

PROTECT - POLICY

Agenda Item 3

Commissioners' Meeting
1 December 2011

Memo No 29/11

FORESTRY COMMISSION GOVERNANCE AND STRUCTURES

Purpose

1. To provide Commissioners with an update on developments in each of the countries and work underway to respond to them.

Governance Project

2. At the September meeting, we reported on the work to provide a factual statement of the current governance and functions. We also noted that the next phase of the work would be to look in more detail at specific issues and options. Charlie Taylor, FC Scotland and Edward Shephard FC England were appointed to carry out this work and their paper on progress with the project is at Annex 1. Edward will be attending the meeting.

Current position in each country (as at 23/11/11)

3. In **Wales**, work has been concluded on the Business Case for the Single Environmental Body (SEB), which will bring together the Environment Agency in Wales, the Countryside Council for Wales and Forestry Commission Wales. Information from the Welsh Government is available on their website at [link](#).

4. At time of writing, the Business Case has gone to John Griffiths AM, Minister for Environment and Sustainable Development. If he and the Welsh Cabinet agree with the proposal to set up the SEB, we expect an announcement around the time of the meeting. The Chair of the Forestry Commission GB, with Jon Owen Jones as Chair of the National Committee for Wales wrote to the Welsh Minister expressing their concerns that the impact on forestry in Wales had not been fully recognised [annex 2]. A reply is awaited.

5. Staff from Forestry Commission Wales and FCGB have been involved in providing information which fed into the Business Case. We were asked to comment on a draft of the Business Plan on 17th October. Tim Rollinson replied on 11th November and Matthew

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Quinn the lead official responded on 17th November. [Annex 3,4]

6. The funding information in the Business Case comes from work done by FC Wales and FC GB and represents our best estimate based on the information currently available to us. However, we remain concerned that until we see workable proposals, particularly round IT, there is a strong possibility that the costs of the changes will be higher than in the Business Case. There is also a lack of clarity on the way forward for the Westminster funded GB functions. We continue to press for agreement from Wales to a process on cost sharing which allows for adjustments as details are firmed up.

7. Changes are also being made to the Public Bodies Bill to give the powers necessary for implementation of this body. It gives Welsh Ministers the powers by order to transfer and modify the functions of the Countryside Council for Wales, as well as the functions of the Environment Agency and the Forestry Commissioners so far as they relate to Wales. The Bill is now in the “ping-pong” stage whereby before it can become law, it must be passed in its final form by both the Commons and the Lords without changes.

8. Assuming Ministers want to proceed, the Programme is working to an ambitious vesting date of 1 April 2013, with a shadow body established around 9 months beforehand.

9. **In Scotland**, Scottish Ministers agreed that FCS should evaluate the consequences of two possible options:

- i. A ‘devo-max’ option which would stretch the current devolved structure to its maximum extent.
- ii. Full trisection involving abolition of the FC as a cross-border body.

10. The Public Services Reform Act gives Scottish Ministers powers to transfer the Forestry Commissions’ Scottish functions to another body, or to modify their functions.

11. The possibility of a unilateral decision by Wales in the next few months to opt out of the cross-border body has caused Scottish Ministers to advance their consideration of this issue. They may not see it as tenable for Scotland to remain part of the FC if Wales withdraws. However, they are concerned that a piecemeal dismemberment of the FC would hinder an orderly approach to dealing with the many cost sharing and operational issues that will flow from a break up of the FC and have highlighted this in their response to the Wales Business Case.

12. **In England**, the Independent Forestry Panel was established in March by the Secretary of State to advise government on the future direction of forestry and woodland

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policy in England. It will advise on the role of the Forestry Commission in implementing policy on forestry and in particular the role of the public forest estate and of Forest Enterprise England. Its remit extends to consideration of how woodland cover can be increased and options for enhancing the full range of public benefits from all woodland and forests. The Panel will report to the Secretary of State in April 2012, with a progress report due on 8th December of 2011. Ministers are clear that no decisions on the future of the Forestry Commission in England and GB will be taken by Ministers until after the Panel reports in the spring.

13. It is possible the Panel may see the developments in Wales and Scotland as an opportunity which will enable them to recommend more radical changes to FC in England. Withdrawal of the other two countries could leave the Forestry Commission and the Forestry Act applying only to England.

14. The **cross-border functions** of the FC cover those paid for solely by Westminster through the Defra vote, the "GB-functions", and those also included in the Westminster vote but where the other countries contribute, the "shared services".

15. Changes towards further devolution or greater separation requires a review of the functions currently performed at GB level, by agreement, for example, forest research, UK forestry standards and biosecurity. The Phase 1 work to date has identified some of the issues and set out a statement of the range of functions in this category.

16. At the recent meeting with Ministers from Scotland and Wales, the Secretary of State confirmed that there were some functions – such as research – which it made sense to retain at the GB level but new arrangements would have to be put in place. Defra have put a proposal to their Ministers that, until the Panel produces its recommendations, there should be an interim position that the new Single Environmental Body in Wales can access the functions provided by FCGB, and which are paid for by the Westminster vote. This would be on the basis that Westminster retains the full budget, and that this arrangement may need to be revised once we have received the Panel's advice. The Forestry Commission would welcome this as a pragmatic approach which would minimise the risks to delivery in areas such as research and plant health and would allow time for new governance arrangements to be thought through and put in place. Any decisions concerning the future of the functions provided by FC across GB needs to be agreed with the Ministers in Scotland, England, and Wales, and possibly Northern Ireland. However, Defra believe that seeking this agreement is the Welsh Minister's responsibility.

Communications

17. We are working with the Departmental communications teams in the each of the countries on briefing for Ministers and for staff and stakeholders.

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Recommendations

18. The Board is asked to:
- note the contents of this paper
 - consider how best this can be used to inform future arrangements for forestry.

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November 2011