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JOINT NATURE CONSERVATION COMMITTEE

FMPR PROGRESS REPORT

Paper by Keith Little - FMPR Project Co-ordinator

1. Introduction

1.1 Since the last JNCC meeting in January, a number of things have been progressed in respect of FMPR and this report aims to summarise the position.

2. Progress made

2.1 Support Unit project team

The Support Unit has formed a project team to implement the FMPR. It is a multi-disciplinary group, chaired by myself, and reports to the Support Unit's Management Team. This process ensures that the implementation is as closely linked to the rest of JNCC business as possible. We recognise the need to establish other links beyond the Support Unit, e.g. with the FMPR Steering Group and with country agency staff. One of the pieces of work which the project team has undertaken, is to list some of the benefits expected from the changes to be introduced. This provides a benchmark against which implementation can be assessed. A copy of that list is attached as Annex 1.

3. Meetings with DEFRA

3.1 Both Deryck Steer and Keith Little have initiated meetings with our sponsorship branch at Bristol, to try to maintain momentum on implementation, and to encourage DEFRA to obtain legal advice regarding the decision on which organisational model to pursue for the future. The DEFRA lawyer has expressed a reluctance to meet with the JNCC legal adviser, which we believed would be a helpful way of resolving any apparently conflicting legal advice or view.

3.2 A meeting has also taken place between the Support Unit staff association representative, and our sponsorship branch at Bristol. The meeting was considered useful, but staff are becoming concerned about the slippage in the implementation timetable. Also they lack an understanding and appreciation of the practical differences between the two models, and this needs to be addressed.

Steering Group meeting

Legal advice

- 3.3 The Steering Group meeting took place on 29 April 2002 after DEFRA had received advice from their legal advisor. In relation to the model which would establish the Committee as a statutory corporate body, DEFRA's legal advice was that a new statutory government body would require primary legislation. However, one of the country agencies argued that creating a new statutory body is a net reduction in burden. The advice regarding the option of establishing a company limited by guarantee is that the Regulatory Reform Act could be used to remove the burden on country agencies to provide staff, and existing powers could be used to establish a company limited by guarantee.
- 3.4 Following discussion, the agreed action point was that members of the group should let DEFRA know of any points they would like to raise relating to the legal advice given, whereupon DEFRA will collate and put those points to the lawyers. A letter would then be sent to all members, having first cleared it with lawyers, clarifying the legal position.
- 3.5 Those points have been collated and forwarded to the DEFRA lawyer, but at the time of writing, we have not received the response.
- 3.6 In discussion around the table, there were those that expressed no particular preference for either of the two models. Some came down clearly in favour of the company limited by guarantee (CLG) model, and there were those who argued that it was better to wait until we had explored both options more fully.
- 3.7 In terms of the project timetable, the Steering Group accepted that full implementation of FMPR changes by April 2003 would not be possible, although some aspects could be phased in, with a view to full implementation by April 2004.
- 3.8 In the meantime, the Support Unit was asked to work up plans based on the CLG model, for the next Steering Group meeting, expected to be held in early July.

Revision of JNCC's Statement of Strategic Direction

- 3.9 A progress report was provided to the Steering Group on the revision of JNCC's Statement of Strategic Direction. This is the subject of a separate paper on the Joint Committee's agenda, and is not reported upon further here.

DEFRA funding stream

- 3.10 The Steering Group also considered a paper from the Support Unit on the work being done to identify that element of work undertaken on behalf of government, rather than for the country agencies. This information will, in turn, inform the debate about the proposed separate DEFRA funding stream. The paper produced was very much a first draft, and some further work needs to be done ready for the next Steering Group meeting.

Northern Ireland

- 3.11 Deryck Steer reported to the Steering Group on the successful meeting that Sir Angus and he had held with their counterparts in Northern Ireland.

Funding formula

- 3.12 On the matter of funding, it was decided to continue with the 4:2:1 ratio for funding, with Northern Ireland excluded from the formula for the time being at least.

4. FMPR Project Funding

- 4.1 Since the Steering Group met, we have been informed that the request for £250K we had made to DEFRA to cover FMPR costs in 2002/03, and which we had been led to believe we could be fairly confident in getting, is now not going to be made available. A copy of Sir Angus' letter to the responsible DEFRA Director is attached at Annex 2 of this report. At the Chairman's and Managing Director's request, we are continuing to plan for the implementation of the FMPR

- 4.2 We have re-examined the proposed action plan for FMPR implementation and identified the priorities for delivery in 2002/03. The cost of this work is estimated at £170k, including salary costs for the FMPR Project Co-ordinator and a new HR specialist. Given the absence of additional funding from DEFRA, these costs will have to be absorbed within JNCC's Grant-in-Aid. Cuts have been made to work programmes, in addition to the budget adjustments discussed by Committee in March 2002 (JNCC 02 P04). These cuts will inevitably have a significant impact on JNCC's programme of work for 2002/03, but every effort has been made to ensure that funding levels are still sufficient to deliver key targets.

5. Planned meeting with Country Agency Resource Directors

- 5.1 Arrangements are being made for the Managing Director and FMPR Project Co-ordinator to meet with the Country Agency Resource Directors, to discuss implications of the FMPR changes. The Support Unit and country agencies will have to work very carefully together to ensure a smooth transition to new arrangements. Many of the significant issues fall within the responsibility of the Resource Directors, and continuing a dialogue with them will be necessary.

6. **Next steps**

6.1 Planning for the implementation of the FMPR continues. The priority has to be to progress to a position whereby the Steering Group can make a firm recommendation to Ministers about the future organisational framework, following the receipt of the further legal advice expected. This will enable us to move into the detailed planning phase.

7. **Recommendation**

7.1 The Joint Committee is invited to **note** progress made since your previous meeting, and to **comment** on the issues raised.

BENEFITS (AS PERCEIVED BY SUPPORT UNIT)

1. SSD and future role

Benefits:

- i. clear work areas which we believe add value (and to which the country agencies can sign up) better planning and resourcing;
- ii. improved relationships;
- iii. reducing expectations gap;
- iv. improve staff morale.

2. Constitution of the Committee (extra independent member, NI voting, Chairman status)

Benefits:

- i. increased external focus;
- ii. direct access to government ;
- iii. clear UK role.

3. Corporate Planning

Benefits:

- i. clearer longer term plans (funding and targets);
- ii. engaging with government;
- iii. consolidated view of what government wants;

4. Funding

Benefits:

- i. predictable funding levels;
- ii. ring-fenced funds;
- iii. clarity about customers, as services linked;
- iv. recognition and value for JNCC work;
- v. ability to prioritise by customer;
- vi. retain flexibility to receive/deploy additional funds.

5. Staffing

Benefits

- i. recruitment and retention of staff;
- ii. improve staff morale ;
- iii. improved productivity and efficiency;
- iv. reduce legal risk.

6. Accountability

Benefits:

- i. administrative efficiencies;
- ii. clearer accountability via JNCC Chief Executive.

ADVANTAGES AND DISADVANTAGES OF THE TWO OPTIONS :

1. Company Limited by Guarantee

Advantages

- i. Can probably be achieved without the need for legislation
- ii. Once agreed, simple and inexpensive to set-up the company.
- iii. Implementation planning will be considerably easier than with other option, because the absence of the need for legislative change means an agreed “go-live” date can be self-determined and plan made to give notice to interested parties of changed arrangements.
- iv. As with other model, meets major objectives including some greater independence, direct employment of staff, and placement of contracts directly for goods and services
- v. Accepted model for not-for-profit organisations, with existing precedents within public sector
- vi. Has potential for simplifying reporting and accountability lines
- vii. Potential for replacing the Accounting Officer responsibilities currently jointly held by the 3 CA Chief Execs, with something that is much more straightforward, ie giving the JNCC MD equivalent accounting officer responsibilities.
- viii. Support from Chairman’s sub-group (some members have had favourable direct experience of CLG’s)

Disadvantages

- i. Need to comply with Companies Act, as well as Environmental legislation
- ii. Possible confusion in trying to meet dual Company Act and govt accounting requirements
- iii. Need to establish a company secretary function to meet legal requirements
- iv. Structure does not in itself encourage any greater proprietorial interest by key stakeholders (members)
- v. Less appealing to staff than the alternative model, based upon gut feeling that they may be more secure with an alternative public sector incorporated model

- vi. National Audit Office will not be able to undertake external audit
- vii. Could be more complexity in agreeing employment protection rights (eg. right to apply for jobs elsewhere in government) with this model compared with the other option

2. Government Model (but not a fully Independent NDPB)

Advantages

- i. Favoured more by staff association, might be seen by some as less emotive and less risky than other option because it appears to offer clearer continuity of employment
- ii. Avoids possible confusion between Company Act and government accounting requirements
- iii. NAO could continue to undertake external audit
- iv. As with other model, it meets major objectives including some greater independence, direct employment of staff, and placement of contracts directly for goods and services

Disadvantages

- i. Not clear whether there is such an entity as an incorporated public sector body, which continues to be largely owned by the CA's and DEFRA, and which is not an independent NDPB or a CLG, and whether government would approve of such a model.
- ii. Likely to have to wait for opportunity for legislative change, with no certainty about when that change could be implemented. Extra work involved by DEFRA in administering legislative change.
- iii. Delay could be damaging to morale, for members, staff generally and for managers, and is likely to add to costs of implementation.
- iv. Detailed implementation planning will be very difficult without a likely date for legislative change.
- v. Less scope for simplification of accountabilities than with other model – more bureaucracy
- vi. Not as clear-cut as the other model, in some respects. Some likely confusion in changing from one government model to another, eg clarifying changed practice and adaptation of some policies.