

17 March 2016

## Deed of Trust

### 1. Purpose

To update Commissioners on the following matters:

a) The Proposal for the creation of a Deed of Trust between the Forestry Commissioners, FE(E), FE(S) and NRW to ensure a clear process during Devolution including an internal reallocation of the FC investment in Forest Holidays.

### 2. Background/Introduction

In the October Commissioners' paper on Forest Holidays, one of the ongoing items was the development of a cross country agreement for the valuation and potential distribution of the Forestry Commissioners interests in both Forest Holidays and Camping in the Forest. This is necessary in preparation for further Country Devolution and in the event of a distribution of the equity value by either company under their respective articles or membership agreement.

All corporate documents within both Joint Ventures are held in the name of the Forestry Commissioners.

In 2013 with the creation of Natural Resources Wales statements were made in the Transfer Order as to the undistributed values in the Joint Ventures as follows:

The Natural Resources Body for Wales Transfer Scheme 2013

4. The Forestry Commissioners' interests in Forest Holidays Group Limited and Camping in the Forest LLP are, from the transfer date, owned jointly by the Forestry Commissioners and the Natural Resources Body for Wales.

This commitment has never been incorporated into a Deed of Trust and given potential upcoming changes to England and Scotland it is the correct time to complete such an agreement.

### 3. Details

In late 2015 the three countries FE/NRW Forest Holidays/CITF leads met to discuss the scope Deeds of Trust, to clarify legal structures and the site development

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protocols. As a result it was agreed that England would lead on a paper to the Commissioners with recommendations on the scope and extent of an agreement.

Further discussions with Eversheds have highlighted wider factors to consider above the practical distribution of equity value (as was suggested via a Deed of Trust).

Most important of these is to ensure that the Forestry Commissioners remain clear and well supported in their ongoing role as the single legal representative in the various corporate legal structures in the two JV companies. This is especially important given the likely refinancing of Forest Holidays in 2017. From a commercial perspective it essential to establish clarification on how the negotiations surrounding refinancing will be undertaken and how they will be led. Those refinancing negotiations will require the Commissioners to present a co-ordinated position on the future shareholding options which may be made by the JV within the proposed new corporate structure.

There is also a need for each Country to understand their ongoing subordinate (to the Commissioners) interest in the Joint Ventures by recording the formulae for allocation of the equity and non-leasehold interests as each company expand their business operations. This was the original intention of a Deed of Trust with NRW. The Governance Group also need to set out how an individual country can make representation to the Commissioners to support changes to the distribution of interests i.e. should one country wish to withdraw from the equity distribution prior to the company itself undertaking a restructure.

From the property side it is also very evident that Forest Holidays are pursuing further investments in the three countries. This relationship is currently managed by FEE under the 2012 Framework Agreement which itself will need updating probably at the time of re-financing. In light of future devolution such a lead role for FEE may no longer be suitable.

To summarise the Forest Holidays Governance Group will present a series of recommendations to the Commissioners to ensure clarity of position in place since the 2013 NRW Transfer and required prior to Forest Holidays refinancing. This will include an ongoing governance protocol which will allow each country to understand firstly how the Commissioners would distribute the equity value in the Joint Venture, should this be realised, and how they can represent their individual country interests during restructuring either within the FC or within one of the Joint Ventures.

## 4. Resource Implications

Nil. The country valuations will be undertaken using the same formulae as the 2014/15 annual reports.

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Revenue costs to be met out of existing Country budgets.

5. **Risk Assessment**

Nil

6. **Communications Issues**

All discussions regarding future Joint Venture Corporate structure and refinancing are obviously commercially confidential.

7. **Implementation and Evaluation Proposals**

Nil

8. **Recommendation**

To confirm that the Governance Group should prepare and submit recommendations for the next Forestry Commissioners Meeting.

Mark Street  
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10 March 2016