



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Amgylchedd a Chynaliadwyedd **The Environment and Sustainability Committee**

Dydd Mercher, 14 Tachwedd 2012
Wednesday, 14 November 2012

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Yn y golofn chwith, cofnodwyd y trafodion yn yr iaith y llefarwyd hwy ynndi. Yn y golofn dde, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

In the left-hand column, the proceedings are recorded in the language in which they were spoken. The right-hand column contains a transcription of the simultaneous interpretation.

Aelodau'r pwyllgor yn bresennol **Committee members in attendance**

Mick Antoniw

Llafur
Labour

Yr Arglwydd/Lord Elis-
Thomas

Plaid Cymru (Cadeirydd y Pwyllgor)
The Party of Wales (Committee Chair)

Vaughan Gething

Llafur
Labour

Llyr Huws Gruffydd	Plaid Cymru The Party of Wales
William Powell	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
David Rees	Llafur Labour
Antoinette Sandbach	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

James Byrne	Ymddiriedolaethau Natur Cymru Wildlife Trusts Wales
Rory Francis	Coed Cadw Woodland Trust
Dafydd Jarrett	Ymgynghorydd Polisi Ffermydd Undeb Cenedlaethol yr Amaethwyr Cymru NFU Cymru Farm Policy Adviser
Bernard Llewellyn	Cadeirydd Bwrdd Materion Gwledig Undeb Cenedlaethol yr Amaethwyr Cymru Chairman of NFU Cymru's Rural Affairs Board, NFU Cymru
Rhian A Nowell-Phillips	Dirprwy Gyfarwyddwr Polisi Amaethyddol, Undeb Amaethwyr Cymru Deputy Director Agricultural Policy, Farmers Union Wales
Dr Sharon Thompson	Rheolwr Datblygu Cynaliadwy, RSPB Cymru Sustainable Development Manager, RSPB Cymru
Ben Underwood	Cyfarwyddwr Cymru, Cymdeithas Tir a Busnesau Cefn Gwlad Director Wales, Country Land and Business Association

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Alun Davidson	Clerc Clerc
Michael Lewis	Dirprwy Glerc Deputy Clerk
Alys Thomas	Y Gwasanaeth Ymchwil Research Service

Dechreuodd y cyfarfod am 9.30 a.m.
The meeting began at 9.30 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Yr Arglwydd Elis-Thomas:** Croeso i ail sesiwn y Pwyllgor Amgylchedd a Chynaliadwyedd ar Orchymyn Corff Adnoddau Naturiol Cymru (Swyddogaethau), neu, fel rydym i'w alw bellach, cyfoeth naturiol Cymru.

Lord Elis-Thomas: Welcome to the second session of the Environment and Sustainability Committee on the Natural Resources Body for Wales (Functions) Order, or, as we are meant to call it now, natural resources Wales.

9.30 a.m.

Gorchymyn Corff Adnoddau Naturiol Cymru (Swyddogaethau)
The Natural Resources Body for Wales (Functions) Order

[2] **Yr Arglwydd Elis-Thomas:** Rwy'n falch iawn o groesawu'r tystion. Os wnewch chi gyflwyno'ch hunain, byddaf wedyn yn gallu gofyn un neu ddau o gwestiynau agoriadol.

Lord Elis-Thomas: I am pleased to welcome the witnesses. If you introduce yourselves, I will then be able to ask one or two opening questions.

[3] Rydym mewn sefyllfa anodd gan nad ydym eto wedi gweld y Gorchymyn fel y'i hailgyflwynwyd, felly nid ydym mewn sefyllfa i drafod y ddogfen eto. Fodd bynnag, byddwn yn ei drafod ac yn craffu arno'n ffurfiol gyda'r Gweinidog fel pwyllgor. Felly, byddwn yn ystyried y ddogfen honno cyn bo hir.

We are in a difficult situation in that we are yet to see the Order as it was resubmitted, so we are not yet in a position to discuss the document. However, we will be formally discussing it and scrutinising it with the Minister as a committee. So, we will be considering that document shortly.

[4] Sharon, do you want to introduce your colleagues, or will you do it, Rory? I do not want to defer to my constituent Mr Francis, but if I am forced to do so, I will. [*Laughter.*]

[5] Croeso arbennig i ti, Rory. A warm welcome to you, Rory.

[6] **Mr Francis:** Fi yw Rory Francis, ac rwy'n un o ymddiriedolwyr Cyswllt Amgylchedd Cymru. Rwyf hefyd yn cynrychioli Coed Cadw/Woodland Trust. Rwy'n awyddus iawn i bwysleisio, pan gaf y cyfle, y *synergy* posibl a fyddai'n gallu deillio o weithio ar draws cyfrifoldebau'r corff newydd.

Mr Francis: I am Rory Francis, a trustee of Wales Environment Link. I am also representing Coed Cadw/Woodland Trust. I am very keen to emphasise, when I get the opportunity, the potential synergy that could arise from working across the new body's responsibilities.

[7] **Dr Thompson:** I am Sharon Thompson, sustainable development manager at the Royal Society for the Protection of Birds Cymru. I am also a member of the WEL working group on this activity. I would like to say that we are all very keen for the new body to be a leader of environmental management and environmental protection. We are keen that the legislation creates a natural resources Wales body that can deliver those activities.

[8] **Mr Byrne:** My name is James Byrne, living landscapes advocacy manager for Wildlife Trusts Wales. I am also representing WEL; I am the chair of the WEL advocacy group. I am here to discuss today the purpose of the new body, because we believe that the new body should be a champion for the environment, or at least the environmental element of sustainable development. We would like to see the purpose redefined by the second Order.

[9] **Yr Arglwydd Elis-Thomas:** Rydych i gyd wedi cymryd rhan yn yr ymgynghoriad a drefnwyd gan y Llywodraeth a'r Gweinidog ar y Gorchymyn. A ydych yn fodlon bod yr ymgynghoriad hwnnw wedi bod yn ddigon trwyadl, ac a ydych yn teimlo eich bod wedi cael digon o wybodaeth i gymryd rhan yn hwylus yn yr ymgynghoriad? Pwy sydd am ddechrau?

Lord Elis-Thomas: You have all taken part in the consultation organised by the Government and the Minister on the Order. Are you content that that consultation was sufficiently thorough, and do you feel that you had sufficient information to easily take part in the consultation? Who wants to begin?

[10] **Mr Byrne:** There was not an awful lot of clarity in the consultation documents. There were a lot of opportunities within them, but they were not expanded upon. It was really hard for us in the third sector, and for anyone consulting on the document, to get a grasp of what things such as the natural resource management plans were going to be, which meant that it was hard to fully comment on them, given that we do not yet know what they are. So, yes, it was challenging to comment on the document.

[11] **Dr Thompson:** I am not sure that I can add much more to what James said. We have had good consultation processes, but we feel that we would have liked more detail about how certain aspects of it will be delivered in the future. So, hopefully, when we see the next version of the second Order tomorrow, as we have been told, the explanatory notes will be more expansive and provide more detail about the intentions and how they hope that the body will deliver certain aspects.

[12] **Mr Francis:** We understand that things are moving very fast, but it would have been nice to have seen more and see it earlier; you probably feel that as well. However, it is probably inevitable.

[13] **Antoinette Sandbach:** One example that you have indicated is how internal separation in the new body will be achieved. I know that, in the consultation process, they said that there would be internal separation, but they did not discuss what form that would take and how it would work. What is your view on that? What would you like to see with regard to internal separation where there is conflict within the body itself as to the functions that it is performing on that particular point?

[14] **Dr Thompson:** That is area that we are particularly interested in and concerned about and have highlighted in our response. We are keen that, in merging the three bodies together, those discussions that would previously have taken place in the public domain through consultation responses and so on, are still open, and that information is available to the public, so that they are aware of whether there is discussion or difference of opinion within the body, between the different aspects of the body that are either looking for permits or looking to take forward activities and those who are looking to assess the impacts of those activities.

[15] One area that we looked at in particular was in relation to a piece of case law, called the Seaport Investments judgment, which comes from Northern Ireland. We had some legal advice on this, and our view is that those looking for a permit and those assessing the impact need more than just operational separation within the body; there needs to be complete separation on a permanent basis to make sure that one side is not being influenced by the other. We are not clear, from the consultation document and the information that we have received to date, whether that separation will happen to that scale within the body.

[16] **David Rees:** Do you agree, in that case, that there need to be separate governance aspects for the two sides?

[17] **Dr Thompson:** That is what the case law implies. It is almost like a body within a body, having its own administration and even, possibly, finance and human resources and so on. Otherwise, the implication is that you set up a temporary division within the organisation, but everybody will come back together and feel the pressures from each other. The only way to give true autonomy is, as I referred to, to have a body within a body. I am not sure whether anybody has seen it in practice, but that is what the case law implies should be done. There was very little detail in the consultation document about it. It just implied that what they are planning to do should be consistent with the Seaport Investments judgment. However, without any appropriate information, we cannot be clear.

[18] **Lord Elis-Thomas:** You will not be surprised to know that we also have some legal

advice on this. We are grateful for what you have said as evidence to us. We are due to discuss these matters in this room with the new chair and the new chief executive of natural resources Wales. I promise you that this will be rehearsed most thoroughly, because it is a matter that is central to all of our Members, especially those who have legal expertise, to which we defer. Do you want to come back on this, Antoinette?

[19] **Antoinette Sandbach:** No.

[20] **Llyr Huws Gruffydd:** Yn amlwg, rydych yn cynnig diffiniad o bwrpas statudol i'r corff newydd. Mae gennyf ddi-ddordeb clywed ychydig o sylwadau gennych ynglŷn â pham eich bod yn awyddus i weld y pwrpas rydych wedi'i osod.

Llyr Huws Gruffydd: Clearly, you offer a definition for the statutory purpose of the new body. I would like to hear some comments from you about why you are keen to see the purpose that you have laid out.

[21] **Mr Byrne:** I should start with the sustainable element, being the central organising principle of the Welsh Government, which is in three pillars: the social, economic and environmental. We believe that without a public body that leads specifically in the environmental element of sustainability, the Welsh Government will not achieve sustainable development.

[22] Under the heading 'Purpose of the Body', the first Order uses the terms 'sustainably maintained' and 'sustainably enhanced', but the use of the term 'sustainability' is ambiguous. No definitions were given with that. It appears to imply that the new body will look at the people, the economy and the environment of Wales. We believe that the new body should proactively contribute to delivering sustainable development. However, as the economy is a wholly owned subsidiary of the environment, this new single body needs to look specifically at developing one aspect: the environmental aspect of sustainable development. For example, the national health service delivers on health and wellbeing, but it is not being asked to deliver other aspects of sustainable development—it is not its central tenet. So, the central tenet and the purpose of the new body should be to proactively deliver the environmental aspect of sustainable development, contributing to the other aspects as well, but with the central tenet being the environmental aspect.

[23] **Llyr Huws Gruffydd:** Cytunaf fod perygl y bydd pobl yn gweld y corff newydd fel y corff sy'n gyfrifol am ddatblygiad cynaliadwy a bod hwnnw'n gwneud un peth a'n bod ninnau'n gwneud rhywbeth gwahanol. A ydych chi'n credu bod y pwrpas yr ydych chi wedi ei gynnig—y geiriad a roesocho—yn ddigonol i gyflawni'r pwrpas hwnnw neu i sicrhau nad yw hynny'n digwydd? Rydych yn sôn am yr amgylchedd, yr economi ac yn y blaen, ond a ydy'r ffocws yn ddigon cryf?

Llyr Huws Gruffydd: I agree that there is a danger that people will see the body as being wholly responsible for sustainable development and that it does one thing and we do something different. Do you think that the purpose that you have proposed—the wording that you have given—is sufficient to fulfil that purpose or to ensure that that does not happen? You talk about the environment, the economy et cetera, but is the focus strong enough?

[24] **Mr Byrne:** I am sorry; I did not get all of that.

[25] **Llyr Huws Gruffydd:** You offer a statutory purpose—it is in the WEL and RSPB papers—which is,

[26] 'to maintain, protect and proactively improve Wales' natural environment, for the benefit of the environment, people and economy of Wales now and in the future.'

[27] Do you think that it needs to be more expressly stated—that there is a wider role that needs to be played by others as well?

[28] **Mr Byrne:** Yes. We do think that the purpose of the single body needs to be defined, using the second Order to amend the first Order to put more emphasis on the purpose of conserving or protecting and enhancing, and positively managing, the Welsh environment, because that is the basis of your social and economic aspects. So, it needs to be better defined within the Orders.

[29] **Dr Thompson:** May I add to what James said? There is a proposal for a sustainable development body in the sustainable development Bill and that is the body we see working across Wales, across public bodies and across Government departments—all of us. We would then see this body contributing to sustainable development by delivering the sustainable environment context and framework for us to achieve sustainable development. We are trying to make that distinction between the sustainable development body that will have the overarching remit and this body, which we want to deliver sustainable management of our natural resources, helps us continue to deliver ecosystem services into the future and protects and enhances the natural environment and wildlife of Wales.

[30] **Mr Francis:** Er mwyn ymateb i gwestiwn Llyr, hoffwn roi enghraifft neu ddwy o sut y gallai hyn ddigwydd yn ymarferol. Rwy'n siŵr bod rhai ohonoch yn ymwybodol o gynllun Pompren yn sir Drefaldwyn, lle mae 10 fferm wedi dod at ei gilydd i blannu 120,000 o goed dros 10 mlynedd fel lleiniau cysgodol. Maent wedi gwneud hyn er mwyn rheoli'u ffermydd yn well ac i ddarparu ffynhonnell o goed. Y mae hefyd yn helpu i reoli dŵr yn well, i leihau llifogydd, i wella ansawdd dŵr, a gwella'r amgylchedd ar gyfer cynefinoedd byd natur. Rydym yn meddwl y gallai'r corff newydd hyrwyddo'r fath bethau yn ehangach yng nghefn gwlad.

Mr Francis: In response to Llyr's question, I want to give an example or two of how this can happen practically. I am sure that some of you are aware of the Pompren scheme in Montgomeryshire where 10 farms have come together to plant 120,000 trees over 10 years as shelter. They have done so in order to better manage their farms and as a source of timber. It also helps to better manage water, reduce floods, improve water quality, and improve the environment for natural habitats. We think that the new body could promote such issues more broadly in rural Wales.

9.45 a.m.

[31] Rydym ar fin gweld y cofrestr cyntaf o goed trefol yng Nghymru. Gall coed mewn trefi leihau llygredd a gronynnau yn yr awyr o ryw 15% neu 20%. Mae manteision mawr o reoli'r amgylchedd mewn ffordd gyfannol. Enghraifft arall yw bod gan Gymru darged o greu 100,000 o hectarau newydd o goetir. Ar hyn o bryd, mae'r Comisiwn Coedwigaeth yn ei chael yn anodd i gyrraedd y targed hwnnw. Gobeithiwn y gallai corff newydd wneud hynny mewn ffordd fwy call, gan sicrhau bod y goeden iawn yn cael ei phlannu yn y lle iawn, gan gynnig manteision mawr i Gymru.

We are about to see the first register of urban trees in Wales. Trees in towns can reduce pollution and particulates by between 15% and 20%. There are significant advantages to managing the environment in a holistic manner. Another example is that Wales has a target of achieving 100,000 new hectares of woodland. Currently, the Forestry Commission is having difficulty reaching that target. We hope that the new body could do that in a better way to ensure that the right tree is planted in the right place, offering significant advantages for Wales.

[32] **Antoinette Sandbach:** I am a passionate advocate of trees, as you know, but those sorts of projects, as you rightly say, are being delivered on a voluntary basis. In terms of setting up the purposes of the new body, what you are actually doing if you change that

definition is restricting it to the environment. If you put in that element of sustainability, you are looking holistically, as you said in your evidence, Mr Francis, at all the impacts, including on rural, social and economic viability. The word ‘sustainably’ includes the environment. In terms of the balancing obligation currently in the Forestry Commission criteria, what would be your comment on that? Would, from your point of view, a definition of ‘sustainably’ satisfy you, rather than a rewriting in order to put in ‘environment’ in place of ‘sustainability’?

[33] **Mr Francis:** The Wales Environment Link view is clear. Our view is that we would rather not start from where we are now. We believe that in order to deliver sustainable development, the new body has to particularly stress the protection of the environment, because that is its job as part of the delivery of sustainable development. If it was down to us, we would have wanted to have framed what is said about the balancing duty in terms of sustainable development, but under the constraints of the Public Bodies Act 2011, our understanding was that that was not possible at this time. So, the view is that the best option on the table at the moment is the balancing duty because we are absolutely clear that we want Welsh woodlands and forests to deliver environmental benefit, as I have said, in terms of water quality and wildlife habitat, but we want them to deliver more as well, and we are absolutely clear about that. Does that answer the question?

[34] **Antoinette Sandbach:** Just to clarify, that balancing duty you are talking about is the Forestry Commission balancing duty, but what I also asked you is whether a better definition of ‘sustainability’—because you referred to the first Order—would satisfy your concerns? As James pointed out, ‘sustainably’ was not defined in the first Order.

[35] **Dr Thompson:** It is not that we are saying that there should not be an element of sustainability in the definition, but the definition in the first Order was very ambiguous. It does not give any precedence to the environment; in fact, it is not even clear that environmental protection, enhancement or management activities would be considered a viable thing for the body to do if you could not show that they were delivering social and/or economic benefits at the same time.

[36] There are a number of ways that we could change that. One is a better definition of ‘sustainable’ and ‘sustainability’ and so forth in relation to the first Order. The other version is what we have proposed which, in itself, does say that the body should deliver

[37] ‘for the benefit of the environment, people and economy of Wales now and in the future’,

[38] which implies sustainability. It is not that we are saying that there must be no reference to people or the economy, but the first Order is so ambiguous as to not be clear.

[39] **Mr Byrne:** We also believe that most of the actions to improve environmental management will have economic and social aspects. The example that Rory gave earlier was a good one. However, I also put forward the Pumlumon project in mid Wales, which is also economic, social and environmental. Considering that one of the drivers for this process, as stated by the Minister, was the failure to meet the biodiversity targets in 2010, and if we continue to have environmental degradation—for example, the UK national ecosystem assessment shows that the number of honey bees in Wales has declined by 23%, 54% of biodiversity action plan species in unfavourable condition and 59% of BAP habitats in unfavourable condition—we need a strong environmental body that delivers for environmental aspects but which will also contribute to the other aspects of sustainable development. So, in order to have a strong emphasis on achieving sustainable development, we need a strong environmental body.

[40] **William Powell:** The challenge that we now face is proof enough—if we needed it—that the environment does not recognise national boundaries. The evidence from the Wales Environment Link expresses concerns around the functions that would be assigned to Ministers in terms of cross-border issues. Could you expand on the concerns that were in your paper?

[41] **Mr Byrne:** Sustainability cannot be looked at in terms of just Welsh issues specifically. We need to be looking at cross-border issues, working with England on the borders, but also in terms of the international obligations, such as the European habitats directive, the birds directive, the Ramsar directive and so forth.

[42] The ash issue is another example of why we need to be looking across borders. The energy generation in Wales, in terms of bringing in biofuels or bio-energy from outside of Wales, could potentially have a detrimental impact on the wider environment in an international context. The biofuels may come from areas where rainforests were destroyed et cetera. So, we need to look at this in a more global context.

[43] **William Powell:** Some concerns were expressed in the paper on the powers of direction that would be assigned to Westminster and Welsh Government Ministers. Could you expand any further on what the nature of those particular concerns were regarding the powers of direction?

[44] **Dr Thompson:** With regard to our specific point in response to the consultation, I think that we were worried that there was an implication—I think that the phraseology was, ‘we anticipate that this work will continue’—about the relationship between the current Countryside Council for Wales and its sister bodies in England, including Natural England and the UK-wide Joint Nature Conservation Committee. We felt that perhaps the statement was slightly off-the-cuff. It could have been a case of poor drafting, but—

[45] **William Powell:** It is rather casual, really.

[46] **Dr Thompson:** Yes. We want the new body to build relationships with its sister bodies, such as the Environment Agency, the Forestry Commission or Natural England and the JNCC. In the marine environment, it will be the Marine Management Organisation. This will make sure that while this body, as James has just said, is working primarily for Wales, it does not forget its responsibilities at a UK, European or global level. That was the main issue that we brought up in the paper.

[47] **William Powell:** Also, with regard to the concerns about failing some of the biodiversity targets, the role of the statutory consultee will obviously be critical in going forward. You also expressed some concerns in that area. Could you amplify and explain your concerns about that area?

[48] **Dr Thompson:** This is one of the areas where there was not a huge amount of information. We have put a lot of effort into trying to get to know the new body in its current shadow form. We have meetings with the new chief executive this week and we hope to meet the new chair in future. Obviously, as environmental organisations, we are keen to be seen as important stakeholders. We want to clarify our role from an advocacy and policy point of view, but many of us also provide practical delivery on the ground, so we are the people who help to do the actual work to ensure that the Welsh Government delivers its environmental and management objectives for biodiversity. As I said, there was very little in the current consultation and, taking that in conjunction with the first consultation, it was the case that many of the stakeholder groups were being repealed but there was very little information about what would happen in future. What the Welsh Government has said back to us is that it is up to the new body to build its stakeholder relationships, but we are in between bodies, so

to speak, and it is kind of a grey area. We are hoping that, with the new chief executive, stakeholder engagement and the development of new advisory, scientific and stakeholder engagement, groups will start to build up so that we can engage properly with the new body and its new functions.

[49] **William Powell:** Do you feel that this is particularly important given the issues of potential conflicts of interest referred to previously? We have had examples over time of some of the predecessor bodies offering strongly divergent advice and very emphatically. Does that strengthen the case made earlier?

[50] **Dr Thompson:** It is one of a number of cases for good stakeholder engagement. Obviously, it would be useful if the new body had some form of stakeholder advisory group that could listen to these sorts of things and be involved in them—indeed, be aware of them. That would be a good way to make those issues a bit more open and transparent.

[51] **William Powell:** Thanks. That is helpful.

[52] **Lord Elis-Thomas:** I have tried to read through all the consultation materials, but did you actually mention that as a proposal?

[53] **Dr Thompson:** I think that we mentioned the idea of stakeholder groups, but that was probably in response to the first consultation because it was more of an issue there. This is the problem; there have been a number of different consultations and if you have to read all the information, it is a lot. It was just a thought as part of this discussion that it might help with openness and transparency, so, no, we did not mention that specifically in our consultation response.

[54] **Lord Elis-Thomas:** As I said earlier, we will be discussing these matters with the body itself—natural resources Wales, as I must call it now, not a body, as it is almost about to come to life—but we will also be raising these issues with the Minister. So, if you would like to work this up between you as a stronger proposal for where you, as stakeholders, might play a constructive role, I think that we would be very interested to see that.

[55] **David Rees:** Mine is a very simple question. We have been discussing the various elements of the three individual bodies and where they fit in. To me, a merger is more than the sum of its parts. In your view, is this draft Order telling us that the new body is more than the sum of its original parts?

[56] **Mr Francis:** We certainly hope that it will be, but our view is that, from the point of view of the Welsh Government and the Assembly and Wales as a whole, setting up a new body is not a no-risk strategy. As some of the members of this committee have pointed out, if the detail is not right, it could all go horribly wrong. We have to ensure that we get it right. Speaking on behalf of Coed Cadw, the Woodland Trust, we very much hope that it will bring a step change in doing things better. However, that does not mean for a minute that we are complacent or that we think that everything has been sorted out.

10.00 a.m.

[57] We are very concerned that all the details should be right, and we are very much a part of these discussions that the Wales Environment Link has had, particularly around the idea that, as we said, the role of the new body should be to help to deliver sustainable development by being a champion for protecting and enhancing the environment. That is clearly its role, because the environment underlies everything that we do. We can quote figures about the number of jobs in Wales that are dependent on the environment, but actually, speaking as an economist, I would say that absolutely everything that happens in the

economy is all dependent on the environment, from the air that we breathe and the food that we eat to the leisure time that we enjoy. It is the No. 1 asset that we have to protect as we move into the future, with all the great pressures that will come on it from resource prices, et cetera.

[58] **David Rees:** Let me reword that slightly, then. Rather than ask whether it is more than the sum of its parts, let me say that there are clearly issues of detail, which we recognise, and that is what we are trying to work out and look at. Does that indicate that it is not more than the sum of its parts? In other words, are there clear, distinct problems that are fundamental flaws in the whole process, or are there issues that we need to address but that are surmountable?

[59] **Dr Thompson:** There are two different things there. Rory has highlighted the fact that, obviously, the culture of the body will be as important as the legislation that will deliver it. The legislation will deliver only certain parts of it and will not provide the bits that have non-legislative requirements. In addition, we are currently looking at what will, tomorrow, be an old draft of the second Order, so we can only go on what we have seen, and, obviously, we have also seen the Minister's letter to the committee, which provides some hopeful reassurances. So, we will be looking at the next draft of this piece of legislation very closely tomorrow, and, hopefully, we will be pleased with what we see.

[60] One of the big issues that we were concerned about, in addition to its purpose—which was in the first Order, and which we have discussed—and this idea of functional separation, and commenting on its own decisions, was the duty for the new body on nature conservation and natural beauty. We were particularly concerned about the proposal in the current draft that is on the table of the second Order that we were going to lose what is considered necessary protection by the repealing of the current CCW duty. We were very strong on that, because, under the provisions of the Public Bodies Act 2011, you cannot remove this necessary protection, so we have gone back very strongly to the Welsh Government and said that we want to see a stronger nature conservation duty in the version of the second Order that is put on the table tomorrow. That is an area that we are very concerned about. The Minister has given some reassurances, which we are hopeful we will see borne out tomorrow.

[61] **Mr Byrne:** I would agree with what Sharon and Rory said. On the first question about whether it will be more than the sum of its parts, we do hope that it will be. We know that the 'A Living Wales' agenda is ambitious and potentially groundbreaking globally, so we see the single body as delivering and driving that agenda. Even though that was not mentioned in the Orders, we think that it is potentially a central tenet of what the new body can do. We are hoping that it will be more than the sum of its parts, and that it will take this groundbreaking agenda and move it forwards for the environment, but also for the people and the economy of Wales.

[62] **David Rees:** It is interesting to hear the two of you saying that you 'hope'.

[63] **Mr Byrne:** These are early days, obviously.

[64] **Lord Elis-Thomas:** I do not normally sit here quoting correspondence that I have recently received, but I think that you have seen this letter from the Minister, dated 7 November, in which, on the point that you raised, Sharon, he gives reassurance to the committee and other stakeholders that

[65] 'The draft order that I will lay on 15 November will take account of that concern.'

[66] That is, about the possible weakening of CCW duties. It goes on to say that,

[67] 'The body's nature general conservation duties will be set out more fully in the order, and they will be more closely aligned with those of CCW where they apply to former CCW functions.'

[68] Now, how more closely aligned they are will be the test, presumably, as far as you are concerned. We would be very interested to have further discussion with you after we have seen the further, further draft, or if you felt able to send us a note that we could publish with our further scrutiny of this Order as it progresses.

[69] **Dr Thompson:** We would be happy to do that, either in person, or we can also provide you with a note in writing. The only thing that I would add in relation to that is that it might be interesting for us to consider the caveat at the end of the sentence that you read out, namely

[70] 'where they apply to former CCW functions'.

[71] There might be a slight concern that we will end up with a body that has three duties, each applying to the transferred-over functions of the three existing bodies. Until the environment Act gives us the opportunity to look at the functions and duties of the body as a whole in a more ambitious way, we might end up with three bodies merged but each carrying on business as usual with their existing duties. That is probably not ideal, and it will be interesting to see how the body deals with that conundrum.

[72] **Lord Elis-Thomas:** Indeed, but you mentioned earlier that you had been given legal advice that, since the body was created under the Public Bodies Act 2011, that might account for the way in which the duties have been transposed. This is an issue that we tried to engage with in respect of the first draft of the Order, and in subsequent private discussions in this committee. Would you subscribe to that view, and how do you think we could move on to deal with the lack of mission integration, if that is the term, for the new body?

[73] **Dr Thompson:** As you say, the limitations of the Public Bodies Act 2011 cause some of these anomalies, but the phraseology of the caveat is 'not to remove necessary protection'. I suppose that that does not stop you from going with the strongest denominator rather than the lowest common denominator in this case. However, I suspect that this is the compromise. It might be a question to ask the chief executive how he intends to take this forward, to ensure that he has a coherent body when this range of duties applies to different activities across it.

[74] **Lord Elis-Thomas:** Are there any further issues, colleagues?

[75] **David Rees:** We have heard some concerns about a lack of involvement on the marine side of things. Can you expand on that a little? We are looking at the marine aspect anyway, and it is important to look at how that fits in. You mentioned the MMO earlier on. Where do you feel that the strengths need to be placed within this body, in relation to marine?

[76] **Dr Thompson:** Referring back to the first consultation again, that proposed merging marine licensing activities into the new body, while the second consultation did not make any reference to them. Our question was whether the marine functions were becoming a part of the body or not, and, if so, when? I am afraid that we do not have much more information than you do. It was mainly about looking for clarity on that role. I do not think that we have a strong opinion either way. It is just that it seemed to be quite a strong proposal in the first consultation and things seem to have gone a bit quiet on it now. We have been asking what is likely to happen. Such a body will need to consider the marine environment. CCW currently does so, so the new body will have marine conservation functions and marine protection functions. The Environment Agency has fisheries functions and fisheries responsibilities. So, it is not the case that the marine environment is completely excluded from the new body. It

was just this specific issue to do with licensing.

[77] **Lord Elis-Thomas:** However, you are not specifically making a case for the marine environment to be included, are you?

[78] **Dr Thompson:** As I said, we have not expressed a strong opinion either way, but I think it would make sense considering the other roles of the body.

[79] **Mr Byrne:** As Wildlife Trusts Wales, we believe that the new body should have a clear and explicit role in conserving and enhancing the marine environment, given that so many of the social, economic and environmental aspects of Wales are tied up there. Double the landmass of Wales is tied up in its marine environment. We feel that the marine environment gets overlooked readily and we would like to see the new body having a clear and distinct function dealing with, working on and enhancing the marine environment.

[80] **Dr Thompson:** Just to clarify, I was thinking about marine licensing, which is the bit that is up for discussion. However, obviously, because it has marine functions, I concur with everything James has said. It must have a strong marine environment protection and management role as well.

[81] **Antoinette Sandbach:** In that regard, are you not slightly comforted by the make-up of the board? There is quite a lot of marine expertise on the board, perhaps in contrast to the position with regard to forestry. There is very little forestry expertise in the make-up of the board.

[82] **Mr Francis:** We are not going to come along here today and criticise the nominations to the board. Clearly, I have heard the concerns. I am aware of the concerns within the forestry industry. What I would say is that, in setting up a new body, it is very important to have people who are very good on science and management and, if there is a deficiency on the board with regard to woodlands in particular and woodland management, in our view, that puts a greater onus on the new body to take advice from its own staff and particularly from stakeholders.

[83] The Woodland Trust would certainly welcome the fact that the woodland strategy advisory panel—which I should probably declare an interest in as I am a member—has been extended for a year. We think that it is very important that the new body gets good advice. The woodland strategy is a document this body should feel very proud of. I think it is a very good example of policy being made on the basis of sustainable development. All the way through the document, the benefits with regard to the economy, the environment and society are stressed. That is how the woodland sector has tried to work. It has been largely successful. I am not saying that it could not be done better, but we certainly hope that that will continue and that the new body will take good advice and make progress in that area.

[84] **Antoinette Sandbach:** Sorry, I think that I was asking for your comments on the strength of the board in terms of its commitment. Clearly, a large number of members with a marine background have been appointed to the board. Does that give you confidence in the focus that the board may have in terms of the marine?

[85] **Mr Byrne:** Obviously, yes. However, we still need to see the marine explicitly mentioned in the Orders for the new body. Without the legislative hook, it might be difficult to engage the staff or for us to engage with the new body on marine issues; it could say that it is not within the Orders and so it is not its job. So, yes, it is useful to have marine experts on the board but we still need those legislative hooks.

[86] **Antoinette Sandbach:** In that case, I think that we fall back on the lack of a

definitions section in the first Order. If matters like the environment—. I think it does include air and water, does it not? Clearly, that is a matter for the definitions. If it is satisfactorily defined as included, that issue has been dealt with, has it not?

10.15 a.m.

[87] **Dr Thompson:** It might be helpful if it were clarified that water includes sea water. Normally, it does, because, as you say, it mentions air, water—I cannot remember exactly—the land, and flora and fauna. Normally, the reference to water includes the sea and it is very similar to the reference that CCW has currently, which gives it a remit to work in the marine environment. However, it would be useful to have that clarified and stated as the intention, if only in the explanatory notes.

[88] **Yr Arglwydd Elis-Thomas:** Os nad oes cwestiwn arall, hoffwn grynhoi gan ofyn am sylwadau pellach ar y pwyslais yn eich papur ar un ddyletswydd gref a chyffredin i'r corff newydd. Mae llawer o'n trafodaeth wedi troi o gwmpas y posibilrwydd bod negeseuon gwahanol o fewn dyletswyddau cyfoeth naturiol Cymru fel sefydliad. Beth yr hoffech ei weld fel geiriad ar gyfer 'one strong and common duty', fel y dywedwch yn eich papur?

Lord Elis-Thomas: If there are no more questions, I would like to sum up by asking for further comments on the emphasis in your paper on the new body having 'one strong and common duty'. Much of our discussion has revolved around the possibility that there are different messages within the duties of natural resources Wales as an institution. What would you like to see as a wording for 'one strong and common duty', as you say in your paper?

[89] **Mr Byrne:** In the Wales Environment Link consultation response we have its definition of the purpose as being:

[90] 'To protect, conserve, enhance and positively manage Wales' environment and so ensure its benefits for the people of Wales'.

[91] I have also read the RSPB's definition and it is similar. Either one of those would be fine.

[92] **Lord Elis-Thomas:** But you do not think that you will get in the Order tomorrow.

[93] **Mr Byrne:** I do not think so, no.

[94] **Lord Elis-Thomas:** Therefore, you might like it in the environment Bill.

[95] **Dr Thompson:** Our initial request would be to use the second Order to amend the first. As we said, there may be a number of different duties across the body, so the purpose will be the cohesive factor that all aspects and all members of staff in the body will be working to. The second opportunity will then be the environment Bill, but that is a few years down the road now. We would like the new body to be up and running and delivering at its best from day one rather than waiting three or four years. So, our push is for that reason.

[96] **Mr Byrne:** The definitions that we proposed set the right tone and a clear agenda for the new body to work with so that, from the off, as Sharon mentioned, the new body knows what it is doing.

[97] **Lord Elis-Thomas:** It has been suggested to us, among other things, that a remit letter might be another way of strengthening this, as it were. I am not saying that it is substitute for legislation.

[98] **Dr Thompson:** I think that we would agree. It might be a way to deal with it if there is not a legislative change, but it is not a substitute and the remit letter is likely to be different every year.

[99] **Lord Elis-Thomas:** But the remit letter is one of the tools of scrutiny of this committee and, therefore, what the Minister does or does not include in the remit letter is of interest to us. Given that we have been involved from the first study of the business case right through, and we are still involved, we are very interested in the actual outcome of the process of scrutiny that we are engaged in; this is not just entertainment for a Wednesday morning. However, we are very grateful to you for your part in this discussion this morning.

*Gohiriwyd y cyfarfod rhwng 10.19 a.m. a 10.38 a.m.
The meeting adjourned between 10.19 a.m. and 10.38 a.m.*

[100] **Yr Arglwydd Elis-Thomas:** Bore da unwaith eto a chroeso i'r sesiwn bellach ar gyfoeth naturiol Cymru, fel rydym i fod i alw'r corff. Dylwn fod wedi cyfeirio yn y sesiwn flaenorol at ymddiheuriadau oddi wrth Keith Davies, Julie James a Russell George. Rwy'n gwybod bod gan Vaughan Gething ddyletswydd yn ei etholaeth ac y bydd yn rhaid iddo fynd ar ganol y sesiwn.

Lord Elis-Thomas: Good morning once again and welcome to this further session on natural resources Wales, as we are to call the body. In the previous session, I should have referred to the apologies from Keith Davies, Julie James and Russell George. I know that Vaughan Gething has some duties in his constituency and that he will have to leave in the middle of the session.

[101] Croeso mawr i'r pedwar ohonoch. Pwy yw'r arweinydd heddiw? A warm welcome to all four of you. Who is the leader today?

[102] Mr Llewellyn, perhaps? Are you going to introduce everyone or just yourself?

[103] **Mr Llewellyn:** I would never assume such a thing.

[104] **Mr Underwood:** We never argue.

[105] **Mr Llewellyn:** No. Age.

[106] **Ms Nowell-Phillips:** The castle helps.

[107] **Yr Arglwydd Elis-Thomas:** Gofynnaf gwestiwn cyffredinol i ddechrau. Rydych i gyd wedi bod yn rhan o'r ymgynghoriad y mae'r Gweinidog wedi ei drefnu ar y drafftiau o'r Gorchymyn Corff Adnoddau Naturiol Cymru (Swyddogaethau). Mae'n anffodus nad oes drafft pellach o'r Gorchymyn wedi ymddangos eto—bydd yn ymddangos yfory. Fodd bynnag, a ydych yn teimlo bod yr ymgynghoriad wedi bod yn ddigonol neu a oes materion rydych yn teimlo sydd heb gael sylw digonol?

Lord Elis-Thomas: I will ask a general question to begin with. You have all been part of the ministerial consultation on the drafts of the Natural Resources Body for Wales (Functions) Order. It is unfortunate that a further draft of the Order has not appeared yet—that will appear tomorrow. However, do you feel that the consultation has been adequate or do you feel that there are matters that have not been given due attention?

[108] That is a leading question for you, Bernard.

[109] **Mr Llewellyn:** It is a bit of a chicken-before-the-egg or horse-before-the-cart scenario. Until the second Order is published—until we have a view of that—it is quite difficult to be precise on that. My concerns are perhaps more general than that. The

implication was made in the Green Paper and in some of the consultation documents that this was a chance to have some joined-up thinking, which really was what concerned me about the three bodies coming together. All we really know is what the make-up of the board is and some of the utterances that the chair and the chief executive have made. It is quite difficult to give you a precise answer to that question, because of where we are in the process.

[110] **Mr Underwood:** I echo Bernard's point. My particular concerns related to the forestry duties section, the public access section and the weight and the duties of the body given towards the consideration that this new body and any decision that it makes places on the effect on the rural economy. Those were my main areas, but I echo Bernard's point, in the sense that I feel that the area that we are particularly interested in will arise when we get into the nitty-gritty discussions about how we are improving the service provided to landowners and farmers by this body. I still do not think that we are quite at that stage.

[111] **Ms Nowell-Phillips:** I totally agree. The announcement of the board and the lack of private sector engagement or Forestry Commission representation mean that there will be a big mountain to climb out there in engaging with the private sector, businesses and the local economy. This body will have a huge impact on not just farming, but a wide range of private sector individuals. The board itself and the fact that there is no representation, even though we were told that they wanted to engage with the private sector, means that there needs to be a huge charm offensive now so that, when the body starts working in April, people take it realistically. I have big concerns that there is a lot of antipathy out there at the moment.

[112] **Mr Jarrett:** Hoffwn wneud un sylw mewn ymateb i'ch cwestiwn, Gadeirydd. Un peth sydd wedi fy mhoeni—gobeithio y bydd wedi newid yfory—yw ynglŷn â thudalen 11 o'r ymgynghoriad, pan mae'n sôn am beth fydd yng ngeiriad yr ail Orchymyn. Mae'n dyfynnu yn Saesneg:

Mr Jarrett: I would like to make one comment in response to your question, Chair. One thing that concerns me—and I hope that it will change tomorrow—is regarding page 11 of the consultation, where it talks about what the wording of the second Order will be. It states:

[113] 'to have regard to any effect which the proposals would have on the economic and social well-being of local communities in rural areas'.

[114] Mae hynny reit ar waelod y boc. Rwy'n gobeithio nad yw hynny'n adlewyrchu ei bwysigrwydd yn y corff newydd. Rwy'n gobeithio eu bod wedi ystyried ein sylw ni ar hynny, a bydd hi'n ddiddorol gweld os bydd hynny'n wir. Os byddwch yn cymharu'r hyn sydd yn y parciau cenedlaethol, nid yw'r corff hwn yn annhebyg i'r cyrff hynny. Rydym wedi bod yn pwysu ar y parciau cenedlaethol ers blynyddoedd bod yn rhaid cael y pwyslais economaidd yn ogystal â'r ddau beth arall sydd yn rhan ohonynt. Dyna'r wyf yn gobeithio ei gweld yfory, a bydd hi'n ddiddorol gweld os bydd wedi'i ychwanegu.

That is right at the bottom of the box. I hope that that is not a reflection of its importance in the new body. I hope that they have taken our comment on that into consideration, and it will be interesting to see if that is true. If you compare what is in the national parks, this body is not wholly different to those bodies. We have been putting pressure on the national parks for years that they must have the economic emphasis as well as the other two things that are part of their remit. That is what I hope to see tomorrow, and it will be interesting to see if it has been included.

[115] **Yr Arglwydd Elis-Thomas:** Os rwy'n cofio'n iawn—ac roeddwn yn gyfrifol ryw dro am ryw welliant i'r ddeddfwriaeth parciau cenedlaethol—ar waelod y boc mae'r economi yn dod yn y diffiniadau

Lord Elis-Thomas: If I remember correctly—and I was once responsible for an amendment to the national parks legislation—the economy is placed at the bottom of the box in those definitions as well.

hynny hefyd.

[116] **Mr Jarrett:** Rwyf wedi gweithio llawer gyda Pharc Cenedlaethol Eryri. Dros y blynyddoedd, mae'r gydnabyddiaeth wedi gwella. **Mr Jarrett:** I have worked a lot with Snowdonia National Park. Over the years, the recognition has improved.

10.45 a.m.

[117] **Vaughan Gething:** Good morning. I guess that the questions that I wanted to ask roll on from the stuff that we have started to have, particularly because the Farmers Union of Wales paper appears to have already made a judgment about the body in the way that it sets it out. It states,

[118] 'the Natural Resources Body will need to ensure that the credibility it has lost within the private sector is swiftly addressed if it is to have any genuine partnership working'.

[119] My concern is that, when you make such a bold statement as that, and you judge the body before it has actually begun its businesses, do you not think that you are setting up a self-fulfilling prophecy, where you are saying, 'We do not place any credibility on the body before it starts working', and then if you do not get what you want, you can say, 'Well, we told you'? That seems to be quite unhelpful. I think that it probably lessens the impact that you are likely to have.

[120] In terms of looking at the private sector, I am interested in your view about how the body would engage. I appreciate that you come from rural business backgrounds, but this body would have to engage with the private sector across the piece. It will engage, for example, with Celsa in my constituency and it will engage with Tata in David Rees's constituency. Its duty is widespread. I have not heard those concerns set out in the level and the certainty that you have given us. I am interested in how you see it engaging with other sectors, such as fisheries and the emerging marine renewables sector, and how you see the difference between the wording of the Order, the legal duties and the actual culture that the body has now that it practically undertakes its work.

[121] **Ms Nowell-Phillips:** As you quoted me, perhaps I could respond.

[122] **Vaughan Gething:** Please do.

[123] **Ms Nowell-Phillips:** The wording here is totally based on the negative feedback that we have had since the announcement of the board, which I made. We will work with them, and farmers, on an everyday basis, require a seamless approach so that, when a farmer rings up for advice or guidance, they are not passed from pillar to post. It will be the front-line staff that are important in engagement. When I was writing this, it was based on me having unhappy people on the telephone. We had several people from the farming sector going for a position on the board.

[124] You mentioned Tata Steel. I have actually been speaking with people, who also put people up for the board from the private sector, to do with Tata Steel in particular, who are extremely concerned about the fact that the private sector has not been engaged. Tata Steel is one example that I know of because I have actually spoken to people there. Yes, we will work with them. I do not think that it would be a self-fulfilling prophecy because I hope that, when the actual boards stand back and see the gaps that they have in terms of the private sector, they will actually make even more of an effort to engage the private sector.

[125] I am hoping that the initial view that we expressed about the lack of representation on

the board of either the private sector or the Forestry Commission itself, which is one of the bodies that has gone into the board, means that there will be an extra effort to ensure that there is engagement. I would like to make the point that it goes wider than just farming. I have also heard that from other private sector bodies.

[126] **Mr Underwood:** I would like to add to that. We are at risk of being classed as a bunch of whingers in rural areas and that rural areas are always different for the sake of it. Actually, in terms of your analogy there, Vaughan, with the likes of Tata Steel, these are mainly urban-located larger firms that have specific departments that deal with the environmental rigours that they have to face. We are talking about many very small businesses in terms of numbers of employees who have to deal with increasingly large-scale bureaucracy on how their business interacts and impacts on the environment. So, there is actually a difference. Although I accept that this body has a wider remit than just the areas that we cover here, I think that the success of this body in terms of delivering on the wider environment absolutely depends on how effective its relationship becomes with the landowning and farming community, which is, I believe, a unique relationship that is different to the one that it would have with large-scale companies such as the ones that you alluded to. There is a difference, subtle as it may be.

[127] **Vaughan Gething:** I do not think that it is subtle.

[128] **Mr Llewellyn:** I am not sure that it is totally appropriate for me to comment on the board, because I have to tell the committee that I threw my hat into the ring as far as the board was concerned. I did get as far as the interview scenario, which the Chair will perhaps be surprised at. [*Laughter.*]

[129] **Lord Elis-Thomas:** I would have given you the job. [*Laughter.*]

[130] **Mr Llewellyn:** In reality, I can see where the chairman of the board was coming from: what he was looking for was a board; that interview could have been for the board of a chemical company, a merchant bank or anything. In reality, there did not seem to be any concern about what the brief of this board was and, because it is such a large body, I can appreciate that. However, at the same time, I found it quite difficult, because we had been told in one of the Living Wales groups that there would be no industry representation on the board, because what they were looking for was strategic thinkers. That is fine; it is all very well coming up with a strategy, but that strategy has to operate on the ground. That is where perhaps I am disappointed, with the communication of that strategy. Stakeholders will obviously play an important role in that, but I am concerned that the board is very much more of the same, in all honesty. You can see that civil servants have been very involved in creating this board. It is probably inappropriate for me to comment on that, because they are individuals and, as Ben has already said, we have not seen what they are going to do yet. However, it concerns me that the strategy that it comes up with must have relevance to what happens on the ground.

[131] We have been talking about the involvement of industry in the whole process. Within the Minister's Living Wales group that has been looking at the single body from the beginning, it is very evident that that involvement by industry has declined fairly rapidly over this period. We are probably the only three, along with forestry, that are still regularly turning up at those meetings. That concerns me, because it will be totally or primarily dependent on getting resources from industry; I am talking about our industry as well. The money will not be there for the environment—it is certainly not at the top of the pecking order as far as Government is concerned. To really be effective and to get work done within the environment and the rural community, it will be dependent on help from industry.

[132] **Vaughan Gething:** I think that everyone accepts that the new body will have a

different relationship with each of the different sectors and the different organisations that it has to engage with; that is a given. To go back to a question that David Rees asked to the previous group of witnesses, is there anything in the Order that would actively prevent the new body from fulfilling its mission, or do you consider that the greater risks and concerns that you have are based on what the body will do in practice, namely the culture, direction and practicality of what it does?

[133] **Mr Underwood:** My answer to that would be ‘Yes, you’ve hit the nail on the head’. That is my view—it is the things that you have just alluded to that are key here, rather than what is in the Order. We have one or two bits, which I mentioned at the very beginning, that we have made representations on, but otherwise I think it is the culture, the structure that will be put in place and the transparency thereafter that are key.

[134] **Mr Jarrett:** Diolch i Vaughan Gething am ei gwestiwn pwysig ofnadwy. Mae ein haelodau ni, aelodau Rhian ac aelodau Ben yn ffermio a rheoli 80% o’r tiroedd, a dyna pam bod gymaint o ddi-ddordeb yn y corff hwn gan ein haelodau, oherwydd bydd yr hyn y mae’r corff yn ei wneud yn effeithio o bosibl ar y ffordd mae ein haelodau yn gallu rheoli’r tir. Dyna pam fod diddordeb mawr ynddo. Fodd bynnag, ein teimlad ni yw ein bod ni lle rydym ni. Rydym wedi cael cyfarfod efo cadeirydd y bwrdd yn barod. Dywedodd wrthyf fi:

Mr Jarrett: I thank Vaughan Gething for his very important question. Our members, Rhian’s members and Ben’s members farm and manage 80% of the land, and that is why there is so much interest in this body from our members, because what the body does could have an impact on the way in which our members can manage the land. That is why there is such an interest in it. However, our feeling is that we are where we are. We have already had a meeting with the chair of the board. He told me:

[135] The role of the board and its overall approach will be to get the right resources, get the right attitudes to allow the staff to do their jobs well.

[136] Os mai dyna yw ei rôl, rydym yn sicr yn croesawu hynny ac rydym yn edrych ymlaen i weithio â nhw. Mae’n gorff enfawr, gyda 1,500 o bobl, a bydd digon o waith i’w wneud i sicrhau ei fod yn gweithio’n dda. Yn y gorffennol, rydym wedi gweithio’n agos gyda bwrdd Cyngor Cefn Gwlad Cymru ar apeliadau ac yn y blaen, a’n teimlad ni yw bod cydbwysedd da wedi bod. Ni ddylem golli’r math hwnnw o gydweithio gyda swyddogion, ynghyd â’r gallu i gydweithio gyda’r bwrdd ei hun.

If that is its role, we certainly welcome that and look forward to working with them. It is a very large body and there will be lots of work to do to ensure that it is successful. In the past we have worked closely with the Countryside Council for Wales board on appeals and so on, and our feeling is that there has been a good balance. We should not lose that kind of collaboration with officials, along with the ability to collaborate with the board itself.

[137] **Yr Arglwydd Elis-Thomas:** Bydd y cadeirydd a’r prif weithredwr yn ymddangos yn y pwyllgor hwn yn fuan, a byddwn yn sicr yn awyddus i godi’r cwestiynau hynny gyda nhw.

Lord Elis-Thomas: The chair and chief executive will be appearing before this committee soon, and we will certainly be keen to raise these questions with them.

[138] **Antoinette Sandbach:** In terms of your evidence, one of your concerns was about the unclear definition of ‘natural beauty’, and the fear that that might impact on sustainable development in rural areas. I am wondering if you can expand on that, and on how you would like to see that potentially change in the Order.

[139] **Ms Nowell-Phillips:** A long-standing concern of ours is that, in the past, there has

been a vision of what outstanding beauty is, but once an area becomes an AONB, even if there is no statutory regulation put in place, it becomes set in aspic, and because it has a label, the local planning authorities become a bit afraid of what it can be used for, or what sort of planning can be allowed. Although these things start off by just being guidance, our concern is that it becomes a rigid definition, which may never have been intended in the past, but because it has been included in a function or a duty at some point, over time it becomes quite rigid. We forget that rural areas have developed over the years. There is no definition. It is the same as trying to define a ‘traditional’ landscape. Do you go back to Roman times, pre-enclosure, or do you take it back to a Victorian chocolate-box image, which is sometimes the idea people have? Do not get hung up in an Order about putting a phrase in that later comes back to haunt everybody.

[140] **Antoinette Sandbach:** How would you like to see it defined?

[141] **Ms Nowell-Phillips:** I stay away from things like that. We are into ‘sustainable’—there is sustainable development, sustainability in the environment and the economy. It could be worked into that. Beauty is in the eye of the beholder, and perhaps ‘beauty’ is not the word that should be used.

[142] **Antoinette Sandbach:** So, in effect, what you are asking for is for sustainability to be considered in socioeconomic terms as well as environmental terms.

[143] **Ms Nowell-Phillips:** Totally.

[144] **Antoinette Sandbach:** You would like to see that reflected in the Order relating to the new body. Do any of the other three witnesses have a comment on that?

[145] **Mr Underwood:** Only to repeat my first comment about the duties, and the one Dafydd referred to. If that is enshrined in the correct place, which we perceive should be at the top, as regards any decision, it should take into account the fundamental impacts on socioeconomics. That should overcome the natural beauty issue, in my view.

[146] **Mr Llewellyn:** The ‘set in aspic’ comment is an interesting one, because in fact, with things like climate change going on, there should be two-way traffic, inasmuch as things are important and then become less important because of other things. Setting anything in aspic is a dangerous precedent.

[147] **Antoinette Sandbach:** So in terms of, for example, the balancing duty that currently applies to the Forestry Commission, would you like to see that apply across all the functions of the body—so, merged functions?

[148] **Ms Nowell-Phillips:** We put that in our evidence, and felt that that approach would be better across the body, rather than just removing it.

11.00 a.m.

[149] **Mr Jarrett:** The balance is important. It seems to us that, because of the issue with the forestry, it is highlighted more in the forestry sector than in our sector. However, it is just as important in our sector. We would agree with that point.

[150] The other point that I would make is on the relationship of the body with the existing national parks and AONBs. It is not quite clear in the Order—perhaps it is to you, but it is not to me—as it stands at the moment. That will be very important.

[151] **Lord Elis-Thomas:** I promise you, Dafydd, that not everything is clear to us either.

[Laughter.]

[152] **David Rees:** The FUW paper talks about socioeconomic—I could not quite work out where it was going, but it talked about the national parks and learning lessons from the past. It said that

[153] ‘the duty to foster the social and economic wellbeing of local communities can only be considered as an addendum to the purposes’.

[154] Are you saying that those duties should be an addendum to the purpose of the new body, or is that a lesson to be learned from the past, because it should be fully incorporated in the purpose of the new body?

[155] **Ms Nowell-Phillips:** Sorry, I think that it probably got a bit lost in my interpretation. Under national parks, there is a statutory purpose to conserve and enhance natural beauty, wildlife and cultural heritage and to promote opportunities to understand and enjoy special qualities. However, there is also a duty to foster and care for the economic wellbeing of communities. We do not want that under the next one, because it means that if that duty works at odds with conserving the special interest in the environment, it gets turned down. It means that the economic wellbeing of communities and the rural economy is at the bottom of the pile.

[156] **David Rees:** So, it is a lesson to be learned. I wanted to make sure, because I was not clear.

[157] To go back to the question on public access, I noticed a slight difference in the responses from FUW and NFU. FUW sees public access and recreation duties only for land in public ownership. I have a question on that, because rights of way are usually over land not in public ownership. NFU says that there should be more consideration of land owners’ responses. Which of those do you prefer? I can understand the balancing aspect, but I have concerns about restricting it to land in public ownership only.

[158] **Ms Nowell-Phillips:** It was distinction. When we did our internal consultation, our members were concerned about the wording that suggested that increased access should be a priority. In the end, it was based on land in public ownership. So we have said that, on access and recreation, there should be a distinction between publicly owned land and land in private ownership. I understand that a lot of access is on private land. However, our members were concerned that the wording seemed to suggest that the access provision did not make a distinction between public and private land.

[159] **Llyr Huws Gruffydd:** Pwnc sy’n cael ei godi’n gyson yng nghyd-destun datblygu’r corff newydd yw rôl ddeuol y corff o ran trwyddedu a thryloywder o safbwynt gwneud penderfyniadau. ‘Gwahanu mewnol’ yw’r term sy’n cael ei ddefnyddio am yr angen i sicrhau’r *Chinese walls* mae pobl yn cyfeirio atynt. Beth yw eich barn ar sut gellir sicrhau bod hynny’n digwydd yn ymarferol?

Llyr Huws Gruffydd: A subject that is constantly raised in the context of setting up the new body is its dual role of licensing and transparency with regard to decision making. ‘Internal separation’ is the term that has been used for the need to ensure the Chinese walls to which people refer. What are your views on ensuring that that happens in practice?

[160] **Mr Jarrett:** Diolch am y cwestiwn; mae’n hynod bwysig. Os yw’r corff hwn yn mynd i lwyddo, mae’n rhaid iddo gyfathrebu’n dda â’r rhai sy’n rheoli’r tir—

Mr Jarrett: Thank you for the question; it is extremely important. If this body is going to succeed, it must communicate effectively with land managers—farmers, foresters or

fffermwr, fforestwr neu beth bynnag. I wneud hynny, mae'n rhaid iddo gael y bobl iawn i wneud y swyddi iawn. Rydym yn deall bod yn rhaid rheoleiddio ond y teimlad yw na fyddai'n deg bod rhywun ar fferm yn dweud bod problem reolaethol heddiw a'i fod yn cael cyngor yr wythnos nesaf. Rhaid cael y gwahanu hwn. Rhaid cael staff sy'n gallu cyfathrebu'n dda ac sy'n gallu rhoi cyngor, fel na fydd problemau yn codi yn y lle cyntaf. Ar ddiwedd un o'n hymatebion i'r ymgynghoriad, rydym yn dweud '*facilitation not regulation*'. Ni allwch wneud hynny heb gael rhyw fath o wahaniaethau rhwng y staff, yn enwedig o gofio bod 1,500 o staff. Mae hynny'n bwysig iawn.

whatever. In order to do so, it must get the right people in the right roles. We understand that regulation is necessary but the feeling is that it would not be fair if somebody on a farm said that there was a regulatory problem today but did not get advice until next week. There must be this separation. There must be staff who can communicate effectively and who can give advice, so that problems do not arise in the first place. At the end of one of our responses to the consultation, we say '*facilitation not regulation*'. You cannot do that without some sort of separation between the staff, especially given that there are 1,500 staff. That is very important.

[161] **Ms Nowell-Phillips:** From our point of view on the sharing of good practice, current agencies or bodies have good examples of working with farmers. That could be spread to other functions within the body. As Dafydd said, how they engage with farmers is extremely important. There are some really good examples out there within current organisations, which we hope will be shared through all the departments.

[162] **Mr Underwood:** Llyr, the other point that you were alluding to is that this will be a body that manages land as well as regulating land owners. It is absolutely the right principle that there should be a separate regulatory part to this body that is transparent, so that we do not have a situation where it can manage its land in one way and a private landowner will do so in another and will be subject to more bureaucracy. We cannot have double standards and, therefore, our response to that was that we agree with the proposals in terms of having a clear regulatory department within the organisation.

[163] **Mr Jarrett:** Mae angen cyfathrebwr da ond mae angen rheolwr da i'w rheoli hefyd. Mae hynny'n hynod bwysig ac mae'n bwysig eu bod yn cyfathrebu yn Gymraeg ac yn Saesneg. Mewn rhai ardaloedd, rydych yn cael gwell ymateb os ydych yn gallu cyfathrebu yn Gymraeg ac yn Saesneg.

Mr Jarrett: You need good communicators but you also need good managers to manage them. That is vitally important and it is important that they communicate in English and in Welsh. In some areas, you will get a better response if you can communicate in English and in Welsh.

[164] **Llyr Huws Gruffydd:** Clywsom yn gynharach heddiw ac mewn tystiolaeth arall bod angen i'r gwahaniad hwnnw fod yn wahaniad llwyr—yn fwy na dim ond o fewn yr un corff: rhaid cael adrannau sy'n darparu gwasanaethau adnoddau dynol, cyllidol ac yn y blaen ar wahân i'r prif gorff. Nid wyf yn gwybod a oes gennych farn am hynny. Dywedodd y Gweinidog yn ei lythyr inni ar 7 Tachwedd y bydd, yn hytrach na chynnwys darpariaeth ar gyfer hynny yn y Gorchymyn, yn gadael i'r corff ei hun ei setlo. A oes gennych farn am hynny?

Llyr Huws Gruffydd: We heard earlier today and in other evidence that the separation that we are talking about needs to be a complete separation—more than just within one body: you need departments that provide human resources, budgetary functions and so on separately to the main body. I do not know whether you have an opinion on that. In the Minister's letter to us on 7 November, he said that, rather than include a provision for that in the Order, he will leave that to the body itself. Do you have an opinion on that?

[165] **Mr Jarrett:** Nid wyf yn credu bod

Mr Jarrett: I do not think that it is necessary

yn rhaid mynd mor bell â hynny. Defnyddiaf gymhariaeth o ochr y Cynulliad, lle mae gennych y *farm liaison officers* sy'n mynd i lawr yn dda iawn ac sy'n gweithio'n dda o ran grantiau, y taliadau sengl ac yn y blaen. Un peth sy'n ein poeni, os yw'r gwahaniaeth hwnnw yn bodoli, yw y bydd angen cyllideb ddigonol yn y darn hwnnw o'r corff o'i gymaru â'r llall. Os nad oes gennych gyllideb ddigonol, ni fyddwch yn gallu gwneud y gwaith yn iawn a byddwch yn disgyn rhwng dwy stôl. Felly, os ydym yn mynd ar hyd y llwybr hwnnw, dylid cael cyllideb ddigonol i wneud y gwaith angenrheidiol o roi cyngor yn hytrach na rheoleiddio.

to go that far. I will use an example from the Assembly, where you have farm liaison officers, who have gone down well and work effectively with regard to grants, the single payment and so on. One thing that concerns us, if that separation exists, is that that part of the body will need an adequate budget, as compared to the other part. If you do not have an adequate budget, you will not be able to do the job properly and you will fall between two stools. Therefore, if we are to go down that path, there should be an adequate budget to undertake the essential work of providing advice rather than regulation.

[166] **Mick Antoniw:** I wanted to ask about the evidence on the public access recreation duties issue. Your written evidence made reference to having some sort of regulatory or compensatory role. I did not quite understand what was being said when you referred in your written evidence to ensuring that there is a duty to remedy damage to private property fencing and so on where the public uses private land believing it to be in public ownership. Will you expand on that a little and explain what you think should be done and what should be included?

[167] **Ms Nowell-Phillips:** These are concerns that are raised by our members. Given that there is land in public ownership, particularly in more urban areas, there are trespassers who assume that areas are either in public ownership or have open access, and that damage to fencing and so on is not covered—it is just 'Well, bad luck'. However, for some people, it might mean that there are areas of their farms that can no longer be used for livestock, for example. There is no recognition of that.

[168] **Mick Antoniw:** So, is it your view that the body should have some sort of compensatory or regulatory role?

[169] **Ms Nowell-Phillips:** It was more about raising awareness of the fact that, with the statutory duties, the focus is on increasing access and provision, but we sometimes have to remember that damage is done by the wider public—perhaps because of inadequate signage, and so on—but there is no method that recognises that.

[170] **Mr Llewellyn:** I think, Chair, that we are probably coming back to basic principles here, are we not? The reality is that there are very few farmers who make any money from public access; I am the exception. However, when it comes down to it, that is what it is really about: do you own the land or do you not? The reason why there is a certain amount of concern out there is because of the increase in public access. There is also a huge amount of ignorance out there on the part of the people who utilise that public access. If most of my neighbours knew that each and every walker were to stick to the areas to which they have legal access, the problems would be resolved straight away. However, there are problems there. It is not something that we will resolve; it is something that, as a landowner, I feel fairly precious about, but I have capitalised on it. None of my neighbours has, so why the hell should they put up with 100,000 people wandering across their farms every year? It is a matter of law, and they know where they stand, but that does not mean to say that they will feel good about it.

[171] **Mr Jarrett:** One of the issues facing Wales and the industry is the increased pressure put on the Welsh countryside by visitors. We are not a big country, and the pressure brings

the need for maintenance. That is where we are coming from, and I hope that the new body will carry on in the way that CCW seems to be going at the moment, namely that the maintenance of existing public access opportunities is just as important—and, in our view, more important—than the creation of new ones. Let us maintain what we have well. If we do not have that, there will be problems, which will result in conflict, and nobody wants that. We hope that the new body will carry on. I sit on the national access forum, which discusses many of these things. Also very important, under the Countryside and Rights of Way Act 2000, are the local access fora, which will now come under the new body. It must recognise the importance of those fora.

[172] **Mick Antoniw:** I would like to move on to discuss the cross-border issue. There has been a lot of evidence over quite some time regarding concerns about a loss of skills and how precisely it will work. However, in some of the written evidence in particular, there was reference to the need for robust memoranda of understanding. Would you expand on the concerns and explain precisely what format you think a memorandum of understanding should take, how it should be developed and what it should contain?

11.15 a.m.

[173] **Ms Nowell-Phillips:** It is our evidence that makes reference to that. The big concern that we have is that current provision means that Wales can benefit from data that are properly funded, in terms of research and development, by England, given that the Environment Agency, the Forestry Commission et cetera work on that basis. So, we have benefitted from that arrangement; they produce data that does not cost Wales anything. It needs to be ensured that, once the responsibilities are taken from England and in-house by the single body, Wales does not lose out, particularly financially in terms of research and development, joint visits et cetera in relation to cross-border areas and that we can still, where possible, share those sorts of resources, so that it is not costing Wales more and we are not losing out in terms of R&D not taking place in future because of issues to do with cost, practicality or expertise. One example was memoranda of understanding, but they need to be pretty robust to ensure that, three or four years down the line, we are not told, 'Sorry, this stops at the border'. So, it is about ensuring that the work that Wales currently benefits from, which it does not necessarily pay for, continues in the future.

[174] **Mr Underwood:** I am not afraid to publicly admit my view that the approach put forward in this document on cross-border issues is sensible. The only thing that I would say is that it must be a pragmatic approach. One could have a field on one side and on the other, so this new body must work with that landowner or farmer and be pragmatic about the solution. That was acknowledged in the consultation document.

[175] Another thing that I want to say is on the risk of moving away from the permitting arrangements of the Environment Agency in England. Given that the permitting arrangements and waste regulations that we currently have are complex, we must not change them for the sake of changing them—this is an absolute plea—without some co-ordination across the border, because there is a lot of trans-border movement of waste. A lot of the permitting issues relate to both sides of the border and to change those and make them different just for the sake of it would be a negative step.

[176] **Lord Elis-Thomas:** Dafydd, and then I will call William Powell, a very patient Liberal Democrat.

[177] **Mr Jarrett:** This is an important issue for us, for example with regard to flood defence and the water framework directive: the Severn, for example, crosses the border. There is excellent co-operation at the moment between the staff who are staying in Welshpool and the staff of the EA in England if there is a problem in either place. Given that EA staff

will now come under this new body, I hope that that will not affect emergency procedures and, as the others said, good memoranda of understanding are essential to ensuring that that arrangement continues.

[178] The other issue is forestry research; excellent work is done on that. With regard to the ash dieback problem, for example, the experts are not necessarily with us in Wales—although we might have experts in Wales that England uses—and we would not want to lose that sort of expertise with the creation of this new body.

[179] **William Powell:** I want to return for a moment to the issue of national parks authorities, given that Dafydd referred to the two purposes and the duty, and this was mentioned extensively in the FUW submission. I am aware that our other two witnesses have also had extensive engagement with national parks authorities, and Bernard has served on the board of one of Wales's national parks authorities for some time, I believe. How relevant do you consider the arrangements that apply to Welsh national parks authorities and the experience provided by them to this new body as it comes into being in terms of a conflict or potential tension between the purposes and duty? How is that reflected in the governance arrangements?

[180] **Mr Llewellyn:** At this stage, we are still quite confused about what the relationship will be, not only with national parks authorities but also with local government, which is very important generally. This was certainly one of the things that we highlighted when we spoke to the chairman, namely that it is absolutely essential that it begins to communicate at a very early stage with all these people. The reality is that CCW has worked with the national parks authorities very successfully in the past, and so there is no real reason, particularly in that field, why that cannot happen again. It might be a bit about pecking order, in as much as, 'What is most significant? Is it what the national park wants or what the new body will want?', and that is something that will have to be resolved very early. Communicating this strategy to people in the national parks authorities or local government is probably as important, if not more so, than it is for those of us at the front line.

[181] **Mr Underwood:** My view echoes what was said at the beginning, which is that the lesson to be learned is that here we are with bodies in the national parks authorities that have had to address both environmental and socio-economic issues, and the mindset, certainly of my membership, is that environmental issues take precedence in most cases. The difference there, of course, is that the national parks authorities deal directly with planning and this body will not. Most of the issues are down to the bureaucracy and barriers of the planning system. However, the general principle is that it is very easy for a body to slip into a mindset of 'environment, environment, environment', which in the current economic climate, would not be a good move for this new body, and the environment and economics need to be better balanced.

[182] **William Powell:** In answer to questions earlier, previous witnesses suggested that it would be potentially useful to have a standing stakeholder group to hold the new body to account. You referred earlier to a fall-off in attendance at a similar group recently, but do you feel that, if it were given appropriate weighting and resources, that such a stakeholder group would have a role to play in helping to keep an eye on things and on the effectiveness of the new body?

[183] **Mr Llewellyn:** It is very obvious from the make-up of the board that stakeholder groups are going to be absolutely essential. Without a stakeholder group, where are they going to get the information from? It must be adequately funded, but also, as you say, it is about where it is and how the members of that group feel that they are influencing policy. That is what is going to be important. I do not know what the problem is with the Living Wales group, but it is noticeable. We had a double row initially around a room of about this

size, and now we are lucky if we can fill it up. That attitude has already begun to set in, so, in fact, it will probably be more difficult to bring it back, but it is essential that it is done. Quite frankly, with all due respect to the board, you talked about marine issues this morning and that is probably the only place where the new body has real expertise in environmental terms. Perhaps I should not have said that because I do not really know, but, from looking at the pen pictures of the individuals, that is the impression that I get. However, it is the standing of that stakeholder group that will be more important than anything.

[184] **Ms Nowell-Phillips:** It must also have a clear remit.

[185] **William Powell:** Yes, it must not be a talking shop.

[186] **Mr Jarrett:** Just to add to that, we have a liaison group that meets with the staff and some board members of CCW and those are quite valuable meetings to get our points across on specific issues. I will just respond to your previous point on the national parks authorities. One of the duties that is not quite clear to me from what I have read is the landscape duty on the single body. Obviously, the national parks authorities have a landscape protection duty, so that needs clarification in one way or another, if possible, in terms of working together.

[187] **William Powell:** I would like to move on to a question on forestry. You referred, Dafydd, to the Chalara challenges that we are all facing at the moment. What are our witnesses' views on the implications of the transfer to Welsh Ministers of the competent role with regard to forestry and attacks on timber from pests, under the Plant Health Act 1967?

[188] **Ms Nowell-Phillips:** We have a greater concern about ensuring that the new body utilises the expertise that is already within the Forestry Commission. Rather than coming up with a view on that, we want to ensure that that expertise is not lost just because it has been taken out.

[189] **William Powell:** That relates to Mick Antoni's question about cross-border issues as well.

[190] **Ms Nowell-Phillips:** Yes. You play to your strengths and you do not want to lose that corporate knowledge. You could lose staff if they feel that their expertise is not going to be used in Wales. They may move outside of Wales and that would not be good for us as we would be losing that expertise, particularly so as regards to what seems to be the beginnings of a dam opening insofar as pests and diseases relating to trees are concerned, with sudden oak death and now the Chalara outbreak. It is the thin end of the wedge. I think that that side is going to become increasingly more important because we have a lot of forestry cover in Wales and given the Welsh Government's strategy to increase it. It will become increasingly hard to find native species to replant. There are already repercussions for schemes such as Glastir, for example, where you are becoming limited in the species that you can plant. So, it will become even more important in the future.

[191] **Antoinette Sandbach:** I would like to pick up on the point about loss of expertise. Are you aware, in your dealings as organisations with any of the three bodies at the moment, of a flight of expertise going out of those bodies?

[192] **Mr Underwood:** I have no specific examples, but I must add that, only last week, I had to convene a meeting between the directors of CCW and the Environment Agency Wales to sort out a number of renewable energy project issues that are still ongoing. So, there are still issues out there. Whether that is being exacerbated by staff leaving, I could not say.

[193] **Mr Llewellyn:** What the working group highlighted was the fear of a vacuum being created between the two bodies. There is a certain amount of evidence—I should not really

say that it is particularly from CCW but that is where I am aware of it happening—that work is not getting done because of staff concerns about whether the decision will tie in with what the new body’s philosophy is. Certainly, a lot of decisions are being held up dramatically and I have examples of that.

[194] **Mr Jarrett:** On a more positive note, in the original consultation it was implied that there would be an opportunity for the body to work more closely with Welsh universities. We have a lot of expertise in our universities and I hope that that is carried on. Obviously, there are national and international problems, but there are issues that are specific to us in Wales as well. By co-operating with our university departments, everybody will benefit from that.

[195] **Antoinette Sandbach:** Rhian, I think you mentioned the issues around Glastir. What sort of co-operation or cross-departmental working—if I can put it like that—are you seeing with regard to Glastir and how this new body might impact on that? Is there any evidence of that? At the moment, as I understand it, this body is not going to have a role in delivering agri-environment programmes although it is an aim to have that role in the future.

[196] **Ms Nowell-Phillips:** Glastir is a hidden thing to me at the moment. There is very little communication going on regarding Glastir.

[197] **Mr Underwood:** I would say that I have not heard anything specific, other than the ongoing debate of how we fill the gap with regard to forestry grant schemes that Glastir has left since the ‘Better Woodlands for Wales’ strategy.

11.30 a.m.

[198] **Mr Llewellyn:** In our meeting with the professor, I specifically asked about Glastir and this role. The answer was that the role has to be decided. Therefore, in reality, as far as he was concerned, it was not something that was particularly specific. On what you insinuate about the interdepartmental communication, I also spoke to Alun Williams a few days later and the answer was not quite the same.

[199] **Mr Jarrett:** To answer that point, CCW—and, from 1 April, the new body—will have some influence on Glastir because, for example, it gives advice on stocking rates on sites of special scientific interest land, which goes into Glastir. It has an indirect influence. Whether it will have more influence in future remains to be seen. Of course, you have two responsible Ministers—a Deputy Minister and a Minister—and I think that that needs to be ironed out if there is any transfer.

[200] **Lord Elis-Thomas:** All the relevant Ministers have to come to this committee. *[Laughter.]*

[201] **David Rees:** You mentioned that you had heard that there was a lack of work being done. Is that based more on the view that it does not yet know the direction it is going in rather than a loss of expertise?

[202] **Mr Llewellyn:** Yes, I think it is almost certainly that. There is also concern about its prospects. I remember that Ben and I highlighted this in the very early days of the ‘A Living Wales’ group being set up. There was almost inevitably going to be a vacuum. As I understand it, the new board met last Wednesday. However, the reality is that it will not really begin to function until April. Most of those staff have probably been in post for a number of years. The future for them is certainly unclear, and that is affecting the way they are carrying out their duties. Those of us on the front line have got to go on with our jobs. Ben referred to the renewable bits, but there are other environmental bits going on where decisions are not being made when they would have been made in the past.

[203] **David Rees:** That is because of the uncertainty.

[204] **Mr Llewellyn:** Yes, and I worry that that is going to get worse.

[205] **Ms Nowell-Phillips:** From speaking to staff, it seems that, although the message coming from above is, 'Don't worry', people do worry, and I think that that is natural. Nothing has been decided yet. We hope that that will change over time.

[206] **Antoinette Sandbach:** May I come in at this point?

[207] **Lord Elis-Thomas:** Yes, of course you can. I am such a generous Chair, as you know. [*Laughter.*]

[208] **Antoinette Sandbach:** I want to go back to the questions that Llyr raised about the internal separation in the new body on the permitting and regulation side. I have to say that I do not instantly see why you need a separate payroll or human resources section to deal with the separation of functions. However, is your evidence that you are content to have work streams sitting with a barrier within the same building with, for example, one side dealing with permitting and the other side dealing with regulation where there may be a conflict internally? Or do you think that there needs to be a separate stand-alone section of this body that deals with conflict in cases of that type?

[209] **Ms Nowell-Phillips:** Provided you can demonstrate transparency, we have no major view on this. What you are describing would almost be a single body plus another body. If you are going to separate human resources from everything you will be creating two bodies. To us, transparency is far more important than a physical separation.

[210] **Mr Underwood:** One of the key considerations on a very practical basis is that a landowner or farmer will want to know the credentials of the person coming out to the farm. They will want to know whether the person is a regulator—i.e. whether they are coming out to issue a fine—or whether the person is coming out to facilitate and advise and try to work through things. The Environment Agency has grappled with this for many years and, unfortunately, it has that banner of the Environment Agency as the environmental police. However, it has come a long way and that will be a benefit of this organisation. That is why I said what I did in response to Llyr, namely that there is a benefit to having farmer-landowner-friendly people, who, it is shown in many cases, have a bigger effect than the environmental police side, which I accept is needed for some high-risk and reoccurring issues. However, that separation is of benefit.

[211] **Ms Nowell-Phillips:** However, the Environment Agency got over that by the catchment-sensitive officers who could go out on farms and engage with farmers without the regulatory background and with no direct link back if they saw any issues. That is extremely important to translate.

[212] **Mr Jarrett:** From our point of view, I do not think that you need to have separate offices. In fact, there could be benefits to having the same office, because you could go down the corridor to talk to somebody instead of e-mailing them. In some cases, that is better in my experience. However, another issue arising from this, which we have raised with the chairman, is the location of the staff, which needs to be all over Wales and not necessarily down in Cardiff.

[213] **Mr Llewellyn:** The important thing at the end of the day is environmental gain. In reality, or in my book anyway, carrots are an awful lot more acceptable and, I would suggest, more effective than sticks. Going back again to look at the board, and from the comments that

the chairman made in a meeting with us, one has to suspect that regulation will be high on the agenda, and so it should be. All I am trying to say is that we are looking at win-win situations, not just a regulation scenario.

[214] **Antoinette Sandbach:** On the ability of the board to impose fines and things like that, is there a satisfactory appeals procedure attached to how those functions are carried out? I know from looking at some of the responses sent to the Minister that there is concern that there is no proper appeals procedure against potential findings by the board.

[215] **Ms Nowell-Phillips:** Again, we seek clarification on the workings of things like that, but an appeals procedure or an approach of working with the industry, or industries even, rather than setting things in stone—it is going back to what Bernard said—are better; a partnership approach is better than a big stick.

[216] **Mr Jarrett:** Going back to our experience with the CCW, we have found its appeals procedure quite acceptable, so if that carries on, for example, that is fine. However, one thing that worries me ever so slightly is the relationship between national resources Wales and the Welsh Government. It needs to be clear, particularly in the example of when something comes to an appeal. Is the recourse to appeal through the body or through the Welsh Government? From what the chairman told us at our meeting, it is a partnership with the Government, whatever that means; we are not clear on that as yet.

[217] **Lord Elis-Thomas:** The good news—when you come to this committee, we always try to give you good news—is that the chair and the chief executive will next week be sitting where you are sitting, and I am certain that colleagues will want to ask the questions that you have been asking today of both of them. I hope that we get answers that are just as forthright as those that we have had today, and which we always have, in fairness, when your organisations come to give us evidence, for which we are grateful. A committee is only as good as its stakeholders. [*Laughter.*] That is true, because everything that we do is based on the evidence that you give us, which brings me back to the discussion that we have had. I thank our colleagues who gave evidence earlier for staying on to listen to the rest of this morning's events. I invited our witnesses from the Wales Environment Link this morning to provide us with any reflections or comments that they had on the second draft of the Order when it appears tomorrow. That invitation is open to you, as well. I hesitate to say that that invite is open to anyone else who may be listening because I believe that we might be inundated, having seen the substantial number of consultation responses on the Government's website. However, we are open to further written evidence or comments in any form.

[218] Diolch yn fawr i'r pedwar ohonoch Thank you to the four of you for joining us
chi am ymuno â ni heddiw. today.

Daeth y cyfarfod i ben am 11.41 a.m.

The meeting ended at 11.41 a.m.