



HM TREASURY

The Management of the Crown Estate:

**Government response to
the Committee's Eighth
Report of Session 2009-10**



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Presented to Parliament by
The Economic Secretary to the Treasury
by Command of her Majesty

June 2010

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Conclusions and recommendations

Background

- 1. Given the unusual nature of the CEC organisation, we recommend that the CEC produce a short statement in future Annual Reports, clarifying the nature of their organisation, its duties and the resources they manage. (Paragraph 10)**

The Crown Estate undertakes to do this.

- 2. The schedule of property rights and interests that currently form part of the Crown Estate is a considerable aid to understanding the nature of the CEC's operations. In the interests of transparency, therefore, we recommend that, in future, the CEC update the schedule on an annual basis, and publish it in each Annual Report. (Paragraph 17)**

The Crown Estate undertakes to keep an up to date list on its website. The Annual Report will refer readers to it.

General Performance

- 3. Judged on their own terms as a commercial organisation, the CEC run a very successful business operation. (Paragraph 29)**

The government agrees that the Crown Estate runs a successful business, in line with its long standing statutory duties and responsibilities as steward of some of the country's keynote assets. The revenue it generates provides income to the Exchequer and so relieves the taxpayer and helps reduce the fiscal deficit.

Over the past decade, the Crown Estate has in this way contributed £1.8bn to the Exchequer while at the same time consolidating its assets to £6bn. Evidence to the Select Committee from a range of those with which it deals – for example the British Property Federation, Westminster City Council, Scottish and Southern Energy, Natural England, the Country Land and Business Association Ltd and English Heritage – shows that it operates fairly and responsibly in the property market. It has also secured a number of significant awards, such as the Mayor of London's Award for Planning Excellence.

The Urban Estate

- 4. We recommend that the CEC review their community and local stakeholder consultation processes with a view to increasing transparency and engagement. (Paragraph 43)**

The Crown Estate seeks to follow best practice in stakeholder consultations about its planning applications, adopting techniques specific to the context in hand. It continues prepared to improve its methods as its business progresses.

5. Having regard to the wider interests at stake, and on the basis of what we have learned during the inquiry, we recommend that the CEC should examine and set out clearly how they take their good management obligations into account in decisions on residential property. More generally, we note the extent to which local stakeholders were taken by surprise by the CEC's proposal to sell-off residential housing, and urge the CEC to engage more fully with key public bodies in London about their future plans for their London portfolio and their potential impact on London communities. (Paragraph 51)

The Crown Estate has not yet made a final decision on whether it should sell its residential assets. However, it has decided that any sale would include terms which would require the purchaser to continue the current policy of offering a significant proportion of vacant tenancies to key workers. When and if the board identifies a prospective purchaser, the Crown Estate will also undertake a further consultation process in which the identity of the preferred bidder will be made clear to both residents and other stakeholders before it takes a final decision. It is important to appreciate that the Crown Estate seeks to adopt good practice as a landlord but does not have the statutory housing obligations placed on local authorities or housing associations.

The Crown Estate takes a long term perspective in considering and periodically reviewing all the assets under its management in line with its responsibilities under the Crown Estate Act 1961 and the wider statutory framework. It seeks to be a good landowner, a good landlord and a reliable counterparty in its decisions and in its dealings. The interpretation of good management and corporate responsibility must be governed by the requirements of the 1961 Act, which place these values in the context of enhancement in the long term prosperity and sustainability of the estate.

The Rural Estate

6. In the interest of transparency, we recommend that the CEC publish a list of the statutory environmental designations from which they are exempt. They should specify where they have undertaken to fulfil the duties placed on other public bodies by the legislation. (Paragraph 55)

The Crown Estate will publish these details on its website.

Windsor Estate and other historic properties

7. At a time when the CEC are reviewing what they see as their 'core-assets', we can see merit in the Government and CEC reviewing whether any of the non-commercial ancient possessions in England and Wales might more appropriately be the sole responsibility of other public bodies with a conservation remit, such as English Heritage. (Paragraph 65)

The hereditary properties of the Monarch vested in the Crown Estate include a number of heritage properties which occupy a legitimate place in its portfolio of assets. A number of these heritage properties for example, Dover Castle and Eltham Palace, are already managed by English Heritage. The Crown Estate keeps this issue under review case by case.

The Marine Estate

8. We welcome the CEC's recognition of the importance of greater consultation and partnership-working in order to develop the new tidal and wave power industries. We recommend that the CEC also adopt this approach with the other sectors of marine development with which they are involved. (Paragraph 76)

The Crown Estate has consulted extensively about, and used partnering arrangements in dealing with, all of its offshore energy programmes. As indicated in evidence to the Committee, it will build on the experience of the wave and tidal lease exercise.

9. We welcome the CEC's apparent willingness to support improvements in ports and harbours, but we also note the concerns raised with us over issues such as the CEC's approach to generating revenue and their monopoly position in the marine environment. It is clear that these issues are not restricted to ports serving offshore developments, but harbours more generally where the CEC are involved by virtue of Crown ownership of the seabed and possibly foreshore within the area covered by a statutory harbour authority. (Paragraph 85)

The Crown Estate is working to agree and deliver a ports and harbours investment strategy. This work covers all ports in which The Crown Estate has an interest. These include those in Scotland, Wales and Northern Ireland since The Crown Estate is active in seeking to improve further its relationship with all harbour authorities. The Crown Estate stands ready to cooperate and work with the government to further investment in and the business of this important sector.

10. The need to interpret the CEC's "good management" remit is particularly important in the marine environment, because of the CEC's monopoly status. We welcome, therefore, the Exchequer Secretary's commitment to us that the Government intends to review the CEC's monopoly position in the marine environment. (Paragraph 89)

The new government agrees that it will remain important for the Crown Estate to operate within its statutory duty to have regard to good management. The Crown Estate will continue to liaise with the relevant government departments so that it can work with the grain of government policy.

11. Given the importance of marine developments for renewable energy and other interests and the importance to this of the relationship between the CEC and the two new agencies (the Marine Management Organisation and Marine Scotland), we recommend that the CEC agree a Memorandum of Understanding with each to establish how they will work together to ensure their respective arrangements are suitably integrated. (Paragraph 93)

The Crown Estate is currently negotiating a Memorandum of Understanding (MoU) with the Marine Management Organisation which was recently set up as a Non Departmental Public Body. Marine Scotland has a different structure and is part of the Scottish Government (see also the response to recommendation 14).

12. Our understanding is that other European maritime states have a single body – the Government – responsible for setting the terms for offshore development. In the UK, however, there is a two tier relationship. Given the high stakes, it is imperative that the Government reviews the relationship to see if it is working as an effective system for managing marine development. (Paragraph 94)

The government will take this recommendation into account as it plans its policies on use of offshore renewable energy. It will clearly be important for the Crown Estate to continue to work with the relevant government departments, including DECC.

13. We consider that the CEC ought to be able to adopt an approach that is more sympathetic to facilitating the development of local socio-economic benefit without falling foul of their statutory duty. We accept though that it is very difficult for the CEC unilaterally to arrive at a significantly different interpretation of the balance it strikes between their duty to maintain and enhance revenue and the extent to which they can and should accommodate wider public interests as part of their regard to good management. (Paragraph 100)

The government and Crown Estate interpret its responsibility for good management in the way described in the answer to point 5 above.

Scotland

14. The Government's response to the Calman Report agreed that the appointment of the Scottish Crown Estate Commissioner should be made following formal consultation with Scottish Ministers. We endorse this action as a means to improving the CEC's relationships in Scotland. We recommend, however, that this initiative be further strengthened through a concordat or memorandum of understanding between the Scottish Government and the CEC to consolidate their working relationship, and that the CEC greatly strengthen their management arrangements within Scotland to assist this process. (Paragraph 111)

The government has nothing to add to the previous government's response to the Calman Report. The Crown Estate will follow up the Committee's recommendations with the Scotland Office and the Scottish Government.

The wider public interest

15. We consider that, particularly in the marine environment where there are a number of substantive issues at stake, Ministers should take a greater interest in the CEC. (Paragraph 117)

16. We urge the Government to provide a policy steer to the CEC in areas where they have the potential to realise wider public benefits in addition to their core financial task. Subject to the review we recommend, these wider public benefits should be clarified and either the CEC should be directed to perform to that interest or those assets should be managed through other agencies aligned with those interests. Either the Government or the

CEC might want this to be done by use of the powers of direction. In this context, powers of direction should not be seen as a criticism of the CEC, but rather as good examples of Government influencing overall policy, as provided for by the Act, and envisioned by the Report of the Committee on Crown Lands. We do not accept that the Government is restricted by current statute from providing strategic direction to the CEC to take greater account of wider public interests. (Paragraph 122)

17. We asked Mr Bright whether the Gibraltar Partnership is allowed to borrow and he confirmed that it is. We are alarmed by this, and by the Treasury's opinion that this is 'implied borrowing.' We recommend that the Treasury review whether the CEC's involvement in joint ventures is compatible with the constraints on borrowing in the Crown Estate Act 1961. (Paragraph 126)

18. In the limited time available to us, we have not been able to form a definitive view on whether the current framework for the management of the Crown Estate remains entirely appropriate in the light of changing circumstances particularly, but not limited to, the marine environment. We recommend, therefore, that—over 50 years after the last one—the future Government commission a wider review of the management of the Crown Estate and the 1961 Act, and the level of Ministerial involvement required. The review should also consider the case for clarifying or relaxing the financial rules currently placed on the CEC, though we would recommend that the Government proceed cautiously in this area. (Paragraph 128)

19. Given the extent of the CEC's contribution to the Consolidated Fund, and the extent of their wider inter-actions in the urban, rural and marine environments, we expect that our successor Committee will want to consider the CEC's Annual Report as part of its regular programme of scrutiny of the administration and expenditure of the Chancellor's departments. (Paragraph 129)

The new government is grateful for the committee's advice on these matters. It has led to useful discussion on how the Crown Estate can and should use its powers. The government and the Crown Estate recognise that it is important that the Crown Estate is transparent and accountable. The Treasury will ensure that it operates a robust working relationship with the Crown Estate, including regular meetings between ministers and Commissioners. This will include processes to make sure that ministers are made aware of significant emerging issues.

The government notes the committee's view on the extent to which Treasury ministers should intervene in the Crown Estate's business. It will remain important to be guided by the framework of the Crown Estate Act 1961, which places the primary duty for managing the Crown Estate with its commissioners. There has so far been no need to use the reserve power of direction. However, the government does not and cannot rule out the use of the power entirely.

Nevertheless the government has considered carefully how far there might be scope to give the Crown Estate guidance about the interpretation of its statutory duties. The government believes that the 1961 Act has served the taxpayer and the Crown Estate well for nearly 50 years. Any modification should therefore be undertaken with care. In particular, the Crown Estate must fulfil its statutory duties, including the duty to have regard to the requirements of good management. But the government is cautious about interpreting this in any formal way.

There is a danger that any such guidance might fail to take proper account of emerging new factors, particularly in the fast moving energy sector. And experience also suggests strongly that the powerful concept of the public interest should be considered in context case by case. There are already arrangements in place for ensuring that the Treasury and the Crown Estate do address such issues as they arise, and these have proved appropriate to fulfil the requirements of the Act. It is also important to note that only the courts could rule on how far it would be right to have regard to the public interest in dealing with any specific issue.

The government notes the Committee's comments on the framework within which the Crown Estate is managed. There may indeed be scope for modernising the financial arrangements to which the Crown Estate is subject. Primary legislation would be needed if it were decided to adjust the limitations in the 1961 Act, some of which are now rather old fashioned. If and when a suitable legislative opportunity arises, any change would have to maintain the essential character and integrity of the Estate. The government will therefore consider the case for defining the Crown Estate's unique status, compatible with its business.

The Crown Estate's venture into the use of English Limited Partnerships should be seen in this context. Such investments provide a useful means of diversification of the Estate's exposure to the urban property market, with limited and carefully controlled risk. Provided that this exposure is kept within reasonable bounds, and is strictly within the 1961 Act, the Treasury sees no objection.

The Treasury and the Crown Estate will of course cooperate with any further investigation the Select Committee decides upon.



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