estate in the context of devolution.* The Review Group noted a number of issues that are relevant to consideration of administrative arrangements for Forest Enterprise. They include:

- The balance between the economies of scale achieved through the present arrangements and the value of the increased synergies that could be achieved by closer links to the Rural Affairs Departments.
- Concerns about a potential conflict of interest between the Forestry Commission's responsibility for regulation of the forestry industry and its responsibility for Forest Enterprise as the largest single operator in the market-place.
- Limitations on Forest Enterprise's ability to form a wider range of partnerships due to constraints imposed on the Forestry Commissioners by the Forestry Acts.
- In administrative terms, Forest Enterprise's Territorial Directors are accountable to the agency Chief Executive and their lines of communication and responsibility to Ministers in the devolved administrations are unclear.
- Tensions between Forest Enterprise's (GB) corporate objectives and the country forestry strategies.

(iii) *Administrative arrangements for managing forestry research in the context of devolution.* The Review Group noted that there is a need to:

- Strengthen the arrangements for the involvement of the devolved administrations in the setting of research priorities and programmes.
- Ensure that research outputs highlight their relevance and potential application in each country.

(iv) *Arrangements for administering the regulatory and incentive frameworks for forestry in the context of devolution.* From our analysis the Group identified the following issues:

- Progress in establishing links between the Forestry Commission and the devolved administrations to support reviews of incentives that are being refined to meet the priorities of the country forestry strategies and to revise and update the Commission's Woodland Grant Scheme IT systems. Taken together, these are encouraging a more integrated approach to supporting forestry.
- In Scotland and Wales, decisions on budgetary priorities for forestry are now made in a more integrated way. The arrangements in England have not been changed post-devolution. There is, however, even in Scotland and Wales a consensus that integration is hampered or made more bureaucratic by the existence of the Forestry Commission as a separate Cross Border Public Body.

## SECTION 5 - CONCLUSIONS AND RECOMMENDATIONS

9. From our analysis, and the views of the majority of respondents to the consultation, **we concluded that the current arrangements could be enhanced significantly following devolution and therefore need to be updated now.** Central to this is a need to achieve greater integration of forestry with other rural policy work whilst retaining a collaborative approach to common issues such as forestry standards.

10. The crucial question for Ministers is whether there should be full integration of forestry within their wider rural affairs responsibilities or whether a distinctive profile for forestry in government should be retained. If they wish to secure full integration of forestry and rural affairs responsibilities, then legislation is the only way to achieve this. Alternatively, if they wish to retain a distinctive profile for forestry in government, then an administrative approach to greater integration between forestry and rural affairs would provide the best course of action.

### Change through Legislative Action

11. This would involve abolishing the Forestry Commission by repealing the Forestry Acts and transferring all of the Commissioners' functions. These could be transferred in whole, or in part, to the Secretary of State for Environment, Food and Rural Affairs, to the National Assembly for Wales and to Scottish Ministers or to bodies, for example Non Departmental Public Bodies, which might be established to receive some or all of the powers. Forest Enterprise and Forest Research would also be abolished and the devolved administrations would determine the arrangements for supporting their functions. There would be no requirement to have the same arrangements in each of the three countries.

12. There are a number of areas where there is a need to update and modernise forestry legislation. These include constraints on Forest Enterprise's freedom to form partnerships with other organisations. More fundamentally, the forestry legislation predates the principles of sustainable forestry and the Commissioners' powers do not reflect modern day forestry policy aims. This is an issue that is outside the scope of this Review and Ministers therefore need to consider whether or not the existing forestry legislation should be modernised.

13. *Given the time needed to complete any legislative process, the possible need to modernise forestry legislation which falls outside the terms of this Review and the support for maintaining a distinctive profile for forestry in government, we do not recommend the legislative approach at this time. However, Ministers may wish to keep this option under review.* (Recommendation 1, paragraph 5.12.)

### Change through Administrative Action

14. Under this option the Forestry Commission would operate as a decentralised organisation. There would be a significant shift of functions away from the centre. The National Offices would be considerably strengthened and would act as forestry departments delivering policy advice and implementation to the administrations in England, Scotland and Wales. A package of measures, which would not hinder the development of legislation in the future, is available to achieve significantly increased integration between the Forestry Commission and the Rural Affairs Departments. They include:

(i) *Ministerial Committee.* The present arrangements do not provide adequate opportunities for involvement of the devolved administrations in the formulation of international policy and collaboration on matters of mutual interest. Experience has demonstrated that there are issues (for example the UK Forestry Standard) where the devolved administrations can collaborate and share experience to their mutual benefit. There are however no formal mechanisms present in place for agreeing what issues should be handled collaboratively and for keeping them under review. *A new Ministerial Committee, bringing together the Forestry Ministers in England, Scotland, Wales and Northern Ireland, should be set up. It should meet regularly to oversee the new arrangements and the handling of international issues (non-devolved powers) and agree any cross-cutting forestry issues where collaboration would be advantageous. The committee would be responsible for monitoring the operation and effectiveness of the administrative arrangements.* (Recommendation 2, paragraph 5.19.)

*Membership of the official Whitehall Forestry Group should be expanded to include representation from the Scottish Executive and Welsh Assembly Government.* (Recommendation 3, paragraph 5.20.)

(ii) *Closer Integration of Forestry and Rural Affairs.* Good links have been developed between the Forestry Commission and the Rural Affairs Departments following devolution in 1999. However, lines of communication and responsibility are not as clear as they could be and there are perceptions that the lead on many domestic policy issues still comes from the Forestry Commission's Edinburgh headquarters, and not through its National Offices. There is scope to strengthen and formalise these relationships so as to make it clear that this is no longer the case. *The Review Group recommends integration - as far as is possible without recourse to legislation - of policy development and delivery between the Forestry Commission's National Offices and the Rural Affairs Departments in England, Scotland and Wales. The new arrangements would be underpinned by Concordats between each of the Commission's National Offices and the Rural Affairs Departments. The details of the new working arrangements and the contents of the Concordats would be worked up individually between each Rural Affairs Department and the relevant Forestry Commission National Office.* (Recommendation 4, paragraph 5.23.)

(iii) *Forest Enterprise.* Forest Enterprise currently operates as a GB-wide executive agency of the Commission. The recent quinquennial review of Forest Enterprise assumed that the Forestry Commission would continue to operate on a GB-wide basis. Given the changes proposed to secure greater integration between the Forestry Commission and the Rural Affairs Departments we believe that retention of Forest Enterprise as a GB-wide body, with a Chief Executive in the Commission's headquarters in Edinburgh, would be at odds with this new structure. *We recommend that Forest Enterprise, currently managed as a GB-wide executive agency, should be split into three. Separate Forest Enterprise bodies would be set up in each country, with each accountable through the Commission's National Offices to the administrations in England, Scotland and Wales, instead of to a Chief Executive in Edinburgh.* (Recommendation 5, paragraph 5.25.)

(iv) *Forest Research.* We have confirmed the Forest Research agency quinquennial review's conclusion that there is a need to strengthen the arrangements for the involvement of the devolved administrations in the setting of research priorities and programmes. In addition, although many of the outputs from forestry research are relevant across the UK, there is a need to ensure that these outputs highlight their relevance and potential application in each country. *Forest Research should continue as a GB-wide agency of the Forestry Commission but new arrangements should be set up, with an enhanced role for the devolved administrations through the National Offices in England, Scotland and Wales in determining research priorities and specifying programmes, and through joint approval by Forestry Ministers of the research strategy and annual research programme. This would allow greater integration of the agency's work with related research in each country and co-ordination with work in Northern Ireland. Implementation of this recommendation, including the option of trisecting funding of the Forestry Commission's research budget should be considered during Stage 2 of the Forest Research Quinquennial Review in the light of the other changes recommended in this Report.* (Recommendation 6, paragraph 5.27.)

(v) *Board of Forestry Commissioners.* Following devolution, the Forestry Commissioners are now required to exercise their functions separately as regards England, Scotland and Wales. The Commissioners are accountable, and report, separately to Ministers in each country and are also subject to powers of direction separately by UK Ministers, Scottish Ministers and the National Assembly for Wales. The Review Group believes that the representation from each country should be strengthened with the head of each of the Commission's National Offices in England, Scotland and Wales being appointed to the Board as executive Commissioners. The Group further considers that the arrangements for appointing non-executive Commissioners to represent Scottish and Welsh interests should be strengthened by removing Westminster Ministers from the nomination process. *The Group recommends that following these changes, the executive Commissioners should be the Director General and the Heads of the National Offices.* (Recommendation 7, paragraph 5.31.)

(vi) *Accountability.* Through our recommendations, the Forestry Commission's National Offices would be accountable to the Westminster Parliament, Scottish Ministers and the Welsh Assembly Government through separate Corporate Plans, Accounts and Annual Reports for each country. These would extend to cover the work of the new Forest Enterprise agency proposed in each country. The chief official in each National Office would be appointed as an Additional Accounting Officer to demonstrate the direct line of accountability to the relevant legislature.

*(vii) Relationship between Forestry Commission National Offices and Edinburgh Headquarters.* The Forestry Commission (operating as a Cross Border Public Body) would provide policy advice and support on international issues (reserved) and on any area where a UK or GB-wide cross-cutting approach was agreed (for example standards of sustainable forestry, forestry research) by the Ministerial Committee. The role of the three National Offices would be enhanced by a transfer of functions from the centre (notably as a result of the trisection of Forest Enterprise, but also through the transfer of financial policy/control and secretariat functions).

*(viii) Cross-Departmental Groups.* DEFRA and the devolved administrations would be members of all cross-departmental forestry groups (for example the Whitehall Forestry Group, Forest Research Co-ordination Committee). The Forestry Commission National Offices would similarly participate in all relevant cross-cutting groups within DEFRA and the devolved administrations.

### **Timescales for Implementation**

15. Implementation of the legislative approach considered at paragraphs 11 to 13 above would depend on the availability of time in the relevant Parliamentary timetables. Implementation of the complete administrative approach could commence almost immediately though in order to reduce transitional costs (for example through staff transfers from the Commission's Edinburgh Headquarters to the National Offices) it could be phased in over a period of time.