



**FORESTRY COMMISSION ENGLAND
WOODLAND POLICY ENABLING PROGRAMME
CALL FOR FEEDBACK**

A response from the Woodland Trust September 2013

Summary of Woodland Trust position

We fully support the principle of retaining a public forest estate as a key part of the mix of providing public benefit through woodland.

We don't support the status quo i.e. keeping the existing shape of the Forestry Commission – both Forest Services and Forest Enterprise need to change to adapt to new demands and circumstances.

We support the principle of an emancipated independent public forest body, focused on increasing public benefits from public forests and able to go about this in new and imaginative ways.

We believe that decisions about how the new public forest estate management organisation (PFEMO) should be run need to be removed from political control as far as possible while at the same time ensuring the public's interest is served at both national and local level and that this needs to be reflected in the governance of the new body.

We feel that the objectives of the new organisation need further debate given they will be enshrined in legislation for decades to come. Delivering and increasing public benefit has to be its overarching objective. Improving its financial sustainability should be a means to that end and not an objective in itself. We don't support the current proposal that a primary objective should be to maximise its economic benefits.

We support the conclusions of the Independent Panel on Forestry in describing the role of Forest Services as a catalyst and leader but wish to see a clear proposal for where a centre of forestry expertise should sit. The IPF proposed that the role of Forest Services should evolve rather than a new body being created and we agree with this as otherwise Forest Services would be vulnerable in future.

Public Forest Estate

1. Does the draft document 'Towards a new public forest estate management body' adequately reflect the conclusions of the 'Government Forestry & Woodlands Policy Statement'?

- If so, in what way?

- If not, what further developments do you think are needed to this draft document?

The document reflects the conclusions of the January 2013 Government Forestry and Woodlands Policy Statement but not the exact thrust of the Independent Panel on Forestry's report recommendations 23-31. The Policy Statement agrees with its own re-working of these conclusions and there in lies the root cause of much of the debate over DEFRA's documents on the future of the public forest estate and the home of government's forestry functions.

2. What are your views on the proposed mission and objectives for the new organisation (see Annex A of the draft document)?

Getting the mission and objectives of the new organisation right is critical to the next hundred years of our public forests.

Mission: The government's Forests and Woodland Policy Statement¹, the starting point of this consultation, talks about "protecting, improving and expanding our public and private woodland assets". The PFEMO's mission describes its role as protecting and improving public forests but nowhere in the mission of the organisation does the word 'expand' appear which is a major omission. While expansion may not be this government's current priority in policy or public expenditure terms, this may change at some point in future and the new PFEMO should be empowered so that in future it can directly deliver sympathetic expansion of the national forest resource.

Objectives: We feel that the objectives of the new organisation need further debate given they will be enshrined. We already see the tensions created by the legally enshrined purpose of Natural England working through into day to day decisions. The phrase 'to balance and maximise the benefits to people, nature and the economy' does not reflect what we feel the priorities of the new body should be. A body holding forests on behalf of the nation should have at its centre increasing and enhancing public benefit to the nation. We do not feel that maximising benefits to the economy should be an objective in its own right: improving the financial sustainability of the estate should be a key strategy towards the objective of delivering greater benefit to the public i.e. a means to an end, not an end in itself. This is not to suggest that creating a long term sustainable financial future for the PFEMO is not important – on the contrary we support the intention that the PFEMO should be emancipated from some of the constraints it has on its financial activity.

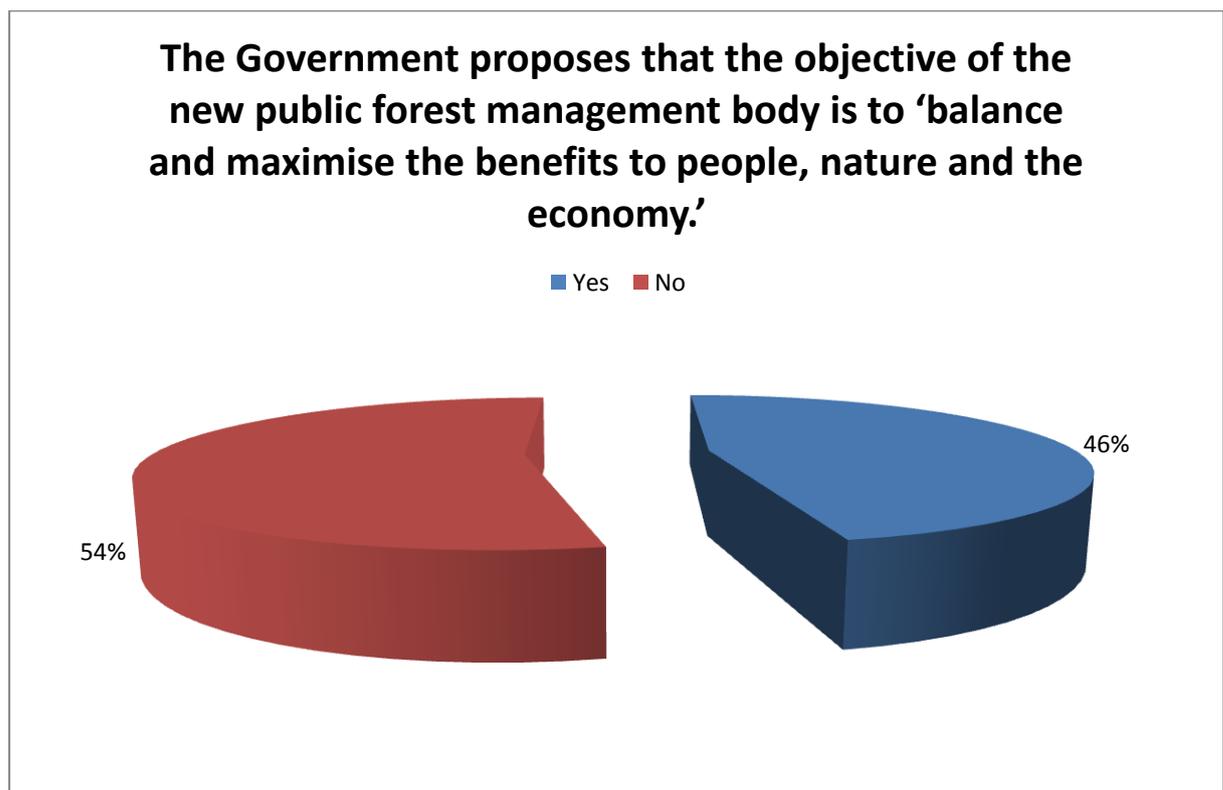
¹ P.3

The social objective “to enable widespread and equitable access to woodlands for responsible enjoyment by all members of society” is surely too broad in its scope and should read “to enable widespread and equitable access to the estate for responsible enjoyment by all members of society”.

The environmental objective “to protect, manage and conserve the wildlife, associated habitats and ecosystems on the estate” also implies a sense of maintaining the current level of environmental benefit. Again this should be redrafted as “to protect, manage and enhance the wildlife, associated habitats and ecosystems on the estate”.

So the two key principles which must be enshrined in legislation for decades to come are that a public forest estate organisation must have at its heart delivery and enhancement of public benefit, and that improving its financial sustainability should be a means to that end and not an objective in itself.

We asked our supporters for their views on the new PFEMO’s overarching objective. A total of 6076 supporters replied. These were the results:



The vast majority of all comments were about removing or minimising the ‘economy’ as a beneficiary, and that protecting, enhancing and increasing benefits to ‘nature’ should be the first and foremost objective of the body. Of those who answered no, the following selection of comments sum up the general feel of the free text responses:

- “The missing word is 'sustainable'; all management of woodland needs to be sustainable in the long term
- It should be primarily for nature, [people also added 'the environment'] then people... lose 'economy'
- I think this could be open to interpretation - why should economy be in that statement?”

Of those who answered yes to Q1, this quote sums up the feeling;

- “Yes - with the proviso, that 'economy' does not take precedence over 'people and nature'.”

These conclusions support the Trust’s own views.

Our proposals for a revised wording for the mission and overarching objectives of the organisation are therefore as follows:

Mission: To protect, improve and expand the public forests, woodland and other land assets held on behalf of the nation for the benefit of people and nature.

Overarching objective: The sustainable management of the estate to improve its financial sustainability so as to maximise the benefits to people and nature.

3. It is proposed that the new body will have clear statutory duties, powers and functions focused on maximising the economic, social and environmental value of the Estate, including a requirement that it should improve the financial sustainability of the Estate. What are your views on how the new organisation could improve the financial sustainability of the Estate?

We would like to expand the question into discussion on the funding profile of the new organisation, not simply to debate the numerous ways in which the forests themselves might generate income.

We fully support the principle of a Service Level Agreement (SLA) where the principle of payment by Government for ecosystem services is central to the funding package for the new PFEMO. Such an SLA should continue for at least the period of the first 10 year Charter to ensure that the principle of public money paying for public benefit is sustained and not tapered down too rapidly. This will be an important part of the transition arrangements for the new body.

The concept of payment for ecosystem services is of course an important principle for all organisations delivering public benefit which includes

charities; in due course we would hope that the PFEMO should not be favoured unduly by exclusive rights to such an SLA and that such agreements should extend to other bodies.

It seems unfortunate that the argument about the great value for money which the PFE provides in terms of public benefits (30p per family) which was highlighted by the IPF has had little impact. The IPF report was passionate and resolute in its analysis of the value of the estate to society and our poll over the past few weeks shows that the public want the public forest estate to continue to be publically funded too. We therefore seek a Ministerial Statement commitment to funding at existing levels for the next 10 years as part of the Charter.

Para 20 of the paper 'Towards a new public forest estate management body' lists a number of possible commercial freedoms which could be granted to the new body. We support relaxing the constraints placed on the Commission by the Forestry Act, for example not being able to lease land for forestry purposes to other bodies, because that opens up interesting and far reaching partnership opportunities for public benefit delivery and cost effective working. Of course such commercial freedoms should be explicitly tempered by an obligation to consider the environmental impact of any commercial contracts both in and off forest land in its ownership through some kind of sustainability test.

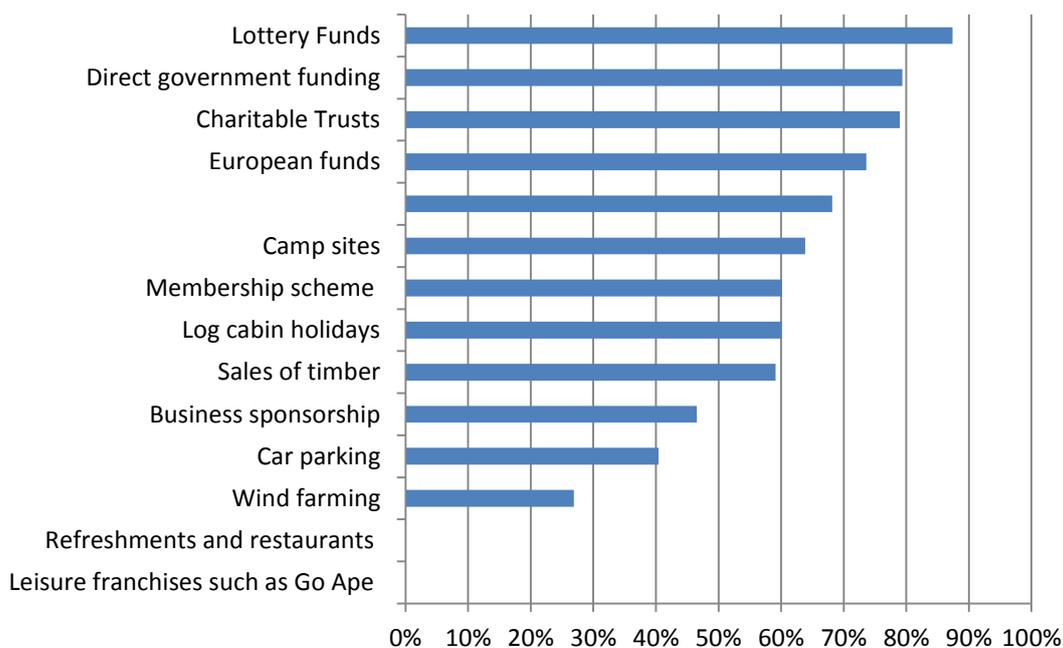
Nonetheless, there is a limited pot of funds both public and private which is eligible to support forest protection, management and expansion; we have had a large fundraising team seeking out such funds for many years with some success but the Holy Grail of a step change in major private investment in forests has yet to be achieved. If the new PFEMO joins the hunt for funding available to the whole of the forest sector this might have the effect of spreading existing pots of funding more thinly, and making other players in the sector less effective, which would be a serious consequence for the future of England's trees, woods and forests.

To tie in with the principles of the Government's Forests and Woodland Policy Statement we feel that the new PFEMO should be a vibrant test bed for ideas to develop a new woodland culture which could be adopted more widely. This may have some implications on the availability of the intellectual property rights of the new PFEMO which in a more entrepreneurial climate may not be so readily passed on, which would be unfortunate.

We asked our supporters for their views on the funding of the new body. This produced some interesting results. Lottery funds and direct government funding received the most support as well as a wide variety of commercial sources such log cabin holidays, leisure events and camp sites. There was also good support for timber sales but virtually none for restaurants and leisure franchises which is somewhat puzzling. Each supporter ticked on average more than 8 choices so clearly felt comfortable with a mixed portfolio of income streams as happens now with Forest Enterprise.

The Government proposes that the new body must increase income from commercial activities but will also pay it for providing recreation, access and wildlife conservation benefits. Please tell us which sources of income you feel are acceptable for the new body.

Sample size 6076, multiple answers allowed



We do not understand at all the point being made in paragraph 28 about government taking dividends on trading income. This seems a potentially restrictive practice which will limit any incentive for the PFEMO to generate funds through trade, and is at complete odds with the principle of more commercial freedom.

4. What are your views on the significant assets and disposals arrangements set out in the document?

The Trust has long been supportive of the principle of a dynamic public forest estate, changing its composition in terms of location and woodland types to deliver more public benefit through the tactical purchase and sale of land and woodland subject to certain safeguards and to reinvestment of capital generated from sales in new and exciting capital projects. The proposals as set out include a duty to retain the integrity of the estate - this is a critical concept which will need to be explicitly and fully defined so that Guardians can understand if and to what extent proposals for disposals might undermine that integrity.

The definition of a significant asset needs to be very clear and while it needs to be partly dependent on financial value and size, it will also need

to include assessments of strategic significance in terms of social and environmental delivery of ecosystem services.

5. It will be necessary to give the new body a new name because Forestry Commission is established in law as a cross-border body. Do you have any ideas on a suitable name?

The Forestry Commission's brand has been built up over decades as one which the public trust and recognise so it seems strange that the new body cannot retain it for legal reasons. Given a Forestry Bill is required to establish the new body could it not contain a clause to re-name the remaining Forestry Commission functions and retain the name to apply to the PFEMO?

Suggestions include:

The Forests Commission (as close as possible to the original name)

The National Forest Estate for England

Forest England

English Forests

6. What are your views on the arrangements proposed for the new organisation's accountability to Parliament?

There is a need to ensure that the governance arrangements for the PFEMO are appropriate given the enormously valuable national asset it will hold. There is clearly an inherent dilemma between the principle of removing the PFEMO from political control but retaining accountability to Parliament through DEFRA and its Ministers.

It is interesting that the government's own description of the circumstances in which a public corporation is most suited² is for industrial or commercial enterprises where Ministers want to retain control over the body's remit. We feel that it must be explicit that such control should only be exercised *in extremis* if the PFEMO Board fails in its public duty to fulfil the organisation's mission and objectives. But we are reassured to see that of all the types of public body which the PFEMO could become, the public corporate is the one most removed from Ministers.³

7. What are your views on the proposed Board's remit, size and composition?

We still feel that the proposed governance arrangements are far from ideal with a Board responsible for the PFEMO's management and effectiveness and with an advisory group of Guardians acting as a kind of watch dog or conscience. This is potentially a very time-consuming

² Cabinet Office (2012) Categories of Public Bodies - a Guide for Departments

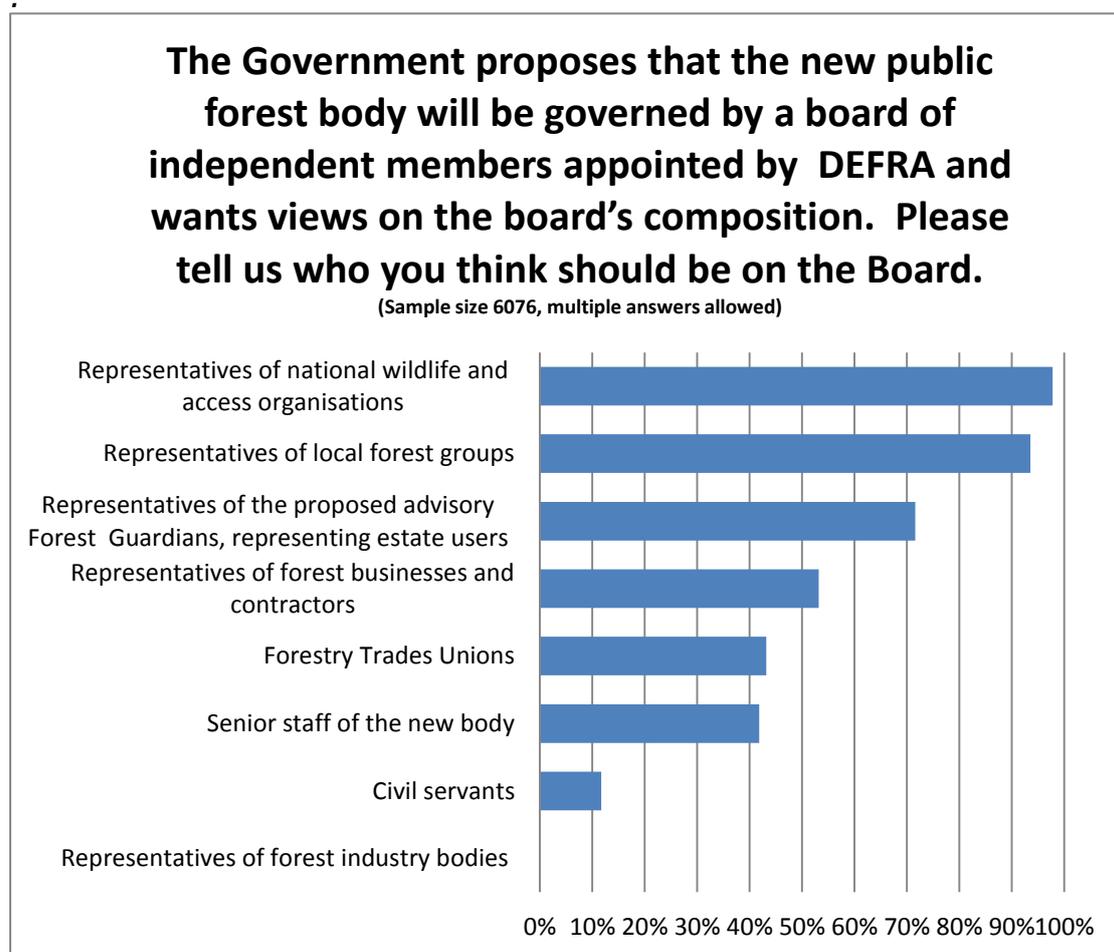
³ Cabinet Office (2012) Categories of Public Bodies - a Guide for Departments

governance model to operate and one which looks set to create tensions from the outset. We have asked FC and DEFRA whether there are existing two tier arrangements for public bodies like this but given the response to our questions, this appears to be an untried model with no current examples in operation in the public sector. The risks of using an untested governance model on such a sensitive area as the public forest estate seem to us to be very high.

The implication from the PFEMO discussion paper is that the PFEMO would have a board comprising both executive and non-executive members (para 35). In our view the Board should be non-executive which is line with other public boards. All the key sectors who have a direct interest in the PFEMO at national level should be represented and there should also be places for non-sectoral but highly able members experienced in working at Board level.

To solve the tensions between the Guardians and the Board, we propose that the Guardians should have a seat on the Board as a way of ensuring direct public interest representation.

We asked our supporters who they felt should have a seat on the Board.



Given the inclinations of our supporters, it is not surprising to see representatives of national wildlife and access organisations at the top of the list with 98% of those who responded ticking this option, closely followed by 92% who felt that local forest groups should be represented on the Board. We were surprised to see that no supporters felt that forestry industry representatives should be on the Board – this may be because 53% of supporters agreed that forest businesses and contractors should be represented and so felt that these interests were already covered. The Trust would however support forestry industry bodies both in terms of growers and processors having a seat too.

8. What are your views on the Guardians' remit, role, numbers and composition?

The Independent panel on Forestry proposed that the Guardians would effectively be the Board of the new PFEMO (**IPF recommendation 25**) i.e. that there should be one not two groups of people claiming jurisdiction over the heart and soul of the new organisation.

We firmly support this principle. See our answer above.

However if the advisory Guardians group is to be established separately from the Board as a watchdog on its mission, remit and objectives, focusing on environmental condition of the estate, public benefits and disposals, we would propose that its composition should reflect a balance between local interest groups who use and benefit from particular forests in their locality and groups with national thematic interests in the public forest estate as a whole e.g. access, biodiversity, forest businesses, and so on.

9. What are the most important things to put in a public charter for the new organisation?

We feel there should be a number of requirements built into the charter of this new organisation, which should embody the way it operates as well as the management of the estate.

- Transparency about the principles and procedures for asset acquisition and disposal including a working definition of estate integrity and 'significant disposal'
- There should be no sales of land for non-forestry purposes where woodland loss is the intended outcome
- It should be given an obligation/duty to co-operate with partners of all kinds to avoid the creation of unfair competition – co-operation should be the norm and there has to be strong case for the new PFEMO not going it alone unless there is a strong case to do so
- What the proposed exit strategy is in the event of the failure of commercial freedoms to provide the budgeted proportion of its income
- There should be a community right of first refusal on any land sales as happens in Scotland to meet community concerns about disposals.

- The transition period - the SLA should be guaranteed for a period of at least 10 years to allow a fair transition.
- Voluntary income should not form more than x% of its budget for the first y years.
- It has to remain certified
- It should be committed to restoration of all its planted ancient woods.
- Public access on foot as a minimum must be guaranteed across the estate in perpetuity

10. Do you have any general comments that you believe would be of assistance in creating the new organisation?

Nothing further to add.

Forestry Functions in England

11. The forestry functions review concluded that the current arrangements 'complicate governance and obscure a clearer "line of sight" between forestry and woodland policy and delivery'. What do you think should be done to address this?

We are not entirely clear what the exact nature of the issue is over line of sight to Ministers. Is the line of sight issue that Ministers do not know who between DEFRA, FERA and FC deals with tree health issues, that it is not clear who has ultimate responsibility for forestry in the UK or that it does blur the neat model of policy and delivery? We think this is a more of a ministerial problem rather than a sectoral problem.

Executive agencies and NDPBs usually have Boards which report to Ministers. The FC is currently not dissimilar in that it has a Board (the Commissioners) and this has a relationship with Forestry Ministers. Again we are not quite clear why FC is seen as so different.

12. What more do you think should be done to improve the efficiency with which government's forestry functions are delivered?

There are three points to our response to this question.

First, there is as the Boyd report indicated some lack of clarity between responsibilities for various aspects of forestry policy and delivery between DEFRA, FERA and FC in respect of tree disease. These need to be addressed.

Second, the existing consultative and governance arrangements of the Forestry Commission through the Forestry and Woodland Advisory Committees which form an important link to local perspectives need to be drawn into any organisational redesign.

Third, Table 1 in the Paper on the review of Forestry Functions in England describing the forestry functions and sub-functions deserves comment. It is our view that some of these functions are opaque and some are under-resourced.

We feel that 2.1, developing sector partnerships should be a growth area for a new Forest Services body as well as 2.2 expert advice, and 3.1 competence on tree health in the light of the recent Oaken Wood decision to proceed with quarrying of 33ha of ancient woodland and the A21 public inquiry.

We are also concerned that FC sees these activities as requiring a scale of resources totalling £10s of thousands only. Statutory consultees have a key role in supporting the efforts of the voluntary sector to put the planning system to the test. We cannot fight loss of important woodland without some back up from the Commission or Natural England so a reduction of commitment to 2.6 and 2.8 would send a really worrying signal to planning inspectors.

Quite what £100s of thousands is needed for to support institutional reform such as power shifts and deficit reductions is not clear (4.3).

13. Would you like to make any other comments about the conclusions of the review of forestry functions in England, including on any impacts of the creation of the Public Forest Estate management body?

We have long wanted the Forestry Commission to be more than it currently can be – a more autonomous, eloquent, high profile leader and champion of the unique role of forests in delivering public policy, and the steward of a public forest estate focused on public benefit with a modern mandate for modern times.

This review should be a unique opportunity to redefine and energise Forest Services to provide leadership especially in driving forward the ecosystem services approach and the natural capital approach to delivery of its functions, and to harness the potential of forestry to deliver on a range of government agendas.

We therefore welcome the top line conclusion (conclusion 1) of the Forestry Functions Review that Forest Services should not be merged with either or both of Natural England or the Environment Agency. We were part of sector wide representations on this subject. It is clear that the sector's views expressed in a number of channels between April and July have been acknowledged and we are appreciative of that.

But the opaque conclusions of the review leave the future of FC in limbo; having ruled one option out it leaves several still in play which will lead to continuing uncertainty about the future of the FC now that it is to be disengaged from the PFE and following downsizing over many years. Creating a new regulatory, grant giving and advisory body creates an

organisation vulnerable to future public body reviews: absorbing it into DEFRA is no better than merging it with the Environment Agency or Natural England where its identity would wither and die. If it can retain a discrete identity within DEFRA with direct regular access to Ministers regularly on matters of policy and be seen as critical to DEFRA's success then drawing it into DEFRA in a similar way to the Scottish model may be the least worst option. In other words we wouldn't have started from here!

Cross-Border Functions and Shared Services

14. Would you like to make any other comments at this early stage about how setting up the Public Forest Estate management body and advancing the conclusions of review of forestry functions in England might affect:

- a. Forestry Commission's cross-border functions; and/or
- b. Forestry Commission's shared services; and/or
- c. Forestry Commission England's National Office.

Despite the process of devolution which has been underway since 1999, there remain many issues with forestry which do not respect the geographical artificiality of country boundaries. Choices about how to manage a national forest estate can be differentiated at a country level because such decisions are subject to political will, overtones of national identity and the need to manage a national geographically fixed asset, but many other aspects of forest management apply equally across the UK. For example, research requirements often cross such boundaries especially those related to tree disease and plant health. The UK is also a signatory to international agreements on forests and so some co-ordinating capacity across all four countries on international policy and reporting is critical given the role the UK plays in leading on sustainable forest management.

In the same way that JNCC fulfils a suite of responsibilities for nature conservation which is subject to similar post devolution requirements, so too could a cross border UK/GB Forest Services body. Its duties as a statutory adviser to the UK government and devolved administrations could be to:

- Advise Government on the development and implementation of policies for, or affecting, forests in the UK and internationally
- Provide advice and disseminate knowledge on forests issues affecting the UK and internationally
- Create common standards throughout the UK for forest management including monitoring, research, and the analysis of results
- Commission or support research that is deemed relevant to these functions.

General comments

15. Would you like to make any other comments about any aspect of this work?

No