

**Natural Resources Wales  
Board Meeting  
27 February 2013**

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<b>Paper Title</b>	<b>Separation of Duties Update</b>
<b>Paper Reference:</b>	<b>Paper 2 (02/13)</b>
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<b>Purpose of Paper:</b>	For the Board to consider the proposed approach to the separation of duties required for NRW to deliver its roles and functions in relation to regulation, statutory advice, assessment and operational delivery in an integrated and transparent manner.
<b>Recommendation:</b>	Agree the approach and next steps identified

<b>Impact:</b>	Approaches are described that would establish the roles and responsibilities of Directorates and whilst it will not have a direct impact on the environment, economy, community or knowledge – it sets the approach to transparent and integrated decision making across the organisation and accountability to the public.
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## **Issue**

1. Natural Resources Wales has a range of roles in relation to its regulatory functions, wider advisory remit and operational delivery. As we develop NRW's organisational structures we need to ensure that we have an approach to dealing with these separate duties that is legally compliant and transparent to customers and stakeholders.

## **Summary**

2. The paper (**Annex 1**) defines the roles and responsibilities of Directorates as they relate to permit applications, permitting decisions, statutory advice and assessment with proposals to meet legal and best practice obligations.

## **Background**

3. Natural Resources Wales has a number of regulatory, advisory, statutory and delivery roles including as:
  - an applicant;
  - statutory consultee / technical advisor;
  - regulator;
  - developer of plans and programmes;
  - consultation authority in relation to Strategic Environmental Assessment and Environment Impact Assessment; and,
  - competent authority and nature conservation body in relation to Habitats Regulations Directive Assessment.
4. As a consequence, NRW is required to meet a series of legal and best practice obligations to establish clear and transparent decision making processes in fulfilling these roles. At the same time, NRW is required to deliver integrated sustainable development decisions with 'one voice' through adopting an ecosystems approach across multidisciplinary teams. By separating out decision making through internal processes and also by separating functions between Directorates NRW can avoid conflicts of interest. By applying those principles in the Non-Financial Scheme of Delegation together with the Publication Scheme, clarity is offered for the way in which NRW will make decisions across the organisation – including those decisions NRW make for its own permits (known as self-permitting). Welsh Ministers have the ability to call-in any permit application for decision – most likely in exceptional circumstances.
5. In November the Board approved the following high-level principles for taking forward this work:
  - 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;

6. **Annex 1** introduces the detailed proposition for roles and responsibilities of the Directorates as they relate to permit applications and permitting decisions. Applications are made by others or by NRW as part of its own programme, plan and project management. Definitions are set out for each role or function that NRW has in relation to permits, permitting decisions, statutory advice and assessment. It also gives some examples of where these roles would be undertaken. These principles would be embedded in the Non-Financial Scheme of Delegation as it is further developed.

### **Next steps**

7. The Publication Scheme is the mechanism which sets out manner in which information about permit applications and permitting decisions will be made available to the public. It will set out the level of information, timescale in which it will be made available and whether there will be a charge. Making information available to the public on how NRW makes decisions is dependent on the operation of the existing Public Registers of legacy bodies. The development of NRW's own Public Register system is a priority. The 1<sup>st</sup> April approach to the Publication Scheme will be presented to the Board in March.
8. Following Board consideration of the intended approach to the separation of duties, a final version will require legal opinion against the finalised statutory framework. Initial indications are that the proposed approach is likely to be considered proportionate.
9. The roles and responsibilities set out in annex 1 have implications for organisational development with key teams requiring gradual transition to the model proposed. This will be one of the priorities for the Transition Team.

### **Risks**

10. If the roles and responsibilities are not sufficiently separated or the decisions and how advice has been taken into account is not published, the organisation could be open to legal challenge and/or heightened concern from some customers and stakeholders – particularly for our own operational delivery.
11. One of the benefits cited in the Business Case was improved and integrated decision making leading to better customer experience in permit application and permitting decisions. If transition of key teams towards the proposed model is delayed, the realisation of this benefit will be jeopardised.
12. If the development of NRW's own Public Register is delayed then the organisation will continue to be dependent on legacy systems beyond the planned six months - otherwise the public will not have access to the information that NRW is legally obliged to provide.

### **Financial Implications**

13. The separation of duties as defined in this paper does not have a direct financial implications but as a key underpinning governance mechanism does have some bearing on effective financial responsibility through the assignment of certain responsibilities to Directorates. Any relevant aspects will be built in to the Financial Scheme of Delegation.

### **Communications**

14. The roles and responsibilities set out form a key part of the publication scheme requirements. It is proposed that views are sought from stakeholders through the publication scheme consultation process.
15. The final approved mechanisms will be communicated to staff via the Essentials Guide and leadership team briefings.
16. It is essential that those in leadership positions fully understand the reasons for and solutions put in place to provide effective transparency in decision making and enable staff to do their jobs.

**Annex 1:**