

Gwybodaeth ar gyfer cyfarfod Pwyllgor yr Amgylchedd a Chynaliadwyedd 6 Mai 2015. Dwy flynedd ers sefydlu Cyfoeth Naturiol Cymru.

1. Cyflwyniad

Nod Cyfoeth Naturiol Cymru (CNC) yw sicrhau bod adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio'n gynaliadwy, nawr ac yn y dyfodol. Rydym yn croesawu'r cyfle i roi cyflwyniad i'r Pwyllgor yn ystod ail broses graffu flynyddol CNC.

2. Cynllun Ymadael Gwirfoddol

- Diweddariad o'r cynllun diswyddo gwirfoddol gan gynnwys nifer y staff sydd wedi derbyn y cynllun a'r cyfanswm costau hyd yma.

Mae gennym bolisi Cynllun Ymadael Gwirfoddol ers mis Gorffennaf 2013 sy'n ymdrin yn benodol â rhaglenni newid ac ailstrwythuro sefydliad cyfan, lle'r oedd gofyn i ni wneud arbedion effeithlonrwydd trwy leihau nifer y staff.

Bu gennym ddau gynllun ar waith yn dilyn ceisiadau llwyddiannus i Gronfa 'Buddsoddi i Arbed' Llywodraeth Cymru.

Fel rhan o'r cynllun diweddaraf, sydd bellach wedi gorffen, cymeradwywyd i 58 aelod o'r staff adael ar gost o £3.05m, gyda chyfnod ad-dalu cyfartalog o 14 mis. Roedd y cynllun yn ystyried pob cais yn erbyn blaenoriaethau'r sefydliad a'r amcanion busnes, ac amcanion y rhaglen newid. Cafodd ceisiadau eu hadolygu yn erbyn effaith colli'r rôl a sgiliau, profiad a gwybodaeth yr unigolyn o'r sefydliad.

Yn ystod y cynllun cyntaf, a gynhaliwyd yn 2013-14, fe wnaethom gymeradwyo i 126 o aelodau'r staff adael ar gost o £5.1m gyda chyfnod ad-dalu cyfartalog o 13 mis.

Nid ydym yn bwriadu trefnu rhagor o gynlluniau ymadael agored pellach fel sefydliad. Er hynny, rydym yn ystyried datblygu polisi a phroses sy'n caniatáu i unigolyn ymadael o'i wirfodd.

3. Cynllun Busnes

- Crynodeb o berfformiad y corff yn erbyn Cynllun Busnes 2014-15 gan gynnwys adroddiad perfformiad diweddara'r dangoswrdd corfforaethol;
- Copi o Gynllun Busnes 2015-16, os yw ar gael.

Perfformiad

Ar hyn o bryd, rydym wedi cyflwyno adroddiad am ddau o'r tri chyfnod i Fwrdd CNC h.y. hyd at 30 Tachwedd 2014.

Mae'r papur ar y Dangoswrdd Perfformiad a gyflwynwyd i gyfarfod o Fwrdd CNC ar 10 Chwefror 2015 ar gael [yma](#).

Byddwn yn cyflwyno adroddiad i'r Bwrdd ar y flwyddyn 2014/15 yn gyflawn ar 7 Mai 2015, a bydd y papurau ar gael ar ein gwefan cyn hynny.

Cynllun Busnes 2015/16

Mae ein Cynllun Busnes ar gyfer 2015/16 i'w weld ar ein gwefan [yma](#).

4. Trwyddedau a hunan blismona

- Diweddariad ar nifer y trwyddedau y mae'r corff wedi'u cyflwyno iddo'i hun dros y 12 mis diwethaf.
- Crynodeb o unrhyw gam gorfodi neu hunan blismona mae'r corff wedi'i gymryd yn erbyn ei hun dros y 12 mis diwethaf.

Hunan blismona

Mae 'hunan blismona' yn cyfeirio at ein rôl o reoleiddio ein gweithgareddau ein hunain ac yn rhan o gyd-destun cyfres o rolau ehangach y mae CNC yn gyfrifol amdanynt. (gweler Atodiad 1). Mae ein gweithdrefnau mewnol yn cyfeirio at ddull rheoli ein rolau niferus, ac wedi'u cynnwys yn ein crynodeb cyffredinol 'Delivering our Multiple Roles'. Rydym newydd gwblhau Fersiwn 2 o'r crynodeb hwn, ac fe'i diweddarwyd i gynnwys sut y caiff penderfyniadau ar gymryd camau gorfodi yn erbyn CNC yn cael eu gwneud (gweler Atodiad 1).

Mae 'hunan blismona' yn cwmpasu 3 maes eang:

1. Cyflwyno caniatadau, trwyddedau a chydysniadau ar gyfer ein gwaith ein hunain.
2. Ymchwilio i gydymffurfio â'r caniatadau, trwyddedau neu gydsyniadau, yn ogystal â chydymffurfio â rhai o'n cyfrifoldebau ehangach am warchod yr amgylchedd.
3. Camau gorfodi o safbwynt ein gweithgareddau ein hunain.

Hunan ganiatáu, trwyddedu a chydysnio

Rydym yn cyhoeddi cofnod o'n holl benderfyniadau hunan ganiatáu ar y wefan bob mis [yma](#)

O ran penderfyniadau hunan ganiatáu, bu 23 ar gyfer Rheoliadau Trwyddedu Amgylcheddol (EPR) Ansawdd Dŵr ers 1 Ebrill 2013. Hefyd, cyflwynwyd pedair trwydded forol a thair trwydded tynnu dŵr. Cyflwynwyd nifer o drwyddedau rhywogaethau gwarchodedig hefyd.

Tîm Trwyddedu Adnoddau Dŵr sy'n cyflwyno trwyddedau tynnu dŵr, ac mae eu proses ganiatáu a'r ddeddfwriaeth yn golygu bod rhaid i ni gyflwyno ein dogfennau penderfynu i Lywodraeth Cymru graffu arnynt a'r opsiwn o'i 'alw i mewn'. Mae swyddogion Llywodraeth Cymru wedi bod yn gyson fodlon gyda'n dull o benderfynu ar geisiadau, ac unwaith y byddwn yn derbyn eu hymateb, mae'r ceisiadau'n cael eu hanfon at Gyfarwyddwr Gweithredol y Gwasanaethau Cenedlaethol i'w cymeradwyo h.y. nid yw Arweinydd y Tîm yn eu llofnodi, sef proses a lefel ddirprwyo ar gyfer ceisiadau nad ydynt yn ymwneud â CNC.

Ymchwilio i gydymffurfiaeth

- Fel rhan o'n System Rheolaeth Amgylcheddol (EMS) ardystiedig ISO14001 mae gennym weithdrefn ar gyfer cofnodi ac adolygu digwyddiadau amgylcheddol y mae CNC (neu ei gontractwyr) yn gyfrifol amdanynt (gweler Atodiad 2).
- Dros y 12 mis diwethaf (Ebrill 2014 - Mawrth 2015) cafodd 38 o ddigwyddiadau amgylcheddol yn gysylltiedig â CNC (neu ein contractwyr) eu cofnodi a 11 achos fu bron a digwydd.
- O'r 38 o ddigwyddiadau amgylcheddol, roedd 31 yn ymwneud â gwaith coedwigaeth.
- O'r 38 o adroddiadau ar ddigwyddiadau, roedd un yn ddifrifol yn ôl y cynllun dosbarthu digwyddiadau y mae'r CNC yn ei ddefnyddio ar gyfer achosion amgylcheddol. Cynhaliwyd ymchwiliad gan dîm arall, a chymerwyd camau gorfodi (gweler yr adran isod).
- Mae ein gweithdrefn digwyddiadau EMS yn canolbwyntio ar adolygu a dysgu o ddigwyddiadau amgylcheddol (h.y. rydym yn adolygu gwraidd y broblem ac yn cymryd camau i osgoi digwyddiadau tebyg yn y dyfodol).

Gorfodi

Arweiniodd un digwyddiad (llygru cwrs dŵr) at anfon llythyr rhybudd gorfodi gan y Cyfarwyddwr Llywodraethu at y Cyfarwyddwr Gweithredol atebol. Mae hyn yn unol â'r camau fyddai wedi'u cymryd o safbwynt digwyddiad trydydd parti o ddifrifoldeb tebyg. Cafodd y gweithdrefnau eu goruchwyllo gan Gadeirydd Pwyllgor Archwilio a Sicrhau Risg CNC, a'u hadrodd i Fwrdd CNC. Er nad yw wedi galw cyfraith i rym eto, mae CNC wedi cytuno â Gwasanaeth Erlyn y Goron pe buasai'r digwyddiad mor ddifrifol a'i fod wedi achosi gan drydydd parti ac y byddai CNC wedi erlyn, yna yn yr achosion hynny bydd y CNC yn trosglwyddo'r ffeil a bydd Gwasanaeth Erlyn y Goron yn penderfynu erlyn ai peidio.

5. Grantiau/rhaglenni cyllido

- Diweddariad ar y grantiau a'r rhaglenni cyllid partneriaethau a'r newid a wnaed i hyn ers i'r corff ddod i rym.

Cefndir

Rydym yn gwerthfawrogi gwaith partneriaeth wrth gyflawni canlyniadau amgylcheddol ar y cyd. Mewn achosion lle mae perthynas gyllido hefyd, rydym yn defnyddio'r term 'Cyllid Partneriaeth' i gyfleu'r elfen bwysig hon. O ran CNC, mae Cyllid Partneriaeth yn golygu unrhyw gyllid a dalwyd i sefydliad trydydd parti sydd hefyd yn cyfrannu arian cyfatebol er mwyn cefnogi neu helpu i ddarparu allbynnau neu gyflawni canlyniadau, sy'n ymwneud yn

uniongyrchol â'n hamcanion corfforaethol sydd yn ein Cynllun Busnes a Chorfforaethol. Gan fod Cyllid Partneriaeth yn golygu gofyn i bartïon eraill wneud cyfraniad ariannol i'r gwaith, mae'n wahanol i berthynas y farchnad wedi'i sbarduno gan broses gaffael.

Datblygiad ac egwyddorion cyllid partneriaeth CNC

Mewn cyfarfod fis Ebrill 2014, cymeradwyodd Bwrdd CNC ymagwedd strategol at Gyllid Partneriaeth sy'n cynnwys y prif egwyddorion canlynol:

- Bydd CNC yn sefydliad cyllido gyda chyllideb benodedig ar gyfer Cyllid Partneriaeth dros y tair blynedd nesaf.
- Bydd CNC yn dosbarthu'r gyllideb hon mewn dwy ffordd – trwy ddulliau gweithio ar y cyd a thrwy rowndiau cystadleuol a dargedir.
- Mae dulliau gweithio ar y cyd wedi'u cyfyngu i sefyllfaoedd lle mae CNC yn dewis sefydliad addas arall i gyflwyno prosiect sy'n ymwneud yn uniongyrchol â'r flaenoriaeth strategol yr hoffai CNC fynd i'r afael â hi. Mae'r sefydliad arall yn rhannu'r flaenoriaeth hon ac yn cyfrannu rhywfaint o'i adnoddau er mwyn ei gwireddu.
- Ystyr cyllid cystadleuol yw lle mae sefydliadau eraill yn cyflwyno ceisiadau yn erbyn sefydliadau eraill, gyda'u syniadau eu hunain am brosiectau sy'n ymwneud â blaenoriaethau strategol CNC.
- Dim ond cyllido prosiect fydd CNC yn ei wneud fel arfer h.y. gwaith sydd â dyddiad cychwyn a gorffen clir a chanlyniadau clir. Nid yw CNC yn gyfrifol am gyllido i sicrhau bodolaeth neu weithgareddau craidd cyrff eraill. Gall Llywodraeth Cymru gyfrannu arian craidd i sefydliadau perthnasol.
- Bydd cymorth grant CNC ar gyfer Cyllid Partneriaeth ar gyfran debyg i'r lefelau presennol ond bydd yn adlewyrchu unrhyw leihad yng nghyllidebau CNC yn y dyfodol.
- Dylai cyllid CNC fod â gwerth etifeddol, gyda chanlyniadau ffisegol, amgylcheddol neu ymddygiadol clir a chynaliadwy ar waith.
- Bydd Cyllid Partneriaeth CNC yn cael ei reoli fel rhaglen tair blynedd. Mae hyn yn bwysig er mwyn rhoi sicrwydd i'r sefydliadau sy'n cyflawni gwaith sydd angen mwy na 12 mis i'w gwblhau.
- Bydd trefniant cyllido CNC yn digwydd heb strategaeth ymadael glir.
- Lle bo CNC yn talu 100% o'r costau, yna nid cydweithio yw hyn ond sefyllfa o gaffael ffurfiol.

Ym mis Gorffennaf 2014, darparwyd papur diweddariad i'r Bwrdd yn nodi sut y gellid rhoi'r Gronfa Gystadleuol a'r Bartneriaeth Gydweithio ar waith.

Hefyd ym mis Gorffennaf, cynhaliodd CNC ddau ddigwyddiad briffio am Gyllid Partneriaeth i sefydliadau allanol, ar ôl lansio cylch 2014 o'r Gronfa Gystadleuol yn Sioe Fawr Llanelwedd 2014.

Canlyniadau'r cylch cyntaf o Gyllid Partneriaeth

Cafodd y Gronfa Gystadleuol 95 o geisiadau am gyllid o £5.5 miliwn ar gyfer gweithrediadau, sef cyfanswm o £16.7 miliwn dros dair blynedd. Roedd galw am £2 filiwn gan CNC at flwyddyn 1.

Cafodd CNC 111 o gynigion ar gyfer y Bartneriaeth Gydweithio hefyd. Roedd hyn yn cynrychioli galw am £12.5 miliwn gan CNC, a chyfanswm gwerth £37.7 miliwn. Roedd galw am gyfanswm o £3.9 miliwn gan CNC.

At ei gilydd, roedd galw am £18 miliwn gan CNC, ond dim ond £4.2 miliwn y flwyddyn oedd ar gael gennym.

Ymateb CNC i'r broblem o alw lefel uchel am gyllid

1. **Bydd CNC yn ariannu cryn dipyn o brosiectau amgylcheddol sylweddol** yn ystod y flwyddyn ariannol nesaf, ond rydym wedi pwysleisio nad yw'r cyllid ar gael gennym i gefnogi'r holl geisiadau sy'n dod i law.
2. **Mae CNC wedi gwneud ei orau glas i ledaenu'r cyllid mor deg â phosib**, e.e. trwy gapio lefelau gorbenion a gwneud cynigion cyllid rhannol mewn achosion priodol. O'r 206 o geisiadau a ddaeth i law yng nghylch 1, felly, mae'n bwriadu cynnig cyllid i dros 120 ohonynt. Mae hyn yn gyfran uchel iawn o gynigion mewn perthynas â'r ceisiadau.
3. **Mae CNC wedi pwysleisio wrth i gyllidebau'r sector cyhoeddus edwino – ac nid yw CNC yn eithriad yn hyn o beth – rhaid canolbwyntio ein hadnoddau ar ddarparu'r gwerth am arian gorau i drethdalwyr**
 - Rhaid i ni chwilio am ffyrdd newydd arloesol o weithio a darparu'r canlyniadau gorau i'r amgylchedd.
 - Gyda llai o arian ar gael o flwyddyn i flwyddyn, ni allwn barhau i wneud yr un pethau yn yr un ffordd.
 - Rhaid i ni sicrhau bod yr amgylchedd yn elwa ar bob ceiniog a wariwn ni. Mae hynny'n golygu gorfod gwneud rhai penderfyniadau anodd.
4. **Mae CNC wedi pwysleisio'r ffaith na allai fynd i'r afael â'r heriau ariannol ar ei ben ei hun. Mae angen i bawb ohonom sy'n gweithio yn y sector amgylcheddol ganfod atebion newydd i hen broblemau.**
 - Rydym angen trafodaeth ehangach yn y sector amgylcheddol o ran sut gallwn ni ddod o hyd i atebion ariannu amgen.
 - Rydym wedi sefydlu, ac yn awyddus i annog partneriaethau newydd sy'n seiliedig ar ganlyniadau ar y cyd yn hytrach na threfniadau ariannol, a byddwn yn ymroi i ategu hyn.
 - Pe bai pawb yn cydweithio, rydym yn credu y gallwn gyflawni pethau mawr ar gyfer yr amgylchedd yng Nghymru, hyd yn oed mewn cyfnod o gyni.

Camau nesaf

Yn seiliedig ar bwyntiau dysgu o gylch cynta'r Cyllid Partneriaeth, byddwn yn cyflwyno papur i Fwrdd CNC yng nghyfarfod mis Mai 2015. Bydd y papur yn argymhell y camau nesaf i'w cymryd dros ddwy flynedd y Cyllid Partneriaeth hwn, sy'n rhaglen dair blynedd. (Bydd yr arian sydd ar gael ar gyfer Blynnyddoedd 2 a 3 gryn dipyn yn llai, gan fod rhai o'r prosiectau ym Mlwyddyn 1 wedi'u cyllido am 3 blynedd).

6. Cost a budd

- Mae'r proffil cost a budd diweddaraf ar gyfer y corff yn cynnwys esboniad o unrhyw newidiadau pellach ers mis Mai 2014.

Dyma grynodedb o'r hyn a gyflawnwyd yn erbyn y llythyr cylch gwaith a'r achos busnes:

Cyflwyno'r achos busnes dros fanteision ariannol

- Rydym yn datblygu ein gallu annibynnol ac yn gweld manteision cyfuno'r tri sefydliad yn un. Mewn dwy flynedd, byddwn wedi sefydlu ein gallu ein hunain ar gyfer 29 o'r 40 o wasanaethau a ddarparwyd i ni fel rhan o'r trefniant pontio, gyda'r gwasanaethau sy'n weddill yn cael eu trosglwyddo erbyn 2017/18.
- Erbyn diwedd 2014/15, rydym yn amcangyfrif y byddwn wedi cymryd camau i sicrhau gwerth £10.9 miliwn o arbedion y flwyddyn. Bydd yr arbedion hyn yn cronni i £97 miliwn erbyn Blwyddyn 10.
- Rydym yn rhagweld y bydd camau pellach yn cynyddu'r arbedion ariannol a di-ariannol sylweddoladwy i £19 miliwn y flwyddyn erbyn 2018/19 a bydd yn cronni i £145 miliwn erbyn diwedd Blwyddyn 10. Rydym yn hyderus y byddwn yn cyflawni ein manteision Achos Busnes o £158 miliwn (ariannol a di-arian) erbyn Blwyddyn 10.
- Bydd Swyddfa Archwilio Cymru yn cynnal Archwiliad Gwerth am Arian yn erbyn yr Achos Busnes dros sefydlu CNC, ac mae archwiliad prawf 2 flynedd ar drefniadau Llywodraethiant. Bydd yr archwiliad yn dechrau ym mis Ebrill, ac yn adrodd yn ôl ym mis Hydref 2015.

7. Y sefyllfa ariannol

- Sefyllfa ariannol diweddarar'r corff.

1. Blwyddyn ariannol ddiweddaraf (2014/15)

Dechreuodd ein blwyddyn ariannol 2014/15 gyda chyllideb gytbwys.

Fe wnaethom adolygu ein sefyllfa gyllidebol yn fanwl hanner ffordd drwy'r flwyddyn a pharatoi Cyllideb Ddiwygiedig. Ystyriwyd incwm ychwanegol gan Lywodraeth Cymru ar gyfer rhaglenni gwaith penodol, a'r incwm pren cynyddol a ail-fuddsoddiwyd yn rhannol i flaenoriaethau busnes. Canlyniad cyffredinol y Gyllideb Ddiwygiedig oedd gwarged o £1.1 miliwn yn fwy na gwariant. Roeddem yn bwriadu cario'r gwarged hwn ymlaen i 2015/16 er mwyn helpu gyda phwysau'r gyllideb.

Mae canlyniadau ariannol 2014/15 yn destun adolygiad terfynol ac archwiliad gan Swyddfa Archwilio Cymru.

2. Y flwyddyn ariannol gyfredol (2015/16)

Yng nghyfarfod mis Chwefror o'r Bwrdd, fe gyflwynwyd ein Cynllun Busnes a'n Cyllideb Gytbwys ar gyfer 2015/16.

Yn flaenorol, roeddem wedi cyflwyno cyllideb ddrafft â diffyg o £8 miliwn, yn bennaf oherwydd pwysau costau (e.e. cynnydd mewn pensiwn) a lleihad yn y Cymorth Grant refeniw (£3.2 miliwn). Llwyddwyd i sicrhau'r sefyllfa gytbwys a gyflwynwyd gennym ym mis Chwefror trwy gyfuniad o incwm masnachol ychwanegol, lleihau costau, arian a ddygwyd ymlaen o 2014/15 a thrwy ein rhaglen effeithlonrwydd.

Rydym wedi lansio rhaglen effeithlonrwydd yn 2015/16 o'r enw 'Success with Less' sydd â'r nod o gyflenwi £3 miliwn o arbedion cylchol.

Rydym wedi derbyn Cymorth Grant ychwanegol o £6 miliwn gan Lywodraeth Cymru i ariannu gwaith penodol, fel mynd i'r afael â chlefyd coed P ramorum ac ailstocio.

Ar 1 Ebrill 2015, daeth y 3 Bwrdd Draenio Mewnol yng Nghymru dan fantell CNC ac maent wedi'u hymgorffori'n llawn yn ein hadroddiadau a phrosesau ariannol.

Rydym wedi cwblhau ein hadolygiad sylweddol cyntaf o Gynlluniau Codi Tâl 2015/16, a oedd yn cynnwys proses ymgynghori cyhoeddus. Mae'r Gweinidog wedi cymeradwyo'r Cynllun Codi Tâl. Mae'r newidiadau wedi helpu i unioni ambell anghydbwysedd hanesyddol (gan sicrhau adennill costau llym), a chadw costau mor isel â phosib i'n cwsmeriaid.

8. Buddsoddi i Arbed

- Manylion am gyllid Buddsoddi i Arbed y mae'r corff wedi'i dderbyn hyd yma.

Mae CNC wedi derbyn tri swm o gyllid Buddsoddi i Arbed:

1. Costau sefydlu CNC (cyn-freinio)
Swm a gafwyd: £2.549m (2012/13) a £0.476m (2013/14)
2. Cynllun Ymadael Gwirfoddol 1
Swm a gafwyd: £3.75m (2013/14)
3. Cynllun Ymadael Gwirfoddol 2
Swm a gafwyd: £2.283m (2014/15)

9. Arolwg Pobl 2015

Cynhaliwyd ein Harolwg Pobl cyntaf ym mis Chwefror 2015 er mwyn casglu barn onest gan aelodau'r staff am weithio i CNC.

Cawsom ymateb gan 58% o'r staff, sy'n galonogol iawn ar gyfer arolwg cyntaf. Mae cynnal yr arolwg a dadansoddi'r canlyniadau wedi rhoi dealltwriaeth well i ni o faterion ymgysylltu, bodlonrwydd ac ysbryd staff o fewn y sefydliad. Mae'r canlyniadau'n rhoi'r sail dystiolaeth lawn gyntaf i ni, ac yn ein galluogi i ganolbwyntio ar feysydd sydd angen rhoi sylw iddynt, a gwella a rhannu'r hyn sy'n gweithio orau.

Mae canlyniadau ein Harolwg Pobl 2015 ar gael [yma](#).

Cyfoeth Naturiol Cymru
22 Ebrill 2015



**Cyfoeth
Naturiol**
Cymru
**Natural
Resources**
Wales

Delivering our Multiple Roles as a
Land Manager, Statutory Adviser and
Regulator (Version 2) –

*Decision making supported by
transparency and accountability*

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1. Introduction and Purpose

It was a deliberate and strategic decision by the Welsh Government to establish Natural Resources Wales (NRW) with multiple land management, advisory and regulatory roles. This decision reflected an aspiration to create a new and innovative approach to deliver integrated natural resource management, whereby a single organisation has at its disposal a range of tools and roles to better achieve positive outcomes for people, the environment and the economy.

This document establishes the context for our multiple roles, as well as acknowledging the challenges that these roles give us in two main areas. First, with regard to transparency of our own responsibilities as an organisation that directly delivers services, especially as a land manager - an 'operator' - in our own right. And second, in respect of our statutory responsibilities, where equity of regulation of our own activities with our regulation of other parties is an important principle; as well as relevant legislation and case law that means we are required to organise our delivery with particular requirements in mind.

The purpose of the document is to establish clarity and transparency for both our staff and external stakeholders and customers. We describe our organisational design and operational responses established to achieve these objectives. They are all designed to support the decision to establish a new approach towards the delivery and facilitation of integrated natural resource management, through the creation of Natural Resources Wales.

This document is supported by a Policy & Procedure for the 'Management of our Multiple Roles'

2. Our Purpose and Roles as an organisation

The Establishment Order states the purpose of Natural Resources Wales is to ensure that the environment and natural resources of Wales are:

- (a) sustainably maintained;
 - (b) sustainably enhanced; and
 - (c) sustainably used.
- (2) In this article –
- (a) “sustainably” (“yn gynaliadwy”) means –
 - (i) with a view to benefitting, and
 - (ii) in a manner designed to benefit, the people, environment and economy of Wales in the present and in the future;
 - (b) “environment” (“amgylchedd”) includes, without limitation, living organisms and ecosystems.

Our purpose requires a balance to be struck and does not ascribe weight to any aspect (e.g. the environment or the economy) in preference to another. However, we have a duty to implement existing legislation and whilst we must also have due regard to our purpose we must also use discretion and judgement in the application of specific legal requirements.

The 'Functions Order' transferred many duties and functions from the existing legislation and our roles can be summarised as follows:

Regulator: protecting people and the environment including marine, forest and waste industries, and prosecuting those who breach the regulations that we are responsible for.

Statutory Adviser: to some 9,000 planning applications a year and also in respect of Strategic Environmental Assessment, Habitats Regulation Assessments and Environmental Impact Assessment.

Land Manager (Operator): managing seven per cent of Wales' land area including woodlands, National Nature Reserves, water and flood defences, and operating our visitor centres, recreation facilities, hatcheries and a laboratory.

Technical/Policy Adviser: principal adviser to Welsh Government, and adviser to industry and the wider public and voluntary sector, and communicator about issues relating to the environment and its natural resources.

Designator: for Sites of Special Scientific Interest – areas of particular value for their wildlife or geology, Areas of Outstanding Natural Beauty (AONBs), and National Parks, as well as declaring National Nature Reserves.

Responder: to some 9,000 reported environmental incidents a year as a Category 1 emergency responder.

Partner, Educator and Enabler: key collaborator with the public, private and voluntary sectors, providing grant aid, and helping a wide range of people use the environment as a learning resource; acting as a catalyst for others' work.

Evidence gatherer: monitoring our environment, commissioning and undertaking research, developing our knowledge, and being a public records body.

Employer: of almost 1,900 staff, as well as supporting other employment through contract work.

For many of the activities we are involved in we may exercise more than one role, either simultaneously or sequentially. For instance, we may provide a local authority with advice as a statutory adviser in respect of a proposed development and then be required to consider an application for a permit under a regulatory regime for the same development.

For a range of our own land management activities and those undertaken by our contractors, we are also the regulator – the body responsible for granting permits, assessing compliance, investigating potential offences and taking enforcement action. We also act as the consultation body for our own programmes, plans and projects in respect of environmental assessments such as Strategic Environmental Assessment (SEA), Habitat Regulations Assessment (HRA) and Environmental Impact Assessment (EIA). In this operator mode we also consider / facilitate third party activity on which we may then provide statutory advice to other authorities and then be required to consider applications for permits against regulatory regimes where we have responsibility.

Our Board has established high level principles to help us manage and organise these roles to achieve an agreed corporate position and avoid undue criticism. In addition our founding legislation and our legal purpose provides an overarching principle that is vital in managing our multiple roles. Namely, that no one role has primacy or priority over another. It is our responsibility to use evidence and judgement to agree the most optimal course of action recognising all our roles, the specific legislation under which we operate and our overarching purpose.

3. The principles we have adopted for managing our multiple roles

In developing its approach to corporate governance and mindful of the organisation's purpose and strategic case for a new approach to integrated natural resource management, our Board agreed to adopt a number of governance principles that aim to guide our operational responses to the management of our multiple roles:

- a. All proposals will facilitate integrated decision making by NRW in support of the ecosystem approach;
- b. Functional separation will only be used when necessary, in recognition that NRW is one organisation and that regulatory and advisory functions support the same outcomes;
- c. Transparency will be a fundamental requirement both internally and externally;
- d. Delegated authorities will be based on risk thresholds.

4. Legal Context

As well as the specific case law requirements relevant to our multiple roles, in common with other public bodies, we have to have due regard to administrative and public law principles (Annex 4).

In addition, we have to follow the correct procedure. Correct procedure (or "due process") is vitally important in public law because there are some tried and tested procedural mechanisms which are likely to secure a just outcome that is defensible. Procedure is the requirement for the way in which the decision is made. The so called "Rules of natural justice" are rules of procedure.

The rule against bias on the part of the decision-maker is a manifestation of the other rule of natural justice, that "no person shall be judged in her/his own case". If the decision-maker has a financial or other interest in the outcome of a case, s/he cannot be, or be seen to be, impartial.

The rules help to ensure that the decision-making process is not biased because the decision-maker's mind was always closed to the opposing case. As well as preventing actual bias, we need to do all we can to avoid the perception of bias

Impartiality is the opposite of bias. It is prudent to have procedures available to show that with our multiple roles, we remain impartial and independent.

To achieve this, we have taken steps to have functional separation where this is necessary.

The "independence" of a decision-maker is different from, though closely linked to, its impartiality. It means the independence of the decision-maker from internal or external pressures or influence.

Actual bias is rare: most cases are concerned with the perception of bias. The test is whether, in all the circumstances, the Court considers that there has appeared to be a "real danger of bias". If it does, the decision will be set aside. Not only do our staff need to

be sure that they are free of actual bias before making a decision, they also need to consider not acting as decision-maker if there is a real danger that their impartiality might be open to question. This, in part, explains a number of approaches to managing our multiple roles as described in this document.

5. Our Operational Response when Land Manager, Statutory Adviser and/or Regulator

The organisational structure for Natural Resources Wales (Annex 3) is a key component in managing our multiple roles in line with the agreed principles:

Our **Operations Directorates** fulfil the Land Manager role through their management of the Welsh Government woodlands and our own land, as well as when acting as the 'client' for services provided by other Directorates e.g. when constructing flood defence schemes or other developments and activities on the land we manage or own. In addition our **Operations Directorates** also provide all our statutory advice to local authorities and the Welsh Government, as well as project level statutory responses to HRA and EIA, including those of the Directorate as a 'Land Manager'. The teams that fulfil our Land Manager role in Operations are separate to the teams that provide our statutory responses and report through to a different manager at Leadership Team level. Our **Operations Directorates** do not make regulatory consenting and permitting decisions*, which are made by our National Services Directorate reporting to a different Executive Director. However our **Operations Directorates** do undertake compliance and enforcement work based on agreed permits and the protocol for how this is undertaken for our own operations is set out in 4.1.

**Except in some instances in respect of consenting operations on designated sites where we are the land manager.*

Our **National Services Directorate** provides internal and external services. The internal services are primarily provided to our Operations Directorate as Land Manager and 'client'. For example harvesting & marketing of timber from the woodland estate and project management of flood defence schemes. In addition, **National Services Directorate** also provides an 'enterprise development' service. Where this involves the land that we manage, the Operations Directorate acts as 'client'. All these activities report to a single Leadership Team level manager. **National Services Directorate** also provides a Permitting and Consenting Service to third parties and to Natural Resources Wales as a Land Manager through our Operations Directorate. These activities report to a different Leadership Team level manager.

Our **Knowledge, Strategy and Planning Directorate** is responsible for strategy development on behalf of the whole organisation. These strategies consider our multiple roles and are the method by which we will achieve alignment for all our roles to achieve our purpose. **Knowledge, Strategy and Planning Directorate** also provides a plan making assessment service for Natural Resources Wales own programmes and plans that require assessment under the SEA and HRA Directives.

Due to the case law requirements for functional separation when a plan making body is also the relevant Consultation Body for Strategic Environmental Assessment, our **Governance Directorate** fulfils the Consultation Body role, as the Directorate has no plan making, land manager or regulatory responsibilities. Due to the close process links with

Habitat Regulations Assessments, the **Governance Directorate** also acts as the Consultation Body for these requirements at 'Plan' level.

5.1 As a Regulator of our own Land Manager role

The following explains how we will regulate our own activities including determining applications using principles of fairness, transparency, independence, and an exemplar level of environmental protection.

In some cases such as water abstraction, the legislation prescribes the process for permitting our own activities. However, most of the applicable legislation does not specifically cover self-permitting or compliance and enforcement. The Natural Resources Body for Wales (Functions) Order 2013 ("the Functions Order") imposes a duty on NRW to have a publication scheme, part of which relates to self-permitting; the scheme imposes some specific requirements.

Where we are responsible for a regulatory regime then we will apply the following standards to our application for a permit, determination of permit applications, participation in internal consultation, compliance assessment and investigation of potential offences in relation to own activities. The standards also apply to permitting, compliance and enforcement activities in relation to works conducted by contractors on behalf of NRW; for example, a licence to translocate dormice resulting from construction works within woodland.

Our standards will ensure that:

- a. We apply equivalent scrutiny and standards to our own activities as those required for external individuals and businesses. In particular, we should comply with our published enforcement policy and follow relevant public interest considerations.
- b. We follow clear and transparent decision making processes that are robust to challenge and clearly documented.
- c. There is an appropriate degree of separation between the business unit being regulated and the team undertaking the regulation. This is to help demonstrate fairness and transparency, and to support the public's and Welsh Government's confidence in our decision making.

5.1.1 Permitting

The decision making level for internal permits is as specified in the Non-Financial Scheme of Delegation (NFSOD). This will usually be the same as for external applications unless specified otherwise. Where a decision is likely to be contentious, or subject to internal or external challenge it will usually be appropriate to escalate the sign off to a higher level.

Separate guidance exists on functional separation relating to internal consultation on permit determination involving EU obligations, e.g. Habitats Regulations appropriate assessments and environmental impact assessments. These arrangements should be followed for internal permitting, where appropriate.

The arrangements in sections 4.1.3 to 4.1.5 below also apply to permitting activities in relation to works conducted by contractors on behalf of NRW.

5.1.2 Arrangements between National Services and Operations

Where an internal application is made by the Operations Directorates, and submitted to the permitting teams within the National Services Directorate for determination, then a separation of function already exists.

The team that determines the application may need to consult teams within the Operations Directorate that made the application. This may be entirely appropriate as local information will often be needed. In these cases good governance is ensured by a combination of transparent documenting of the advice/information and in some instances by the validation of the advice by subject experts in another directorate (KSP, NS or the other Ops Directorate).

Examples of internal permissions determined by permitting teams within National Services include:

- Water quality discharge consents for an NRW hatchery
- Marine licences for flood defence schemes
- Water abstraction licences for an NRW hatchery
- Septic tank registrations for NRW offices and depots
- Waste exemptions for NRW offices and depots
- Forest resource plans and felling licences for the Public Forest Estate

5.1.3 Arrangements where the application originates and is determined within National Services

Any internal application is determined by a team separate from the team where the application originated, and provide a separation of function to at least Leadership Team level.

If the application is potentially contentious or likely to be subject to internal or external challenge, then as an additional safeguard the proposed decision can be discussed with the Governance team for advice on an appropriate approach.

5.1.4 Arrangements where the application originates and is determined within Operations

Where applications arise from within Operations Directorates that would normally be determined within Operations for external applicants, then a degree of separation through sign off by different area teams is in place.

Examples include:

- SSSI consents issued for NRW flood and coastal risk management schemes
- Flood defence consent for works carried out by NRW

Where possible, applications are determined according to the inter-area arrangements set out in table 1 below. Where this is not possible or the application is potentially contentious, then as an additional safeguard the proposed decision can be referred to the Governance team for review. As a minimum there is a separation to at least Leadership Team level.

Where applications are submitted by contractors on behalf of Natural Resources Wales the same arrangements described above are applied.

There may be some circumstances where it could be appropriate that some of the work can be carried out by the local team. For example, where extensive site visits are required. However, the permitting decision will be taken in accordance with the general arrangements above and clear evidence (e.g. photographs) will be provided.

Table 1- Inter-area arrangements

Area	Will regulate	Will be regulated by
North Wales	South East Wales	South West Wales
Mid Wales	South West Wales	South East Wales
South East Wales	Mid Wales	North Wales
South West Wales	North Wales	Mid Wales

Note:

Where the team permitting the activity covers all of South or all of North & Mid Operations Directorates, then the application will be determined by the Directorate other than the one where the application arises.

5.1.5 Compliance

Once permissions have been granted, the inter-area arrangements described in Table 1 above will be applied for any compliance assessment work. The arrangements in this section also apply in relation to works conducted by contractors on behalf of NRW.

Where the team undertaking compliance assessment covers all of South or all of North & Mid Operations Directorates then the compliance assessment will be carried out by the Directorate other than the one where the regulated activity takes place.

There may be some circumstances where these arrangements are not practicable. In these cases functional separation to at least Leadership Team level will be applied. If an issue develops that is likely to be contentious e.g. an offence is identified then functional separation to at least Executive Director level will be applied for oversight or review.

If the compliance assessment identifies a significant non-compliance that is potentially an offence, then the actions described in the enforcement section below will be followed.

5.1.6 Environmental Incident response

In this section the term Responsible Directorate (RespDir) is used to refer to the Directorate in which the incident occurred i.e. the operator. The Regulatory Directorate (RegDir) is the Directorate appointed to undertake the role of regulator. The arrangements in this section also apply in relation to works conducted by contractors on behalf of NRW.

When an environmental incident occurs which is potentially an offence under legislation we enforce, we need to consider our response both as an operator and a regulator.

The initial response needs to ensure that the incident is managed so as to minimise any environmental impact, whilst ensuring that any follow up regulatory action is not compromised. The initial response should normally be coordinated by the RespDir supported by the local Natural Resource Management (NRM) team. The NRM officers attending should ensure that basic evidence such as photographs and samples are secured where appropriate.

As soon as a potential offence is identified the RespDir, they will inform the appropriate RegDir at Leadership Team level. The RegDir will appoint someone to act as the investigating officer. If the RespDir is National Services or KSP, the RegDir will be the Operations Directorate for that area. If the RespDir is Operations then the arrangements in table 1 will apply.

The RespDir should also ensure the Executive Director for that Directorate and the Head of Legal Services are notified as soon as possible.

The RespDir is responsible for implementing the requirements of the internal Environmental Management System (EMS) for incident reporting, internal investigation (i.e. non-regulatory) and review. These requirements are dealt with separately under the EMS.

The investigating officer will categorise the incident according to the common incident classification system and will (subject to the requirements below) undertake an investigation in the same way as for any third party incident or offence.

5.1.7 Enforcement

Where following an incident investigation or compliance assessment we identify that a potential offence has been committed by NRW, we will comply with our published enforcement and prosecution policy and take account of relevant public interest factors. Wherever a potential offence is identified the Head of Legal Services should be informed as soon as possible. The arrangements in this section also apply in relation to works conducted by contractors on behalf of NRW.

The work of the investigating officer will be supported by one of the seconded police officers (SPO) appointed by the Operations Enforcement Manager. The SPO will oversee the investigation, enforcement recommendation, and enforcement decision to ensure that the investigation is conducted in an independent and transparent manner. The SPO will not take part in decision making but will review each stage and raise any concerns with the Operations Enforcement Manager and Head of Legal Services.

A report of contravention (ROC) form will be completed in all cases. The enforcement recommendation in the ROC will be considered by the Internal Incidents Enforcement Panel, comprising of the Director of Governance, Head of Legal Services and another Executive Director unconnected with the case. The panel will be advised by the Head of Operations (Mid Wales) with line management responsibility for operational enforcement services.

Where the enforcement decision is a warning, a notice or a formal caution it will be dealt with internally by the Director of Governance. The warning or caution will be issued to the Executive Director of the responsible Directorate. In most cases a notice should not be necessary because we would expect complete co-operation and prompt action in response to any findings. This is equitable with the approach taken with third parties who demonstrate co-operation.

Where the panel decides that prosecution is the appropriate response, the case will be referred to the Crown Prosecution Service.

All cases of internal enforcement action will be reported to Natural Resources Wales' Audit and Risk Assurance Committee who will in turn report to the Board. In these cases the role of the non-Executive Directors on the Committee is to ensure the Executive Directors have acted appropriately.

5.1.8 Charging

Where a permit application would normally attract a fee there is no charging requirement for internal applications or subsistence fees for internal permits.

Where applications are required to be advertised in a newspaper during the determination process, then the applying department needs to cover these advertisement costs.

5.1.9 Publishing requirements for all internal permissions

The Functions Order 2013 requires that we publish information* about 'all applications for permits made by the Body, in cases where the Body is responsible for determining the application'. We are also required to inform Welsh Government of all internal applications (where it has the power to call in an application) at the time of the application.

The 'self-permitting decisions' spreadsheet on the document management system is used to record the receipt and determination of internal permit applications. It is the responsibility of the team involved in the determination of the permit to ensure this spreadsheet is completed promptly when applications are received and when they are determined.

Once a month the spreadsheet detailing all internal permitting applications and decisions for the previous month is uploaded to the NRW external website and forwarded to the Welsh Government.

5.2 Our own plans and programmes – Consultation Body (Statutory Advice) arrangements

In our roles as relevant nature conservation body (HRA- plans) and consultation body (SEA) for the plans and programmes of other authorities, as well as for our own plans and programmes that require either SEA or HRA (plans) we have a number of statutory and non-statutory roles including;

- Provision of information on European Sites, their features of interest and conservation objectives.
- Provision of scientific and technical advice and guidance on the environment and natural resources of Wales, including natural heritage, landscape and cultural heritage.
- Provision of statutory comment and representation as 'statutory consultee'

As well as these specific roles in respect of SEA and HRA, we have many other roles and duties arising from our role as land managers/project developers/operators and as the Regulators for some 30+ regulatory regimes. For SEA, there is European case law (the 'Seaport' case) that requires the 'functional separation', where Natural Resources Wales or any other authority is both the 'responsible authority (plan maker) and statutory consultant body.

In response to our responsibilities and these principles, a 'functionally separate' Strategic Assessment team (SAT) has been established within the Governance Directorate of NRW. This team's primary role is to fulfil the Consultation Body role for the SEA of NRW's own

plans and programmes (legally required by Seaport ruling). However, based on the strong interdependencies between the SEA and HRA (plans) processes, our Board recommended that this team should also fulfil the relevant nature conservation body role on HRA (plans) for NRW's internal plans.

For those plans, programmes and projects produced by Responsible authorities external to NRW, the consultant body role for SEA (programmes and plans) and HRA (plans and projects) is provided by either the Knowledge, Strategy and Planning Directorate or the relevant Operations Directorate, according to the type of plan, programme or project (national/sectoral or regional respectively). However if NRW is formally contracted to develop the SEA or HRA plan level assessment by a third party 'responsible authority' then the Governance SAT team provides NRW's statutory consultee response as the Consultation Body.

5.3 Our own projects – Consultation Body (Statutory Advice) arrangements

For our own projects our Operations Directorates fulfils the Consultation Body role but through a separate team reporting to different Leadership Team manager to the one responsible for the project. The Land Manager role responsible for the project reports through to the Head of Operational Services and the relevant teams responsible for project level Habitats Regulation Assessment Consultation Body role reports through to the Head of Ecosystems Planning & Partnerships.

Where our own project requires planning permission through the Town & Country Planning system, our role as statutory adviser to local authorities within this regime is separate at Leadership Team level to the senior manager accountable for the project. Our role as a land manager responsible for the project is accountable to the Head of Operational Services. The teams who provide the statutory advice as a Consultation Body to enable the Local Authorities as the responsible body for permitted development to make a decision are accountable to the Head of Ecosystem Planning & Partnerships.

6. Our Operational Response when Statutory Adviser and Regulator

Although NRW is a single corporate entity, we will often exercise the distinct functions of statutory advisor and regulator in the context of a single development, most notably Nationally Significant Infrastructure Plan developments. As well as using our agreed principles for managing our multiple roles to guide us where we are a regulator we have also taken into account an important theme that runs through administrative law: where legislation confers discretion on a body like NRW, the body must not surrender or abdicate that discretion – to a "policy". The body (NRW in our case) must keep an open mind and consider each case on its own merits: otherwise we would be failing to exercise our discretion. We must keep an open mind and consider the facts of the particular case.

In relation to the Development Consent Order application under the Planning Act 2008, we are a statutory consultee advising the decision maker on the land use planning implications of the development. For those developments which impact on Welsh waters, certain aspects of the development will comprise marine licensable activities for which a licence is required under the Marine and Coastal Access Act 2009. NRW (acting on behalf of Welsh Ministers) is the licensing authority. For those developments which involve a

regulated activity requiring an Environmental Permit under the Environmental Permitting Regulations 2010, NRW is the permitting authority.

There is therefore a distinct legislative framework for NRW's respective functions. The implications for cross-over between the respective functions could be opening up any decision or consent to be challenged upon the grounds of pre-determination and/or bias i.e. that one function has been unduly influenced by the others. Therefore, internal separation between the functions has been maintained with the Statutory Consultee responses for developments requiring planning permission being the responsibility of our Operations Directorates, whilst our National Services Directorate is responsible for all permits, consents and licences.

Annex 1 – When operating as Land Manager and Statutory Adviser and/or Regulator - Roles and Responsibilities

NATURAL RESOURCES WALES AS LAND MANAGER, STATUTORY ADVISOR AND REGULATOR	
ROLE	ROLE & RESPONSIBILITIES
<p>Role 1 – Applicant. Natural Resources Wales is land manager</p> <p>The person who makes an application for a permit. Any registration, exemption, approval, permission, licence, consent, assent or other authorisation.</p>	<p>Operations Directorates</p> <p>Applicant / land manager is Natural Resources Wales</p> <p>Welsh Ministers are notified of all applications at the time they are made</p>
<p>Role 2 - Originator of plan, programme or project is Natural Resources Wales</p> <p>The 'Responsible Authority' in statute for preparing Environmental Assessments:</p> <ul style="list-style-type: none"> •Strategic Environmental Assessment &or Habitat Regulations Assessment (plans and programmes), •Environmental Impact Assessment &or Habitat Regulations Assessment (projects) 	<p>Transparency – publication scheme</p> <p>Knowledge, strategy, Planning Directorate for strategic plans, programmes, projects</p> <p>Operations Directorates for regional & local plans, programmes, projects</p>
<p>Role 3 – Natural Resources Wales is Regulator</p> <p>NRW is the body, as defined by statute, that supervises a particular industry or business activity including its own activities. The provider of a permitting decision / determination.</p>	<p>Transparency – publication scheme</p> <p>National Services Directorate Permitting decision</p> <p>Operations Directorates* Enforcement & Compliance casework *geographical separation</p>
<p>Role 4 - Natural Resources Wales is Statutory Consultee (Planning and Development Control)</p> <p>NRW is the body, as defined by statute, that must be consulted on relevant planning applications. The provider of evidence, information, advice to Local Planning Authorities to allow them to make an informed permitting decision.</p>	<p>Transparency – publication scheme</p> <p>Operations Directorates (separate team to applicant / originator)</p> <p>Receive & reply regional & local</p>
<p>Role 5 - Nature Conservation, Countryside and /or Forestry Consultation Body (environmental assessments)</p> <p>a) NRW is the body, as defined by statute, that gives opinion upon and must be consulted on relevant environmental assessments. The provider of evidence, information or expertise and advice as Competent Authority for plans and programmes (SEA, HRA) and projects (EIA, HRA) as the nature conservation, countryside or forestry body.</p> <p>b) NRW is the body, as defined by statute, that gives opinion upon and must be consulted on relevant environmental assessments.</p>	<p>Transparency – publication scheme</p> <p>a) Evidence & advice role – assessment preparation</p> <p>Operations Directorates Receive & reply Plans, programmes and projects</p> <p>b) Statutory advisory role</p> <p>Governance Directorate Plan / programme due diligence (SEA and HRA)</p>

Annex 2 – When operating as Statutory Adviser and Regulator - Roles and Responsibilities

NATURAL RESOURCES WALES AS STATUTORY ADVISOR AND REGULATOR					
ROLE	ROLES & RESPONSIBILITIES				
<p>Role 1 - Applicant</p> <p>The person who makes an application for a permit. Any registration, exemption, approval, permission, licence, consent, assent or other authorisation.</p>	<p>Applicant is external (includes third party on WG Woodland Estate)</p> <p>Customer service centre logged & assigned 'Exceptional' casework identified Corporate risk register entry</p>				
<p>Role 2 - Originator of plan, programme or project</p> <p>The 'Responsible Authority' or plan, programme or project maker in statute for preparing environmental assessments:</p> <ul style="list-style-type: none"> •Strategic Environmental Assessment &or Habitat Regulations Assessment (plans and programmes), •Environmental Impact Assessment &or Habitat Regulations Assessment (projects) 	<p>Originator of plan, programme or project is external. The external applicant may need to prepare a Strategic Environmental Assessment, Habitat Regulations Assessment and / or Environmental Impact Assessment.</p>				
<p>Role 3 – Natural Resources Wales is Regulator</p> <p>NRW is the body, as defined by statute, that supervises a particular industry or business activity including its own activities. The provider of a permitting decision / determination.</p>	<table border="1"> <tr> <td>National Services Directorate Permitting decision</td> <td>Operations Directorate Enforcement & Compliance casework</td> </tr> <tr> <td>Operations Directorates Permitting decision (eg SSSI consent)</td> <td></td> </tr> </table>	National Services Directorate Permitting decision	Operations Directorate Enforcement & Compliance casework	Operations Directorates Permitting decision (eg SSSI consent)	
National Services Directorate Permitting decision	Operations Directorate Enforcement & Compliance casework				
Operations Directorates Permitting decision (eg SSSI consent)					
<p>Role 4 - Natural Resources Wales is Statutory Consultee (planning development control)</p> <p>NRW is the body, as defined by statute, that must be consulted on relevant planning applications. The provider of evidence, information, advice to Local Planning Authorities to allow them to make an informed permitting decision.</p>	<p>Operations Directorates</p> <p>Receive & reply regional & local</p>				
<p>Role 5 - Nature Conservation, Countryside and /or Forestry Consultation Body (environmental assessments)</p> <p>a) NRW is the body, as defined by statute, that gives opinion upon and must be consulted on relevant environmental assessments. The provider of evidence, information or expertise and advice as Competent Authority for plans and programmes (SEA, HRA) and projects (EIA, HRA) as the nature conservation, countryside or forestry body.</p> <p>b) NRW is the body, as defined by statute, that gives opinion upon and must be consulted on relevant environmental assessments.</p>	<p>a) Evidence & advice role – assessment preparation</p> <table border="1"> <tr> <td>Knowledge, Strategy, Planning Directorate Receive & reply Plans & programmes</td> <td>Operations Directorates Receive & reply Projects</td> </tr> </table> <p>b) Statutory advisory role</p> <p>Governance Directorate</p> <p>Plan / programme due diligence (SEA and HRA) only where NRW are a Partner or act as consultant</p>	Knowledge, Strategy, Planning Directorate Receive & reply Plans & programmes	Operations Directorates Receive & reply Projects		
Knowledge, Strategy, Planning Directorate Receive & reply Plans & programmes	Operations Directorates Receive & reply Projects				

Annex 4 – Administrative Law

NRW and its staff should aim to practice “good administration”: NRW staff should aim to perform their public duties speedily, efficiently and fairly. Administrative law (including judicial review) looks at this aim from the opposite direction: it describes the body of law which has been developed by the courts to supervise public bodies in carrying out their public functions.

As a result of the need to reduce law to a set of more or less standard rules, administrative law is not identical with the principles of good administration. However, a keen appreciation of the requirements of good administration will often give a pretty good idea of what administrative law will say on the point. Administrative law (and its practical procedures, including judicial review) play an important part in securing good administration.

Administrative law has developed a series of tests for measuring the lawfulness of an exercise of public law powers. These are:

Legality – acting within the scope of any powers and for a proper purpose;

Procedural fairness – so as, for example, to give the individual an opportunity to be heard;

Reasonableness and rationality – following a proper reasoning process and so coming to a reasonable conclusion;

Compatibility – with, for example, European Union law.

Case law has developed especially in the area of decision making by public bodies such as NRW. This case law can be summarised into three “logical principles” which have to be followed by NRW (and other public bodies) in making a decision. The principles are:

- To take into account all relevant considerations;
- not to take into account any irrelevant considerations;
- not to take a decision which is so unreasonable that no reasonable body properly directing themselves could have taken it.

Related policies/procedures

- NRW Publication Scheme
- Guidance on functional separation covering all activities.
- Non - Financial Scheme of Delegation
- Internal Environmental Management procedures.



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Environmental Management System (EMS)

Environmental Procedure - Environmental incidents and near misses

Title	Environmental incidents and near misses
Reference	EP-19
Version	3
Sheet	1 of 6
Issue Date	08 April 2015
Issued By	Environmental Systems Manager
Approved By	Head of Corporate Assets

1.0 SCOPE

This procedure sets out how we manage environmental incidents and near misses caused by NRW, or its contractors.

2.0 RESPONSIBILITIES

All members of staff and contractors working on our behalf

3.0 RELATED DOCUMENTS

- [NRW Environmental incident review form](#)
- [NRW Near miss review form](#)
- [EP-09 Emergency Preparedness & Response](#)
- [EP-12 Internal EMS Audit & Evaluation of Compliance](#)

What is an environmental incident?

An environmental incident is a specific event which has an impact on the environment

Examples:

- unplanned and uncontrolled silt mobilisation into or within watercourses;
- un-permitted damage to flora and fauna;
- burst hydraulic oil pipes resulting in leaks to ground or watercourses;
- uncontained spillage of chemicals, fuels or oils (including biodegradable oils)

What is an environmental near miss?

An environmental near miss is a specific event which has no impact on the environment but has the potential for impact.

Examples:

- plant activities in proximity to trees or habitat which have not been protected as required;
- burst hydraulic oil pipes where the leaks are contained;
- collision with drum of chemicals but no leaks resulting.

Note: Lack of an appropriate permit, or failure to comply with a permit condition (where no environmental impact results) is a legal breach. Legal breaches are most likely to be identified via EMS audits, so legal breaches are handled in line with our [EP-12 Internal EMS Audit & Evaluation of Compliance](#) procedure for closing out nonconformities arising from EMS audits.

4.0 PROCEDURE

Environmental incident: Immediate actions

1. STOP - Before you report the incident, stop the work
2. CONTAIN - Where safe to do so, carry out any local site pollution prevention or emergency incident measures
3. NOTIFY
 - a. Report the incident to the (24 hour) NRW incident hotline 0300 065 5111, stating that it is an NRW caused incident and giving full details of the incident (including location / contact details). Also request, and note, the incident number

Now report the incident (including the incident number) to:

- the EMS team (EMS.team@cyfoethnaturiolcymru.gov.uk)
- your line manager;

Where an environmental incident occurs on a Facilities managed site, the Facilities Management emergency contact must also be contacted.

Incident review procedure

Stage	Description
1	<p>The tier 3 manager (or Project Manager or contact where involving a contractor) oversees and owns the review.</p> <p>The environmental incident review form must be used to capture the detail of the review, and should be completed within four weeks of the incident occurring</p>
2	<p>When the review is completed the line manager (or Project Manager or contact where involving a contractor), sends the details to the EMS team, including the name of the action plan owner</p>
3	<p>The EMS team checks the quality of the review and action plan; particularly in respect of making sure the review addresses the root cause and that the action plan is appropriate to prevent re-occurrence.</p> <p>Where the EMS team has comments, they will approach the tier 3 manager (or Project Manager or contact where involving a contractor) to make amends to the review and Action plan.</p>

4	<p>The action plan owner should provide quarterly feedback to the EMS team until all of the incident actions are complete.</p> <p>The Environmental Systems Manager will report progress on the actions to the Head of Corporate Assets.</p>
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Near miss: Immediate actions

1. NOTIFY

- a. Report the near miss to the (24 hour) NRW incident hotline 0300 065 5111 stating that it is an NRW caused near miss and giving full details of the near miss (including location / contact details)

Now report the near miss to:

- the EMS team (EMS.team@cyfoethnaturiolcymru.gov.uk)
- your line manager;

Where a near miss occurs on a Facilities managed site, the Facilities Management emergency contact must also be contacted.

Near miss review procedure

Stage	Description
1	The <u>near miss review form</u> must be used to capture the review. [Note: The Incident Communication Centre complete the first two sections of the form on initial notification of a near miss]
2	When the review is completed the details are sent to the EMS team, including the name of the action plan owner (if there are actions to be taken forward)
3	<p>The EMS team checks the quality of the review; particularly in respect of making sure we are addressing the root cause and taking appropriate action to prevent re-occurrence.</p> <p>Where the EMS team has comments, they contact the person that reviewed the near miss to make amendments to the review.</p>
4	<p>If there are actions to be taken forwards, the action plan owner should provide quarterly feedback to the EMS team until all of the actions are complete.</p> <p>The Environmental Systems Manager will report progress on the actions to the Head of Corporate Assets.</p>

Note: Reporting to our external assurance providers

We have external assurance arrangements in place related to both ISO14001 and UKWAS.

During surveillance visits for our ISO14001 certification we standardly report to our assurance providers on the overall picture of any environmental incidents and near misses NRW or its contractors have caused, including:

- the number of environmental incidents and near misses
- the status of action plans arising from reviews into these (in line with this procedure)