

28th May 2021

NATURAL RESOURCES WALES (NRW) – INTERFACE WITH LOCAL AUTHORITIES

Purpose

1. To provide background information on Natural Resources Wales (NRW), identifying some of the key areas of interface with local authorities and to provide a basis for discussion amongst Leaders.

Background

2. At their meeting on 14th May, Leaders aired some issues relating to authorities' experiences of working with NRW. It was agreed that a brief report should be prepared and that an item on the local authority-NRW interface should be placed on the agenda for the next Leaders' meeting to allow fuller discussion.
3. NRW was established in April 2013. It took over the functions of the previous Countryside Council for Wales, Forestry Commission and the Environment Agency in Wales, as well as certain Welsh (WG) functions. It is the largest WG Sponsored Body, employing 1,900 staff across Wales and having a budget of £180m (which has been reducing). NRW receives a remit letter from WG at the start of each financial year setting out what it is expected to achieve. It has a variety of roles including acting as an environmental adviser to all sectors, a regulator, a Category 1 responder and a statutory consultee for planning applications. NRW is also now represented on Public Service Boards across Wales.
4. In January 2018 the then-Leader of the WLGA, Cllr Debbie Wilcox, met with the then-Minister for Environment, Hannah Blythyn and discussed engagement between local authorities and NRW. Cllr Wilcox was asked to take soundings from local authorities via the WLGA and provide feedback.
5. Some positive responses were received, referring to positive and productive working relationships, but a number of concerns were also outlined. These included:
 - frequent changes in personnel making it hard to develop good working relationships at officer level
 - delays in responses, including comments on planning applications
 - lack of consultation with local authorities before making operational changes that impact on councils
 - some areas being under-resourced to carry out regulatory activities

6. The Minister responded, copying in Diane McCrea, the then-Chair of NRW, encouraging a joint high-level officer meeting between WLGA and NRW to talk through the issues raised. At that meeting it was agreed that a Memorandum of Understanding should be drawn up between NRW and local authorities and that efforts should be made to develop closer links between the political leadership of WLGA and the Chair of NRW.
7. Monthly officer liaison meetings were set up between WLGA and NRW and these have continued ever since. One of the first tasks was to draw up the Memorandum, which was completed by September 2018. It was signed after a WLGA Council meeting by Cllr Wilcox, Cllr Andrew Morgan (as WLGA Environment Spokesperson) and Madeleine Havard the, by then, interim Chair of NRW. The Memorandum identifies key NRW contacts and encourages dialogue at local level before escalating issues to the monthly liaison meetings or, ultimately Chair and Spokesperson.
8. Whilst the monthly liaison meetings have been positive useful levels of awareness of the Memorandum appear low and it is not clear that the procedure it sets out is always followed (although some authorities do have regular catch-up meetings with NRW). No instances have been raised that have required escalation to a political level. However, from Leaders' comments, it is clear that there are issues arising between NRW and local authorities 'on the ground'. This report briefly summaries some of the key areas of interface.

The key areas of Local Authority-NRW joint working

9. Local authorities come into contact with NRW in a very wide variety of settings, including numerous examples where permits and licences have to be obtained. The following list is illustrative and not intended to be comprehensive:
 - **Waste** – NRW has an important regulatory role in relation to waste, including storage, treatment and disposal. There have been several fires at waste and recycling sites leading to questions about NRW's capacity to exercise necessary levels of oversight. Local authorities have pushed for enforcement around Part 4 of the Environment Act (which requires separated collections of business waste) to ensure a level playing field for private and local authority trade waste collections
 - **Fly-tipping** – NRW deals with large scale incidents, whereas authorities are responsible for smaller scale occurrences. Work is currently underway to develop a protocol specifically on fly-tipping, as the boundary line between respective responsibilities is often unclear. Instances of fly tipping have continued despite the waste licensing system managed by NRW. Tipping in water courses has arisen as a particular area of concern during discussions on the protocol, with its own set of health and safety considerations
 - **Planning** – NRW is a statutory consultee and identifies environmental constraints on development

- **Biodiversity and nature recovery/Sustainable Management of Natural Resources** – seven area statements have been produced by NRW, which collectively cover the whole of Wales. These are intended, amongst other things, to inform councils work on Well-being Plans
- **Flooding** – NRW is responsible for managing flood risk from main rivers and the sea. Councils are responsible for managing flood risk from ordinary water courses (i.e. non-main river), ground water and surface water. In flood situations the causes can combine, sometimes making it unclear who should take the lead and a partnership approach is required. NRW's response during flood events has been questioned with councils stepping in to deal with recent flood situations. Likewise, there have been cases of councils stepping in to take forward schemes. NRW's national risk-based approach to flood risk management means that resources and investment tend to be focused on a limited number of locations, and these don't always take account of local prioritisation by councils.
- **Water discharge and water quality** – NRW regulates surface and groundwater discharges to maintain water quality. Recent issues have arisen around tighter **phosphate targets** introduced in relation to Special Areas of Conservation (SACs). These have created significant problems and restricted proposed developments in a number of areas, with planning approvals having to be halted. Likewise, **Nitrate Vulnerable Zones** management, designed to protect water from nitrate pollution from agricultural sources, has been a controversial issue.
- Under **Sustainable Drainage** legislation, NRW is a statutory consultee on every application. However, there is not a dedicated team to deal with this requirement within NRW
- NRW's **marine licensing** service can take up to 6-8 months. This has impacted on the ability of councils to meet annual spend and deliver on coastal defence schemes. There have also been issues for investors seeking licences in relation to development plans (e.g. for tidal energy)
- **Energy** – NRW supports the development of renewable energy on its own and neighbouring land and facilitates community benefits/ownership
- **Air quality** – NRW provides advice, information and guidance as well as undertaking Pollution Prevention and permitting functions
- **Coal tips** – NRW will become involved if material is moved from the coal tip as it is then viewed as waste. There is joint work underway between Welsh Government, local authorities and NRW on all coal tips across Wales
- **Countryside Rights of Way** – NRW regulates access restriction and open access land
- **Sites of Special Scientific Interest** – NRW is responsible for consents relating to SSSIs
- **Trees** – As well as its own **forestry** operations, NRW issue licenses for tree felling. There can be wider implications arising from NRW's forestry activities – e.g. links to flood risk
- **Climate Change** – NRW is involved in a wide range of activities designed to encourage adaptation to climate change, as well as mitigation (e.g. its Carbon Positive project) and is represented on the Decarbonisation Strategy Panel established by Partnership Council

10. Clearly, there are many areas where local authorities and NRW have to work closely together and it is vitally important that the nature and quality of the relationship is kept under close review.

Recommendations

11. It is recommended that Leaders use this report as a basis for discussing local authorities experiences of working with NRW and their views on this important relationship.

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