### Agenda Item 5 Commissioners’ Meeting Memo No: 23/18 13 December 2018

# Legal and Corporate Project – Progress

# Purpose

1. To inform Commissioners of the progress being made to deliver the agreed actions of the Legal and Corporate Project.

Background

1. The Executive Board reviewed and agreed the actions required during Phase II of the Legal and Corporate Project, and their allocation to the component parts of the FC, at a meeting in October 2017.
2. Director Central Services established a working group to take forward the actions allocated to Central Services and the FC. This group meets monthly to review progress and discuss the actions underway.

Progress

4. The table at Appendix 1 outlines the outstanding actions and their current status.

5. Good progress has been made on most of the actions, although completion of many is pending the finalisation of the secondary orders in Scotland. A separate paper has been prepared for discussion on this matter.

6. The remaining outstanding issues e.g. transfer of records, are in progress, but cannot be completed until closer to March 2019 to allow the remaining Shared Service teams to carry out their functions.

7. We are confident that the remaining Legal and Corporate actions allocated to Central Services will be completed by the required deadline.

Recommendation

8. The Board is asked to note the progress made to date and the assurance given.

#### Jean Lindsay Director Central Services November 2018

| **L&C File Ref** | **Issue** | **Actions** | **Progress** | **Due date** | **Allocated To** |
| --- | --- | --- | --- | --- | --- |
| 1.1.1  (CS) | **Commissioners – membership of the Board**  Board operates as set out in Forestry Act 67, but functions only exercised in England | Issue letters to officially stand down all three Scottish Commissioners and thank them for their service | Letter drafted and approved for use at the appropriate time | February - March 2019 | Stephen Bennett |
| 1.2.3  (FC) | **Plant Health Competent Authority**  Ensure the powers and duties under the PH Act are appropriately transferred i.e. no residual powers remain with the Commissioners with regard to Scotland | 1. Need to agree Scotland Act Order (Section 104) to provide competent authority function to Scotland to ensure not detrimental to the interests of the Commissioners, and no inadvertent consequences for Wales. Requires Westminster scrutiny as changing Westminster legislation.  2. Draft and agree MoUs to provide plant health competent authority function to both Scotland and Wales.  3. Agree funding arrangements. | Confirmed that the transfer of the competent authority is covered by the main FLM (Scotland) Act and not the Orders: *8(1)(2)a …insert ‘for Scotland, the Scottish Ministers’*. |  | Edward Shephard |
| 2.2.1.1  (CS) | **Honours and ISM** | Inform Cabinet Office of FC’s new structure, changing number of staff and new lead contact  (FCE leading on BD19 Honours round) |  | December 2018 | Stephen Bennett |
| 2.2.2.2  (CS) | **Departmental Records** | Pull together a clear protocol for identifying, managing and transferring files and legacy data. | Action plan in place and approved by CSMB. Inventory of IAR’s now recorded. Exploring any new GDPR requirements for transferring personal data especially where this is held by consent. |  | Nicol Sinclair |
| 2.2.3.2  (FC) | **Firearms** | 1. Agree Scotland Act Order to transfer Firearms   * Need to check inventory when we get to S90 drafts and agree process for recalling FC authority cards.   2. Ensure FC licences/permissions are revoked – request a list so that FC can revoke permission | 1. S90 will transfer all FCS/FES assets by default so no action is needed. 2. Agreed additional actions with FES:  * *list of which firearms are transferring.* * *FC will have a record of how it has disposed of these firearms* * *Need to tell the police of the change of ownership* * *Need to revoke and collect FC authority cards.* |  | Edward Shephard |
| 3.2  (FC) | **Land and Leases** | Agree Scotland Act Order (FC needs to agree what leases transfer and ensure any current or future liabilities with regard to Scotland are correctly transferred and that the interest of the Commissioners are protected) | List now agreed by FCEB and awaiting fnal drafting from lawyers. |  | Edward Shephard |
| 3.2.1  (CS) | **Silvan House** | Agree with Scottish Government the future of Silvan House property | FC Silvan House Futures Project set up. Jean Lindsay is SRO with Chris Smith as Project Manager. Engaged the support of Scotland Land Agent. Served notice on SH tenants  Option agreed by EB and SG.  Now in negotiations with SG |  | Jean Lindsay |
| 3.3.1  (FC) | **TOPOS 1999** | 1. Agree Scotland Act Order (ensure no FR properties are transferred in error)  2. Ensure any current or future liabilities with regard to Scotland are correctly transferred and that the interest of the Commissioners are protected | List now agreed by FCEB and awaiting final drafting from lawyers. |  | Edward Shephard |
| 3.4  (CS) | **UKWAS**  FCE already a separate member of UKWAS | 1. Check future representation on UKWAS Board   * Covered by CBWG review of all UK wide representation * Need to agree that one of the Scottish bodies becomes the new ‘UK Standard Setting Body’   2. Check future financial support   * Covered by CBWG financial work   3. How will UKWAS requirements be monitored going forward, after CFS no longer in place   * Need to find out what this constitutes | Issues being discussed and resolved by cross border working group |  | Edward Shephard |
| 4.4 & 4.4.3  (FC) | **Corporeal Assets**   * **physical equipment** * **Fleet** | 1. Agree Scotland Act Order (ensure no assets are transferred in error)  2. Ensure any current or future liabilities with regard to Scotland are correctly transferred and that the interest of the Commissioners are protected | List now agreed by FCEB and awaiting final drafting from lawyers. |  | Edward Shephard |
| 4.4.2 & 6.1 (FC) | **Incorporeal Assets & Liabilities**   * **Financial** * **Intellectual Property** | 1. Agree Scotland Act Order (ensure no assets are transferred in error)  2. Ensure any current or future liabilities with regard to Scotland are correctly transferred and that the interest of the Commissioners are protected  3. Ensure SS Costs in 2018-19, including VE costs, final year RRAs, etc  4. Ensure both XB and FR IP is appropriately dealt with via the relevant MoUs   * Clear that IP remains with FC unless transferred. Onus is therefore on SG/FCS to identify any IP of interest to them and engage with FC | List now agreed by FCEB and awaiting final drafting from lawyers. |  | Edward Shephard |
| 4.6  (CS) | **Carbon Reduction Commitment** | Ensure necessary actions being picked up as part of FAS transition | The FAS team will continue to administer the final year of this Scheme |  | Edward Shephard |
| 5.2.1  (CS) | **Woodland Carbon Code** | Covered by Cross Border MoU. |  |  | Edward Shephard |
| 6.3.1  (FC) | **Wider FC Brand Issues** | Agree with new Scottish forestry organisations the short term licence for use of existing Brand | Branding Agreements with SF and FLS have been drafted and agreed by FC side. Currently with FCS & FES officials for views | December 2018 | Stephen Bennett |
| 6.3.2  (FC) | **Corporate Clothing** | Ensure appropriate licence and disposal of corporate clothing  Need to agree a disposal mechanism with FCS and FES through the Branding Licence Agreement | Covered in Branding Licence Agreements – need to finalised whether  disposal/recycling will either be managed through new clothing contract (follow current FC disposal policy) | December 2018 | Stephen Bennett |
| 7.1.1  (FC) | **HR Records – Pensions** | 1. Transfer files of current staff to the component parts of the FC  2. Transfer rationalised files of ex staff to FCE | Files in process of transfer to component parts of FC | March 2019 | Stephen Bennett  (George Prior) |
| 7.1.2  (FC) | **HR Records – Payroll** | 1. Transfer files of current staff to the component parts of the FC  2. Rationalise files of ex-staff  3. Draft agreements/process so future organisations can access historical data | Payroll input documentation has been split by country and relevant documentation forwarded to England  Payroll team are in process of reviewing, weeding and deleting both hard copy records and electronic records.  Payroll records are categorised by year and issue e.g. overtime, RRA, etc – historical records passed to FCE and other organisations to have access as necessary Requires data sharing agreement | March 2019 | Stephen Bennett  (Lynne Richmond) |
| 7.1.3  (FC) | **HR Records – Rebus** | 1. Split files of current staff into component parts of the FC  2. Transfer files of current staff to the component parts of the FC  3. Rationalise files of ex-staff | Rebus records held electronically and relevant data for England staff has been transferred to England for upload onto the new system.  In dialogue with Northgate about how best to data dump or transfer records – exploring tech options and costs | March 2019 | Stephen Bennett  (David Gardner) |
| 7.1.4 (CS) | **HR Records – HR Policy** | Transfer files to FCE | Files have been checked, weeded and deleted as necessary ready for transfer | March 2019 | Ebiere Scott |
| 7.2 (FC) | **Staff Liability and Indemnity** | COSoP Process | COSoP project on track | March 2019 | Sarah England |