



House of Commons
Treasury Committee

The management of the Crown Estate

Eighth Report of Session 2009–10

Volume I



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Report, together with formal minutes

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Summary

The Crown Estate Commissioners (CEC) are a public body responsible for the management of the Crown properties and property rights known as the Crown Estate. They have a general duty, under the Crown Estate Act 1961, “while maintaining the Crown estate as an estate in land [...] to maintain and enhance its value and the return obtained from it, but with due regard to the requirements of good management”. The surplus revenue generated by the Crown Estate goes into the Consolidated Fund, a general fund that the government uses for public expenditure. Included within the Crown Estate are Regent Street and St James’s, rural estates, Windsor Great Park, management of 55% of the foreshore of the UK and almost all of the seabed out to the 12 nautical mile territorial limits, and vested rights over the UK continental shelf areas.

The nature of the CEC, and the Crown Estate they manage, is not widely understood or easy to comprehend. We widened the scope of our inquiry, therefore, to include an examination of the nature of the CEC. The CEC run a successful business operation. Within their Urban and Marine Estates, however, we encountered circumstances where the extent of their emphasis on revenue generation appeared to prevent the CEC taking full account of potential wider public interests.

The CEC are proposing to sell off four London residential estates as part of their strategy to concentrate on more commercial holdings in central London and elsewhere. We are concerned about the CEC’s handling of the consultation exercise, including the apparent failure to consult local organisations with rights to nominate key workers, and recommend that they review their consultation processes. More generally, we also urge the CEC to engage more fully with key public bodies in London about their future plans for their London portfolio.

In the marine environment, stakeholders are concerned by the emphasis the CEC are placing on revenue rather than long-term development and by CEC’s monopoly position. We welcome the CEC’s recognition of the importance of greater consultation and partnership-working to develop the new tidal and wave power industries, and recommend that they adopt this approach with the other sectors of marine development with which they are involved. We also welcome the Government’s intention to review the CEC’s monopoly position in the marine environment. 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.

We note frustration in Scotland—where much of the marine development is taking place—at a lack of engagement by the CEC. We recommend that the Scottish Government and CEC agree a concordat or memorandum of understanding to consolidate their working relationship, and that the CEC greatly strengthen their management arrangements within Scotland.

We also note, with alarm, CEC’s recent involvement in joint ventures, and recommend that the Treasury review whether such involvement is compatible with the constraints on borrowing contained in the Crown Estate Act 1961.

Our most important finding is that, even within the current statutory framework, the CEC have more flexibility to accommodate wider public interests than either they or the Government appear to realise. We consider that, subject to the review recommended below, these wider public benefits should be clarified. We also consider that the Government is taking too narrow a view of the scope it has to advise the CEC on the extent to which it ought to take wider public interests into account.

We have not formed a definitive view on whether the current framework for the management of the Crown Estate remains appropriate, and recommend that the future Government commission a wider review of the management of the Crown Estate and the 1961 Act, and the appropriate level of Ministerial involvement.

1 Introduction

1. The Crown Estate Commissioners (CEC) are a statutory corporation responsible for the management of the Crown properties and property rights known as the Crown Estate.¹ For a public body that has been in existence for some 50 years, the CEC have been subject to remarkably little scrutiny. Indeed we believe that our inquiry is the first into the CEC by a House of Commons Select Committee for over 20 years². We decided that an inquiry was long overdue, not least because the activities conducted by the CEC matter.

2. They matter because of the revenue they provide the Treasury—the CEC contributed £226.5 million to the Consolidated Fund last year, and £1.8 billion over the last ten years. They matter because of the extent of the property portfolio that the CEC manage around the UK, and particularly in central London where their assets include Regent Street and St James's. And they matter because of the pivotal role the CEC play in the marine environment where—through their management of territorial seabed rights and the vested rights over the UK continental shelf areas (excluding oil, gas and coal)—they have the ability to influence, for better or ill, the development of a number of important new economic developments, including the development of marine renewable sources of energy. In short, they matter both from a narrow financial Treasury perspective, and from a wider public interest perspective.

3. During the course of our inquiry, we held two oral evidence sessions and received over 40 written memoranda from a wide variety of stakeholders, serving to emphasise the extent of the CEC's interests in urban, rural and marine environments. We would like to thank all those who contributed evidence and helped us gain a fuller understanding of a unique—peculiarly British—organisation.

4. Finally, we would like to extend our thanks to our specialist adviser to this inquiry, Mr Robin Callander, an independent special adviser with particular expertise in the role and operation of the CEC and the nature of the Crown Estate, for his invaluable contribution.³

1 Somewhat confusingly the CEC also usually refer to themselves as The Crown Estate (TCE) - with a capital T. In this report we reserve the title "the Crown Estate" for the properties and property rights and refer to the management body as the CEC.

2 Public Accounts Committee, Eleventh Report of Session 1988–89, *The Crown Estate*, HC 95

3 Robin Callander declared that he had no relevant interests.

2 Background

Inquiry scope

5. The CEC’s 2008–09 Annual Report describes their objective as to “earn a surplus for the benefit of the UK taxpayer, and enhance the value of the estates we manage.”⁴ Our Report focuses on their performance and the challenges they face in their four business divisions: The Urban Estate; The Rural Estate; The Windsor Estate; and, the Marine Estate, as our original terms of reference indicated.

6. As our inquiry progressed, however, we came to appreciate that, more fundamentally, the nature of the CEC, and the Crown Estate they manage, was not widely understood or even easy to comprehend. As we suggested to the CEC during oral evidence, even their Annual Report is arguably misleading in stating that the surplus revenue they raise is for the benefit of taxpayers, as it goes into the Consolidated Fund, which is a general fund that the government uses for public expenditure. We have, therefore, widened the scope of our inquiry to include an examination of the nature of the CEC organisation. We considered this essential if we were to evaluate their performance in their four business divisions. The CEC’s remit was articulated by statute 50 years ago, in the Crown Estate Act 1961. Our inquiry has also led us to consider whether the interpretation of the CECs’ remit, or even the remit itself, needs to be reviewed.

7. As our scope widened to allow a more strategic approach to our scrutiny of the CEC, so we had to be even more careful to limit our work in other ways. Given the need to complete our work before the dissolution of Parliament, this was a necessarily short inquiry. Accordingly, our Report is not intended as the last word on the CEC. Rather, we are seeking to lay the groundwork for further scrutiny and more detailed consideration and review. We have not looked, for example, at the management structure of the CEC, or assessed the efficiency of their administration. Finally, when considering the performance of the CEC and the challenges they face, we have deliberately sought to refrain from entering into wider debates; our focus is limited to the role of the CEC. We do not, for instance, make any wider conclusions or recommendations about the development of marine renewable energy. Nor do we seek to revisit the devolution settlement, although we do look at the CEC’s working relationship with the Scottish Government.

The nature of the Crown Estate Commissioners

8. As we started to receive evidence and advice during the course of this inquiry, it soon became clear that our first major task would be to arrive at a clearer understanding of the nature of the CEC, including an appreciation of what is meant by ‘the Crown Estate.’ Several submissions were keen to draw our attention to the unusual nature of this organisation. Mr Andy Wightman, a freelance writer and researcher on land issues in Scotland, observed that “the Crown Estate is an oft misunderstood term”;⁵ Mr Tom

4 The Crown Estate, *Annual Report 2009*, July 2009, Overview

5 Ev 37

Appleby, a senior lecturer in law at the University of the West of England, drew attention to “the quirky nature of the estate”;⁶ and HM Treasury too told us that “it is important to bring out the unique position of The Crown Estate.”⁷

9. It is, perhaps, a measure of how hard it is to get a handle on the organisation, that a number of our witnesses took time to explain to us what the CEC—and the Crown Estate—were *not*. Mr Appleby told us that “it is tempting to treat the Crown Estate as a sovereign wealth fund, but to do so is a mistake.”⁸ In its written evidence, HM Treasury informed us that “while it is part of the public sector, it is not government property. Nor is it part of the monarch’s private estate [...]. This puts TCE in a different position to that of a non-departmental public body (NDPB).”⁹ The CEC themselves were similarly keen to assert, in written evidence, that the Crown Estate “is not the Sovereign’s private estate, nor is it owned by the Government” and that they are “not a government agency, nor a non-departmental public body, nor a company owned by the Government.”¹⁰ Chief Executive Mr Bright further commented during his oral evidence session that “with respect, we are not a government organisation.”¹¹

10. HM Treasury stated that “the Estate is part of the hereditary possessions of the sovereign; while its income forms part of Her hereditary revenues and is paid direct into the Consolidated Fund”;¹² the CEC explained that they exercise “the powers of ownership, although we are not owners in our own right.”¹³ This quote does provide some greater clarity as many of the submissions we received thought the CEC were the owners of the Crown Estate rather than the managers of it. However, these formal definitions provide little understanding of what the CEC do and why, and tend to obscure the fact that the CEC are a public body charged with managing public resources for public benefits. In the following paragraphs, we look to explore these questions in more detail. Indeed, **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.**

The Committee on Crown Lands

11. The modern origins¹⁴ of the CEC and the Crown Estate can be traced back to the Committee on Crown Lands appointed by the Government of the day in December 1954 to “examine the present organisation for the administration of Crown Lands and to report

6 Ev 70

7 Ev 101

8 Ev 70

9 Ev 101

10 Ev 39

11 Q 173

12 Ev 101

13 Q 130

14 An annex to the Report of the Committee on Crown Lands, Cmd 9483, June 1955, also provides a wider historical perspective

whether any change should be made.”¹⁵ The Committee reported in June 1955 and its recommendations were subsequently given effect in two pieces of legislation—the Crown Estate Act 1956 and the, still extant, Crown Estate Act 1961. It is a mark of the continuing relevance of the 1955 Committee’s recommendations that the 2009 CEC Annual Report refers in its Governance Report, when interpreting the role of the CEC’s Commissioners, to the “recommendations of the Report of the Committee on Crown Lands which visualised the role of The Crown Estate Commissioners as analogous to that of trustees of a trust fund.”¹⁶

12. At the time, the Crown Lands were administered by the Commissioners of Crown Lands under three Commissioners: the Minister of Agriculture, the Secretary of State for Scotland, and, an administrative civil servant. In practice, as the Report noted with concern, the civil servant had been left ‘out on a limb’ “with a wide and lonely responsibility.”¹⁷ The report considered that “in effect Crown Lands are a trust estate, of which the capital belongs to the Sovereign. The income after meeting costs of upkeep has been surrendered to Parliament at the beginning of each reign since that of King George III, in accordance with a Civil List Act”¹⁸ and that, in sum, “the Crown Estate is the Sovereign’s public estate by right of the Crown and when Parliament assumed responsibility for providing funds for the upkeep of the Royal household as well as for the expenses of Government the surrender of the revenue for the lifetime of the Sovereign was regarded as a corollary.”¹⁹ The Report also described the Crown Lands as “one of the largest, most varied and most valuable holdings of landed property in Great Britain.”²⁰

13. The main recommendations of the Committee on Crown Lands were that:

- The term “Crown Lands” was confusing, given that they were different from land acquired and maintained by the Government for various uses such as bombing ranges, airfields, the erection of government offices and other public purposes. To avoid ambiguity, the Crown Lands should, in future, be called “the Crown Estate”.
- To improve the administration of the Crown Estate, the Commissioners of Crown Lands should be replaced by an appointed Board along the lines of other large estates. The Report mentioned by way of example the Forestry Commissioners as a Board created by statute for the management of large areas of land owned by the Government.
- A specified Minister or Ministers of the Crown—possibly including the Secretary of State for Scotland as “Scotland’s Minister”—should have power to give directions to the Board. The Report recommended that the Board be consulted before the powers of direction were exercised. It also recommended that the

15 Report of the Committee on Crown Lands, Cmd 9483, June 1955

16 The Crown Estate, *Annual Report 2009*, July 2009, p 46

17 Report of the Committee on Crown Lands, Cmd 9483, June 1955, p 5

18 *Ibid.*, p 3

19 *Ibid.*, Annex B

20 *Ibid.*, p 4

responsible Minister should not have a special interest as Minister in the use or control of the Crown Estate.

- The general duties of the Commissioners, only inferred and tacitly understood, should be defined and written into statute. The Crown Estate Act 1961 subsequently stated that:

it shall be the general duty of the Commissioners, while maintaining the Crown Estate as an estate in land (with such proportion of cash or investments as seems to them to be required for the discharge of their functions), to maintain and enhance its value and the return obtained from it, but with due regard to the requirements of good management.

The Crown Estate today

14. The Crown Estate Act 1961 defines the Crown Estate as the Crown property, rights and interests managed by the CEC on behalf of the Crown. The actual composition of the Crown Estate continues to evolve in line with the general duty of the CEC to maintain the Crown Estate “as an estate in land”, which restricts the type of assets the CEC can hold as part of the Estate to land, gilts or cash, and to “enhance its value and the revenue obtained from it.” As Chief Executive Roger Bright observed “we are not a static estate. We are a dynamic estate and we buy and sell properties in order to maintain the performance of the portfolio over time.”²¹ The CEC are required under the Crown Estate Act 1961 to retain the Royal Park and Forest at Windsor. There is no other requirement on the CEC to hold onto particular assets in perpetuity.

15. Legislation²² since the Crown Estate Act 1961 to extend the UK’s interests in the marine environment from the three nautical miles territorial limits at the time, has also consequently expanded the domain of the Crown Estate. The CEC are now responsible for managing the Crown’s ownership of virtually the entire UK seabed out to the 12 nautical miles territorial limits and for managing the rights vested in the Crown over the UK continental shelf areas out to the 200 nautical miles limits. We shall examine this ‘new’ area of CEC business in more detail in a later section.

16. At our request, the CEC provided us with a schedule of the property, rights and interests that currently form part of the Crown Estate. The schedule is attached as an Appendix. The schedule helpfully distinguishes between ancient possessions which are properties held by the Crown when the first of the Crown Estate Commissioners’ predecessors was set up in the early nineteenth century, and modern acquisitions, which are properties that have been acquired since then. The schedule also identifies that, in addition to properties, the Crown Estate also includes ancient rights of the Crown. Prominent examples of these are the Crown’s rights to gold and silver and the Crown’s ownership of territorial seabed and other rights in the UK’s marine environment, the latter subsequently expanded as noted above. A further distinction is that the property, rights

21 Q 130

22 1964 Continental Shelf Act 1964, Territorial Seas Act 1987

and interests that make up the Crown Estate in Scotland are legally distinct from those in the rest of the UK. The CEC's role and relationships in Scotland are considered in more detail in section 8.

17. 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.

The Crown Estate Commissioners today

18. The CEC continue to operate—within the framework recommended by the Committee on Crown Lands as enacted under the 1961 Crown Estate Act—as a statutory corporation managed by a Board of eight Commissioners appointed in line with current standards for public appointments. In their evidence to us, the CEC were very clear on the implications of the Crown Estate Act 1961 for the nature of their operations. In their written evidence, referring to their general duty under the Act to “maintain and enhance” the value of the estate and return obtained from it, they stressed that they are “a business that focuses on a combination of income return and capital growth”²³ and that they are “first and foremost a commercial organisation.”²⁴ Similarly, in oral evidence, their Chief Executive explained that “we operate under a commercial remit which is set out in the 1961 Crown Estate Act.”²⁵

19. This though is not the whole story. Under the terms of the Act, the CEC have also to pay “due regard to the requirements of good management”. However, as Mr Appleby pointed out to us “there is no strict legal definition of good management. As a result interpretation is left to plain English and common practice to establish.”²⁶ At one level, “good management” may be seen as no more than standards that all organisations should observe to ensure that their operations are sustainable in the longer-term—a limited stewardship role—and managed in a professional manner. As the CEC put it in their written evidence:

The Crown Estate expresses its statutory duties through three core values—commercialism, integrity and stewardship. It operates at arm's length from Government, takes a commercial approach and embraces high standards of responsible management.²⁷

HM Treasury appears similarly content with this interpretation of good management, stating in its written evidence that:

23 Ev 39

24 Ev 47

25 Q 129

26 Ev 68

27 Ev 39

Because of TCE's unique position, the Treasury's main concern is to make sure that TCE is well managed to modern professional standards and exercises its stewardship responsibilities prudently. Generally the Treasury is satisfied that the Estate is appropriately diversified in the UK property market, controls its risks and opportunities to suitable standards, and adopts a sustainable method of doing business.²⁸

20. We questioned to what extent standards of good management for the CEC as a public body also involved wider public interests. Mr Roger Bright gave some acknowledgment that wider interests were at stake when he sought to reassure us that:

[...] we always work with the grain of government policy, both in terms of the UK Government and also in the devolved nations. As a public body, we have a very keen sense of our wider responsibilities to be a good and responsible landlord.²⁹

We also noted that the CEC's duty is to enhance value and revenue, rather than maximise them as supposed in some of the evidence we received. We consider that there is a distinction between 'enhance' and 'maximise'—ie that enhance is less than maximise—which may give the CEC more scope to accommodate wider public interests in fulfilling their financial remit. We return to this matter later.

21. Questions of the wider public interest also involve the powers of direction held under the Crown Estate Act 1961 by the Chancellor of the Exchequer and the Secretary of State for Scotland. The CEC pointed out in their evidence that these powers had never been used, while both HM Treasury and CEC were anxious to reassure us that the reason the powers have not been used is because "there is always active dialogue among officials about any significant or novel developments in the business before they are undertaken" and hence "the question of exercising the powers of direction has never arisen."³⁰ Conversely, however, this may be an indication that the CEC have, over time, been allowed a greater level of autonomy than originally envisaged by the Committee on Crown Lands.

22. The extent to which the CEC's revenue and capital enhancing activities are or should be tempered by the requirements of good management or guided by Ministerial direction is important because a number of witnesses and submissions contend that the degree to which the CEC are focused on their commercial duties can, in some contexts, act against wider public interests. We explore these arguments more fully in the Urban Estate and Marine Estate sections, before considering in section 9 whether there may be wider policy issues for the Government to consider.

Financial rules

23. In addition to the issue of the extent to which the requirement on the CEC to enhance value and revenue may be influenced by good management and Ministerial direction, there

28 Ev 101

29 Q 129

30 Ev 101

are specific financial rules governing the CEC's operations. One is that the CEC have to surrender their net revenue surplus to the Treasury each year, and are therefore unable to use revenue for capital investment except in limited circumstances. The CEC are also unable to borrow to finance investment, or invest in land through limited companies.

24. Another statutory constraint upon the CEC is the requirement that they do not exploit monopoly positions. This issue is considered more closely in the section on the Marine Estate, as it is in the marine environment that their monopoly position features most prominently.

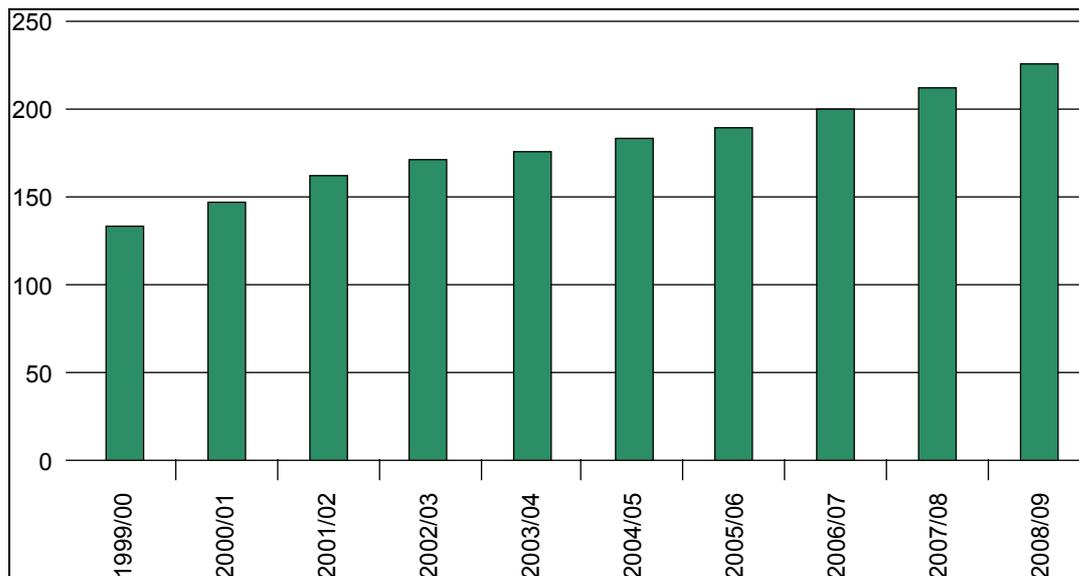
25. Having explored the framework within which the CEC operate, in the next sections we turn our attention to the performance of the CEC, looking first at overall performance, and then at performance in its individual business divisions. As stated in their Annual Report, these operating divisions are the basis upon which the CEC monitors their operations and upon which decisions are made by the Board.

3 General performance

Enhancing revenue

26. In their evidence to us and in their 2009 Annual Report the CEC were, with some reason, bullish about their general performance. As the chart below shows, surplus revenue to the Consolidated Fund has increased every year over the last ten years and by 70.5% over the ten year period.

Figure 1: Net income surplus £m 1999/2000-2008-09



Source: *The Crown Estate (Crown Estate Commissioners) Memorandum*

Enhancing capital

27. The capital value of the Crown Estate has also increased over the last ten years by 66.7%. However, whilst surplus revenue continued to rise in 2008-09, the total capital value of the Estate fell by 18% to £6 billion. The Annual Report attributes this decline to the general downturn in the UK commercial property sector. In light of this annual decline, we asked the Chief Executive what was a reasonable number of years to assess performance in managing his portfolio. He responded that:

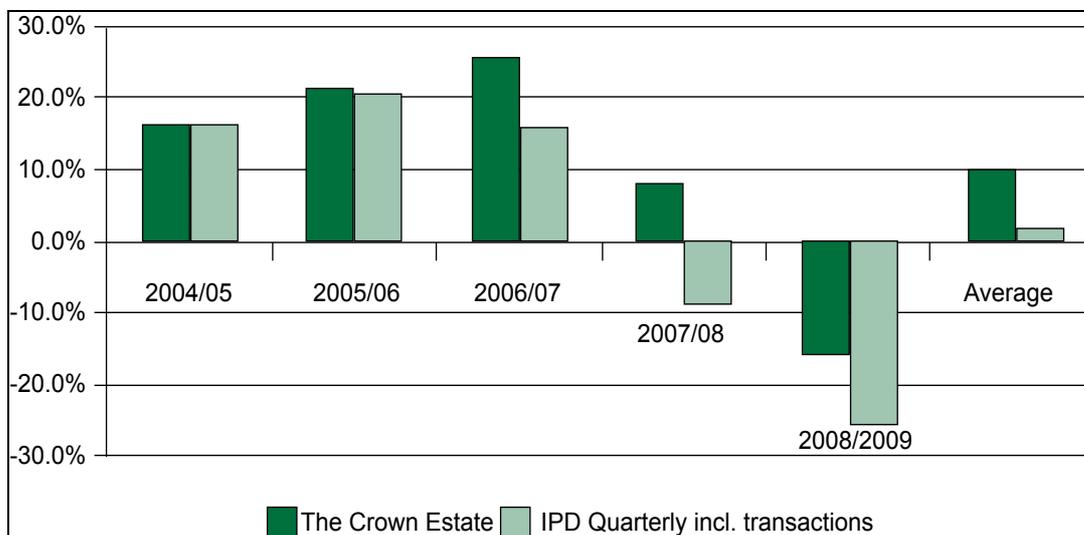
Probably a ten year time horizon gives you a good feel for that. This is a long term business. This is not a short term business. If you look at our performance over the last ten years, I think we have produced creditable results.³¹

Benchmarking

28. In their written evidence, the CEC explained that they benchmark their financial performance against the Investment Property Databank (IPD) which they described as

“the property industry’s recognised benchmark.”³² As the chart below shows, the CEC have significantly outperformed the IPD over the last ten years.

Figure 2: Total return v IPD



Source: *The Crown Estate (Crown Estate Commissioners) Memorandum*

Mr Bright attributed this result to:

[...] a combination of the fact that a number of the properties that we own are of a very high quality. They are prime properties. They are in many instances situated in central London, in London’s West End, which is, as I am sure you are aware, a very strong performing centre. One of the other reasons is that our portfolio is very diverse. We have a big commercial property portfolio but we have a rural portfolio and we have a marine portfolio. Those portfolios perform in different ways. The rural portfolio will for example give us capital growth. The marine portfolio will tend to give us high revenue returns. The combination of the quality of the assets and the diversity of the estate has certainly helped us considerably.³³

It is noteworthy that the CEC benchmarks itself against the private sector. As we outlined in the previous section, however, it is arguable that, as a public body, the CEC have a wider set of responsibilities in the public interest. Accordingly, we asked Mr Bright whether the standards of good management for a leading private sector company and a public body such as the CEC are the same. In his reply he accepted that “there is a particular expectation on us that we always do the right thing.”³⁴

29. Judged on their own terms as a commercial organisation, the CEC run a very successful business operation. In the next four sections we examine, within each business division, the devil in the detail. We assess performance in each business division and look in particular at circumstances where the extent of the CEC’s commercial emphasis appears

32 Ev 39

33 Q 137

34 Q 148

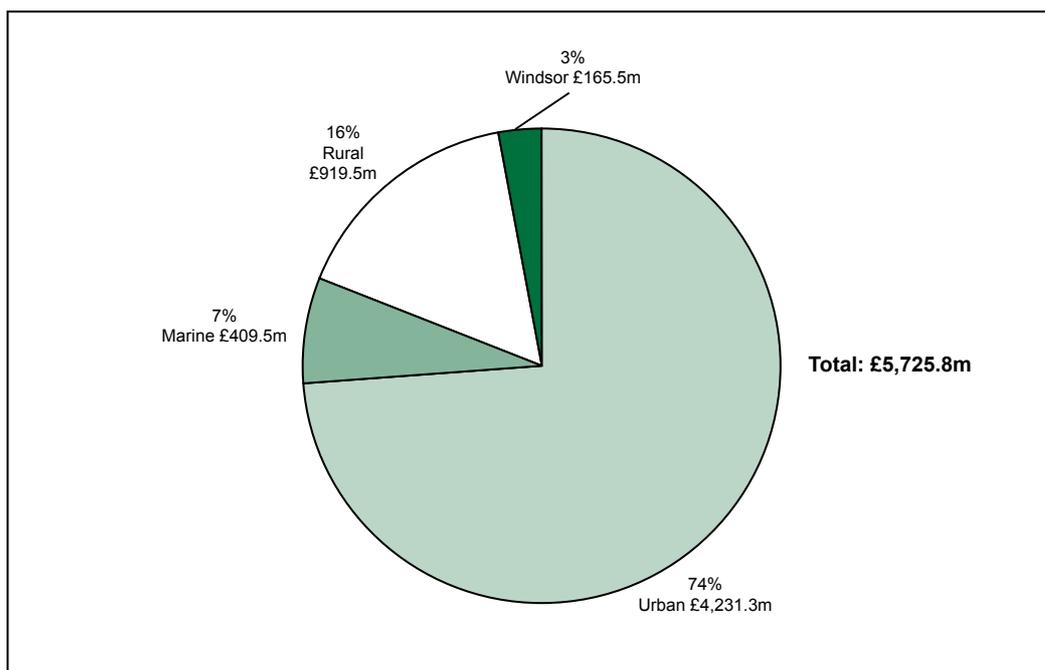
to rub up against a potential wider public interest and where, as a consequence, questions may arise as to whether the CEC “always do the right thing.”

4 The Urban Estate

Extent of holdings

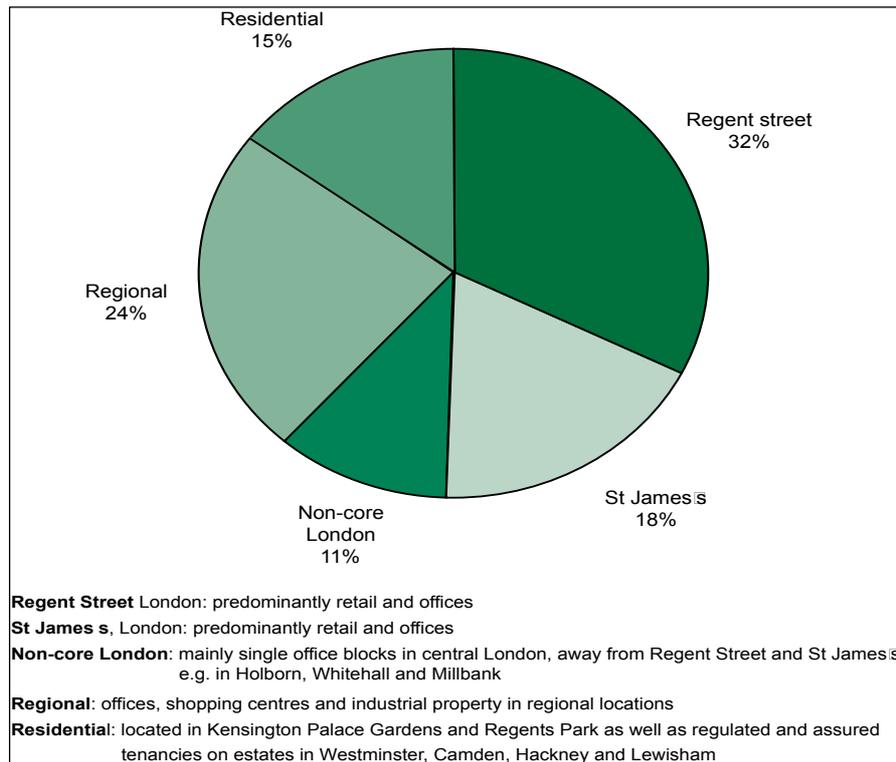
30. The CEC's Urban Estate is by a large margin their main business division. In 2008–09, as Figure 3 below shows, urban property accounted for 74% of the value of the Crown Estate and 73% of its revenue. This is a fairly typical contribution as over the last ten years urban property has usually accounted for 75–80% of the value and 70–75% of the revenue of the Crown Estate. As Figure 4 shows, most of the CEC's urban property is concentrated in London—76% by value of the Urban State was concentrated in London as of 31 March 2009. The London Urban Estate includes retail and office space in Regent Street and St James's, single office blocks elsewhere in central London, and residential property in Kensington Palace Gardens and Regent's Park as well as property let on regulated and assured tenancies on estates in Westminster, Camden, Hackney and Lewisham. The property portfolio outside London includes offices, shopping centres, industrial sites and other property.

Figure 3: Property value as a 31 March 2009



Source: *The Crown Estate (Crown Estate Commissioners) memorandum*

Figure 4: property value of the Urban Estate 31 March 2009



Source: *The Crown Estate (Crown Estate Commissioners) Memorandum*

Performance

31. Management of the Urban Estate is long-standing core business for the CEC. Notwithstanding an understandable dip in its value last year, the CEC's 2009 Annual Report remained upbeat about the division's "relative success,"³⁵ pointing in particular to the promise of their investment programme "that will totally revitalise the southern Regent Street environment."³⁶ During the course of our inquiry we received positive comments from a number of major stakeholders in the urban environment supporting The CEC's own assessment.

32. In its written evidence, English Heritage concluded that:

the overall impression is that the Crown Estate is a good steward of the historic environment and it draws a reasonable balance between the goal of maximising commercial returns and the conservation of historic buildings. Having established a constructive and consultative relationship, the occasions when The Crown Estate and English Heritage disagree significantly on the approach to be taken on a particular site are now rare. [...] English Heritage suggests that the Committee endorses the Crown Estates current management of its historic assets and underlines the importance of this approach continuing into the future.³⁷

35 The Crown Estate, *Annual Report*, July 2009, p 6

36 *Ibid.*, p9

37 Ev 79

From its perspective the British Property Federation, commenting on one of its members, wanted “to put on record that, so far as we are able to judge from our dealings with it, the Crown Estate has always been at the forefront of the sector, working with the British Property Federation to improve the sector and the services that our sector provides to British businesses and individuals.”³⁸

33. In oral evidence, Ms Rosemarie MacQueen, Strategic Director Built Environment at Westminster City Council, told us that:

They have no special favours but they are a very intelligent and astute organisation in terms of the fact that they use top quality architects and planning consultants to put together their packages. They are very aware of what the Council’s wider objectives are in terms of livability and total place making and I think we have a very productive relationship with them, but it is a tough negotiating relationship on both parts.³⁹

She also told us, in particular, that the CEC’s efforts to revitalise Regent Street:

[...] have been extraordinarily successful. They were very clever in the way they went through the process. They looked first at what people understood about Regent Street—it was rather dusty, lots of airlines, carpet shops, et cetera. They then moved to positioning what they wanted to do, which was to make it an internationally branded street. Obviously because they had the control they were able to decide which shops they would want to put in when leases fell in and they then in a sense blocked the street and came through, jointly between ourselves and English Heritage, in terms of what some people would have said was extraordinarily radical [...]. It has become a destination that international visitors will want to go to see when they come to London.⁴⁰

In their evidence, the Regent Street Association (RSA), which benefits from free accommodation on the Crown Estate, supported Westminster City Council, observing that “over the last fifteen years the relationship between The Crown Estate and the RSA has improved enormously[...] a true partnership..has grown particularly over the last ten years because of the redevelopment in Regent Street. The RSA went on to state that it “enjoys working with The Crown Estate” and that “the single ownership of Regent Street is a huge advantage and leads to consistency and efficiency.”⁴¹

Future direction

34. In their written evidence, the CEC outlined their future plans for the Urban Estate. They intend to concentrate “on a limited number of sectors where we have a competitive

38 Ev 111

39 Q 85

40 Q 97

41 Ev 95

advantage, for example through concentrated ownership of assets, expertise or local knowledge.” They identified their principal challenges as:

- high dependence on the volatile central London office market;
- limited access to working capital, restricting the ability to invest; and,
- managing the increased risk of tenant failure as businesses struggle during the economic downturn.⁴²

Their intent, therefore, is to “reduce our exposure to commercial central London property by strategic disposals of non-core central London holdings and through working with partners in our core holdings to spread our risk and access additional sources of investment capital while retaining a significant element of control over our core holdings in Regent Street and St James’s”. They also want to invest a substantial part of the funds raised from disposals outside London, “in major retail schemes and industrial estates.”⁴³ Mr Bright further expanded on this approach, observing that “we already own a number of retail parks [...]. Retail parks, particularly in the south east, are in short supply; there are not many of them. Therefore, if the opportunity arises to invest in a good one, that seems to us to be a sensible investment decision to take.”⁴⁴

Residential housing proposal

35. One area of the CEC’s proposed future direction for their Urban Estate is currently being challenged. Among the “non-core” assets it has identified for disposal are some 1,500 homes on four London residential estates: Cumberland Market, Millbank, Victoria Park and Lee Green. These estates include a proportion of affordable and key worker housing. With regard to the latter, a number of organisations, including Westminster City Council and a number of local hospitals have nomination rights to place business-critical workers in cheap local housing.

36. During the course of our inquiry, the CEC announced a consultation exercise on their proposal to sell the freeholds of these properties to a new owner who would also manage the properties. We quickly received evidence from concerned tenants, local councillors and MPs expressing their vehement opposition. Regrettably time constraints and the stage our inquiry had already reached prevented us from holding an additional oral evidence session on this issue, but we ensured that the topic was explored in the evidence sessions already arranged. The grounds for opposition to the proposed sale can be broadly divided into two categories—the handling of the consultation exercise and a more fundamental objection to the proposal itself.

42 Ev 44

43 Ev 44

44 Q 172

Complaints about the consultation exercise

Residents

37. In a joint submission, the residents' associations at all four affected estates argued that the consultation exercise was being mishandled. They asserted that the CEC were not being sufficiently transparent, withholding information relating to “the number and proportion of the different types of tenancy on each estate”, and the rationale for the sale and potential purchasers. They also observed that their request for a ballot of residents had been refused “although this would be standard practice if a Local Housing Authority were considering a similar disposal/transfer of stock.”⁴⁵

38. Evidence from councillors in the Regent's Park Ward (Camden) also complained that “consultation letters were delivered as unaddressed correspondence and so missed as ‘junk’ mail”, that ‘drop-in’ sessions were poorly organised with tenants turned away because “they turned out to be appointment based” and that “the timeframe is very short, barely two months and there has been no dissemination of answers to questions raised by tenants who did get to attend a consultation appointment.”⁴⁶ They also alleged that they had not been formally consulted “but simply informed of the consultation letter to residents” and that “none of the other local stakeholders have been consulted, local authorities, [key worker] nominating bodies (hospitals, education departments, the police etc), Local Strategic Partnerships or the Greater London Assembly, NHS or other strategic bodies.”⁴⁷ They also observed that as the CEC have already stopped the choice based lettings scheme and closed key worker waiting lists—resulting in a number of empty properties on the estate—“it is not surprising therefore that many residents feel the consultation to be a sham.”⁴⁸

Councils

39. In a separate submission, Camden Council also complained about lack of transparency during the consultation exercise, asserting that “when approached by council officers, CEC has effectively refused to provide information to Camden Council about the possible sale of the estate in Camden other than what is on the website. The council therefore cannot assess what the terms of the sale would allow an incoming purchaser to do.”⁴⁹ During oral evidence, Ms MacQueen told us that Westminster City Council only heard about the proposal “the day before it went into the press.”⁵⁰ She observed that given the “spirit of partnership working that we certainly have had and has been very productive on the

45 Ev 102, LHAs are required to hold a ballot of residents if a stock transfer is planned.

46 Ev 107

47 *Ibid.*

48 *Ibid.*

49 Ev 112

50 Q 91

commercial estate, I was a little surprised and maybe they were a little surprised that we were very quick off the mark to ask them to come in and discuss the matters with us.”⁵¹

MPs

40. We also received evidence from local MPs Frank Dobson, Meg Hillier and Bridget Prentice, drawing our attention to the opposition of “the overwhelming majority” of residents and their demands for a ballot. They too complained about inadequate disclosure of relevant information for instance on “the number and proportion of different types of tenancy on each estate, details of changes in rental policy, information on tenants’ rights to consultation, on the demographic make-up of the residents and on planning consideration”, accusing the CEC of hiding behind commercial confidentiality. They also questioned the CEC’s commitment to the consultation exercise, suggesting that their withdrawal of the Tenants’ Handbook—which sets out the rights of tenants—for new lettings “raises questions about the good faith of The Crown Estate.”⁵²

CEC response to criticism of its consultation exercise

41. The Chief Executive of the CEC was keen to defend the consultation exercise. He told us “we are very anxious to hear what our tenants feel about this and also to give an opportunity to explain more of the thinking behind this proposal” and stressed that “we have not yet taken a decision.”⁵³ He added that “my Chairman, Sir Stuart Hampson, and I have also said that we want to meet the chairs of the residents’ associations on these four estates before the board takes any decision on that. That meeting has been arranged for early April.”⁵⁴ He was though, not convincing on the subject of disclosure, committing himself only to the extent that “I think a certain amount of information has been available”⁵⁵ and placing an emphasis on “the need to ensure that we protect personal confidentiality”⁵⁶ when, given that around 1,500 tenants are involved, there should be scope to de-personalise at least some of the basic statistics requested by the tenants and local authorities.

42. Mr Bright also argued against a ballot on the grounds that “there are a lot of different kinds of tenancies involved here [...]. We want to find out what those various tenants feel about this proposal, what their concerns are. We think that a ballot will not give us that. We think the consultation exercise that we are conducting at the moment, which involved surgeries, hotlines and engagement with the tenants, will give us a better feel for what the tenants’ concerns are.”⁵⁷

51 Q 92

52 Ev 109

53 Q 159

54 Q 162

55 Q 160

56 Q 161

57 Q 162

Consultation exercise: our conclusion

43. Proposals to sell rented housing, because they raise concerns about future security of tenure and rent charges, are seldom likely to be greeted with enthusiasm by tenants and their representatives. However, there do appear to be legitimate concerns about the way that the CEC has handled this consultation exercise. The criticisms about lack of transparency and real engagement are strong and not lightly dismissed. We were particularly concerned to hear that the CEC had failed to consult local organisations with rights to nominate key workers. Regardless of the outcome of this particular proposal, **we recommend that the CEC review their community and local stakeholder consultation processes with a view to increasing transparency and engagement.**

Opposition to the CEC's proposal

44. Setting aside their concerns about the handling of the consultation, residents and other stakeholders had more fundamental objections to the subject of the consultation. Their first set of objections concerned the rights of current tenants. Particularly given that a purchaser has yet to be identified, residents and their representatives argued that a change of ownership could lead to increased rents or charges for current residents. During oral evidence, the CEC were able to provide some reassurance, informing us that “the rent regimes on all the different types of tenancies are secure when and if a new owner takes over[...]. Essentially, the bottom line is that for existing tenants the security of tenure and the rent regime that they currently enjoy would transfer to any new purchaser.”⁵⁸ The Chief Executive subsequently wrote to us to confirm that:

[...] should this proposal proceed, any new owner would manage the properties subject to the tenants' existing rights as set out in their tenancy agreements and, for those that were issued with a tenants' handbook, the rights outlined within that handbook; a new landlord, or indeed any subsequent landlord, would not be able to change this. These protections are encapsulated in the Law of Property Act 1925 and the Landlord and Tenant (Covenants) Act 1995.

It is also worth adding that if the proposal goes ahead, the rental framework that is currently in place would not change. It would be transferred to the new owner. For residents on regulated tenancies, rent levels are determined by the Rent Officer. This would not change. For residents whose rent levels are currently subject to a 'ceiling rent'—a maximum possible rent as a percentage of the market rent—this also would not change.⁵⁹

45. There are, however, a second set of objections to the proposal. Ms MacQueen of Westminster City Council, told us that, with regard to:

[...] the key worker and also the affordable housing units, which they have predominantly in the Millbank area, yes there is concern there [...] our concern is

58 Q 163

59 Ev 116

that we have nomination rights for a number of units—we have still to establish it, but we believe it is several hundred—for people who are working in the Primary Care Trust, teachers in Westminster and also in services such as the Police and Fire Services. What we are concerned about is that there may be assurance of tenancies now, but when those tenants either go or when the assured tenants eventually, I am afraid to say, die that will then be a break and there will then be no opportunity in the future to retrieve that.⁶⁰

Camden Council made a similar argument in their written evidence, stating that “there is also a concern that future lettings of flats may be at full market rents which could well put the homes beyond the reach of workers such as nurses.”⁶¹ The local MPs too drew attention to the number of organisations who currently nominate key workers, and thus stand to be affected by a change of ownership; “eight hospitals...The London Ambulance Service, ten NHS Primary, Community and Mental Health Trusts, the London Fire Brigade, London Underground and Transport for London, the Metropolitan Police, the Education Departments in Camden, Westminster, Hackney, Tower Hamlets and the House of Commons.” They also drew our attention to an unwelcome possible precedent in that, after the Church Commissioners sold their affordable housing in south London to Grainger PLC in partnership with Genesis Housing Association “rents rose, the key worker scheme was abolished and some of the properties have been sold off.”⁶² In this context, they noted that Paul Clark, the CEC’s Director of Investment and Asset Manager had previously worked for the Church Commissioners and had been responsible for that sale.

46. The CEC offered less reassurance about the future of affordable housing and key worker housing in these estates, should they be sold off. Whereas Mr Bright felt able to give existing tenants “a categorical assurance,”⁶³ when it came to future occupancy, he stated only that “when it comes to deciding who might take over these properties, if we go ahead, we are going to be looking very closely at the management prospectus that they hold out to us. We will certainly want to take that very much into account before we reach any decision.”⁶⁴

47. The key question is ‘to what extent should the CEC take account of concerns about the future of affordable housing and key worker homes on these estates?’ or, couched in more general terms, ‘to what extent can and should the CEC accommodate wider public interests within their duty to maintain and enhance the value of the overall Crown Estate and the return obtained from it for public funds?’ This question gets right to the heart of the tension we identified earlier over the interpretation of the requirements of good management in the case of the CEC.

48. The CEC themselves consider their arguments in favour of proceeding with the sale are clear. To ensure that the Urban Estate continues to enhance revenue and value, they need

60 Q 87

61 Ev 112

62 Ev 109

63 Q 171

64 Q 171

both to concentrate on its high value assets and to diversify. In order to diversify, they need to raise investment funds by selling off ‘non-core’ assets. As the CEC explained to us “obviously the capital we realise from any sale [...] and the disposals that we make [...] the capital then becomes available for re-investment elsewhere in the portfolio. There are a number of priorities for that re-investment elsewhere.”⁶⁵ From this perspective, selling to a “housing provider whose mainstream business is managing and owning this kind of housing”⁶⁶ is fully in accord with the CEC’s core duty to maintain and enhance revenue and value, while having due regard to good management.

49. Opponents of this proposal, however, did not agree with this assessment of the CEC’s obligations. They noted first that “affordable housing has been provided by the Crown Estate since shortly after the First World War”⁶⁷ and considered it was disingenuous of the CEC to argue that they lack expertise in managing this type of housing. They also saw no compelling financial imperative to sell, given that, as Ms MacQueen pointed out to us, the CEC had previously been able to fund “very complicated and very major schemes”⁶⁸ in central London using other means. They argued that the CEC should retain ownership of these estates as part of its stated commitment to stewardship, communities and sustainable development. They argued, moreover, that “due regard to good management” in these circumstances should be interpreted more broadly as an obligation to protect the scarce supply of social housing, key worker accommodation and, more generally, to protect community cohesion in the wider public interest. Regent’s Park Ward councillors, for example, put the wider case against the proposals as follows:

Among the Crown Estate’s core values are Integrity and Stewardship and sustainable communities are at the heart of its Corporate Responsibility Framework. Over many years these values have been demonstrated in the provision and management of the affordable/key worker housing provided across London. The Government has made clear that an increase in affordable housing stock is needed and that mixed communities are at the heart of sustainable housing provision. The Crown Estate is in a key position to make a contribution to these aims and the management of the estate should take these matters into account when looking towards the future. The benefit to London and the Government from the provision of key worker, rented, housing far outweighs any short term financial gain to be made by the sale and effective loss of this vital housing stock and the communities within it.⁶⁹

50. Given the paucity of such housing in London, the direction the CEC decide to go in this instance is a substantive policy issue. When we put this to Sarah McCarthy-Fry MP, the Exchequer Secretary to the Treasury, we were surprised first that HM Treasury did not appear to have been informed of the decision to initiate a consultation exercise and second at how cautious Sarah McCarthy-Fry MP and her official were about their ability to

65 Q 158

66 Q 168

67 Ev 102

68 Q 89

69 Ev 107

influence the CEC's final decision. She did confirm that "I would expect the Treasury to be consulted, of course, on this" before the CEC made its final decision, but considered that "whether I would then be able to issue a direction if I thought that they were not going in the right direction and I thought that they were doing something that was contrary, as I said it comes back to whether it would be considered reasonable and whether they were acting outside their remit."⁷⁰ Her official, Ms Paula Diggle, Treasury Officer of Accounts, appeared most concerned about the narrow issue of whether tenants' rights were protected, observing that "If I thought that none of that was going to happen I would certainly want to tell the Minister and want to consider intervening. It does not seem that that is going to happen."⁷¹

51. We will explore Ministers' power to provide guidance and to direct in more detail in section 9. **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.**

70 Q 237

71 Q 239

5 The Rural Estate

Extent of holdings

52. The Rural Estate, like the Urban Estate, is long-standing core CEC business. It has suffered less from the severe economic downturn than the Urban Estate. In 2008–09 it accounted for £920 million or 16% of the value of the Crown Estate and £26.7 million or 9% of its revenue. Over the last ten years, rural property has usually accounted for 10–13% of value and 8–9% of revenue. Within this business division, the CEC manage 146,000 hectares of agricultural land, forests and residential and commercial property spread across 22 counties in England, with further holdings in Scotland and Wales, making it one of the largest rural estates in the UK. The agricultural sector comprises 450 principal farm holdings and 770 residential tenancies. In common with some large commercial landowners, the CEC manage their rural property portfolio through agents.

Performance

53. The 2009 CEC Annual Report, reported the rural estate “as having enjoyed a positive year, despite the poor conditions in the UK economy. Revenue was £26.7 million, up 18.9% on the previous year. The property value of the Rural Estate was £919.5 million, an increase of 1.9% over 2007–08.”⁷² Their written evidence also stated that “as part of our stewardship programme, we reached, a year ahead of schedule, the government target that 95% of our 145 Sites of Special Scientific Interest (SSSI) [should be] in ‘favourable’ or ‘recovering’ condition.”⁷³

54. The evidence we received from other parties about the performance of the CEC’s Rural Estate was predominantly very positive. The Country Land and Business Association, which counts the CEC as a member, told us that they:

succeed in being an exemplary landowner. Their motives, in common with most private landowners are to preserve and grow the value of their estate, manage it in an economically, environmentally and socially sustainable way producing a good return. Their financial results certainly place them amongst the best-performing estates.⁷⁴

Mr James Howe, who gave oral evidence as a representative of the Royal Institution of Chartered Surveyors but was also able to draw on his role as Rural Assets Manager for the Church Commissioners for England, agreed with this description. He considered that it made sense for the CEC to use agents because:

the estates of the Crown are spread fairly thinly throughout the whole of England and also into Scotland and in order to directly employ it is not always, I think, cost-

72 The Crown Estate, *Annual Report 2009*, July 2009, p 18

73 Ev 47

74 Ev 38

effective. So to have the benefit of local knowledge and to have people based locally under a contract of employment which is regularly tested against other comparable firms is a very satisfactory way of proceeding.⁷⁵

Natural England “noted that closer relationships are being developed with tenants,” explaining that previously all contact with tenants had been directed through the agents but “Crown Estate is now seeking to establish more direct tenant engagement.” Natural England wanted to see this further developed “so that Crown Estate is a more active partner in helping its tenants to achieve more sustainable agriculture.”⁷⁶ Finally, Mr Steven Bee, Director of Planning and Development, English Heritage, affirmed that the CEC “work well with us”⁷⁷ and indicated that he was not aware of any issues with other key rural stakeholders, a position also endorsed by Mr Howe.

55. In a submission which complimented the CEC on the high standards of their management in environmentally designated areas, Natural England noted that the CEC are “technically exempt from the duty placed on public bodies to have regard to the purposes of National Park and Areas of Outstanding Beauty Designations” and that there is also “a lack of legal clarity” whether the CEC are required as a public body to meet the Government’s condition targets for all Sites of Scientific Interest on the Crown Estate. **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.**

56. In their written evidence, the National Farmers Union (NFU) were a bit more critical, suggesting that the CEC should do more to assist agricultural tenants who want to retire, but could not afford to move off their farm. The NFU told us that “we believe that the Crown Estate has a social responsibility in acting on behalf of the taxpayer to promote best practice in its work on assisting those tenants that wish to retire from agriculture.”⁷⁸ Mr Howe was unable to comment directly on CEC performance in this area, but did confirm that “it is certainly an industry-wide concern that there are farm tenants who are in effect trapped within their farm tenancies because they cannot afford to buy retirement dwellings and to have money to live from.”⁷⁹ He explained that the Church Commissioners actively assist in comparable cases by purchasing a house and offering a life-long tenancy agreement “on a rent between a fair rent and a market rent.”⁸⁰ The Church Commissioners can then rent the farm they have vacated to a new entrant.

57. We subsequently put it to Mr Bright that his organisation should be doing more for tenant farmers who wish to retire. He replied that:

75 Q 118

76 Ev 76

77 Q 121

78 Ev 74

79 Q 124

80 Q 125

[...] We have a policy which is to enable retirement with dignity so that farmers, when they wish to retire, are able to do so. The first thing that we do—and it is what happens in the majority of cases—is that we have a long term relationship with our agricultural tenants and we take a close interest in their business. What we try to do is ensure that they are building up within their businesses sufficient profits, a revenue surplus if you like, so that when the time comes to retire they have the wherewithal to enable them to find alternative accommodation.⁸¹

When we expressed some scepticism as to whether this policy was sufficient, given the challenging economic conditions facing tenant farmers, and the price of rural property, he went on to explain that where tenant farmers were unable to afford a retirement property on their own, the CEC would “put in an equity stake”⁸² to assist, or look to see if it could make available a farm cottage.

Future direction

58. In their written evidence, the CEC identified the principal challenges for their Rural Estate as being:

- Restricted scope for tactical trading of the portfolio, given the characteristics of agricultural investment;
- The scope for maximising income is limited by the legislation governing agricultural tenancies; and,
- Releasing land for development in ways that are sensitive to local opinion and environmental concerns.

They explained they were looking to “ensure that we are in a position to realise profits when opportunities arise” and to work more closely with tenants “to add value to their businesses and create new opportunities to our mutual benefit.”⁸³

59. Natural England believe that CEC should also play more of a role in enhancing the landscape. In their evidence, they proposed that the CEC “should now begin to explore the potential for achieving more for the natural environment by working at a landscape scale, with neighbouring landowners and regional partners to deliver specific outcomes, and developing innovative and cost effective ways of achieving them.”⁸⁴

60. The proposal from Natural England that the CEC should play more of a role in enhancing the landscape, reflects an expectation that we came across frequently in our inquiry, that the CEC should as a public body help achieve wider public policy objectives. This again poses the question we have already raised in the urban environment—to what extent can and should the CEC accommodate wider public interests in rural areas as part

81 Q 204

82 Q 210

83 Ev 46

84 Ev 78

of good management while also fulfilling their duty to maintain and enhance the value of the Crown Estate and the return obtained from it. We return to this theme in later sections.

6 Windsor Estate and other historic properties

Extent of holdings

61. The CEC's Windsor Estate business division is conspicuously different in scale and character from the other three business divisions, and is managed at a loss. It is relatively small in terms of extent (6,300 hectares) and capital value (£166 million). In 2008–09 it accounted for 3% of total value and 2% of revenue of the Crown Estate. The lands and properties managed by the CEC as the Windsor Estate include Windsor Great Park, farms, forests, and residential and commercial properties. Key features include the Savill and Valley Gardens, Virginia Water Lake, Cumberland Lodge (a conference facility) the Long Walk and deer park, six golf courses and Ascot Racecourse. Windsor Castle is an occupied Royal Palace and therefore not part of the Crown Estate. The 1961 Act requires the Crown Estate to maintain the character of the Windsor Great Park as a Royal Park and forest.

Performance

62. In their written evidence, the CEC told us that “the cost of maintaining the Windsor Estate in 2008–09 was £8.3 million which was offset by revenue of £6.3 million from commercial and residential property, agriculture, visitor revenue, the sale of timber and Christmas trees and filming on the Estate.”⁸⁵ Their Annual Report termed 2008–09 “a year of consolidation” for the Windsor Estate, noting that the £2 million loss was “in line with that recorded in previous years.”⁸⁶

Objectives

63. In their written evidence, the CEC stated that their objectives were “to ensure that the Windsor Estate remains a valuable historic national asset; to maintain and improve the stewardship of the Estate; and to enable millions of people to make use of the various facilities.”⁸⁷

Wider issues

64. In the time available for this inquiry, we did not examine the Windsor Estate in great detail. With regard to our wider theme of the extent to which the CEC can accommodate wider public interests within its predominantly commercial remit, it is interesting to note from their schedule of properties that, in addition to the Windsor Estate, the CEC's holdings include a number of other important historic ancient possessions of the Crown, such as historic castles like Chester, Carlisle, and Carisbrooke. Here, stewardship must be predominant and, in most cases at least, the emphasis is likely to be on limiting the loss

85 Ev 47

86 Crown Estate, *Annual Report 2009*, July 2007, p 24

87 Ev 47

involved in their conservation and management. We did not have scope within our inquiry to investigate the extent of these non-commercial ancient possessions managed by the CEC, but consider that it would be helpful if they were distinguished from the rest of the CEC's commercial urban and property portfolio by virtue of their wider significance as part of the nation's heritage and because of their non-commercial nature.

65. We recognise that some of the ancient possessions still forming part of the Crown Estate are not managed directly by the CEC themselves but by other public bodies such as English Heritage. In Scotland, around the time of devolution, the CEC conveyed ancient castles and other historic ancient properties of the Crown in Scotland that were managed by Historic Scotland to the Secretary of State for Scotland so they would pass to the Scottish Government. **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.**

7 The Marine Estate

Extent of holdings

66. Legislation has expanded the UK's marine environment substantially over the last 50 years, and the activities taking place in this environment continue to increase in diversity and scale. New developments such as marine renewable energy have focused more attention on the CEC's role and the new challenges they face in fulfilling their responsibilities. Revenue from the Marine Estate rose by 18.5% to £49.7 million or 16% of the total revenue during 2008–09, and the Marine Estate accounted for £409 million or 7% of the total value of the Crown Estate. Whilst the revenue and value figures are in line with the pattern over the last ten years, the CEC consider the Marine Estate has particular potential for considerably increased income.

67. This potential stems from the fact that the CEC manage 55% of the foreshore of the UK and almost all the seabed out to the 12 nautical mile territorial limits, and have in addition the vested rights to explore and utilise natural resources of the UK continental shelf areas, which extend to the 200 nautical mile limits. These rights include the sub-soil, minerals, and substrata below the surface of seabed, but exclude the rights to oil, gas and coal. The CEC license the generation of renewable energy on the Continental shelf within the Renewable Energy Zone out to 200 nautical miles under the Energy Act 2004. They lease sites for undersea storage of gas and carbon dioxide under the Energy Act 2008.

68. By virtue of the Crown's rights, the CEC act as gatekeeper for any organisation or individual seeking to use or develop the seabed. So, in his written evidence, Mr Tom Appleby, Senior lecturer in law at the University of the West of England, Bristol, observed that:

ownership of the seabed is generally subject to the public rights of navigation and fishing, but otherwise any activity which significantly interferes with the seabed requires a licence or lease from the Crown. The Crown Estate Commissioners therefore authorise as owners issues as diverse as aggregates dredging, fish farming, marina developments and the creation of underwater structures.⁸⁸

Given the range of the CEC's interests in the marine environment, we have not attempted to provide a comprehensive analysis of all their activity. We have not, for example, looked in any depth at the CEC's role in salmon farming or offshore dredging for aggregates, though we are grateful for the informative submissions we have received on these and other subjects, which we publish with our report. In the following paragraphs we look in more detail at what is at stake in some of the most significant areas of activity both offshore and in ports and harbours, before assessing the extent to which the CEC are rising to the challenges these pose.

Offshore

Renewable energy

69. In the time available, we have chosen to focus on tidal and wave power, rather than offshore wind power, as the challenges in the two newer industries appear greater and more pressing. In written and oral evidence, stakeholders left us in no doubt as to their views. Mr Joe Hulm, a Marine Development Manager representing the Renewable Energy Association, told us that “what we have here is an emerging industry. The industry is required to deliver. The emergence of a new industry is at stake.”⁸⁹ He also considered that this was a new industry where the UK currently has a substantial technological advantage:

Britain is head and shoulders globally above any competitors in terms of technology, know-how, with our significant offshore oil and gas experience, and in terms of legislation, the Marine Bill, et cetera, Marine (Scotland).⁹⁰

And that, therefore, “the risk for the marine renewable sector is that collectively the UK loses this industry to overseas competitors.”⁹¹ In headline terms, he emphasised that renewable energy could contribute to “carbon reduction, energy security and green jobs.”⁹² The Renewable Energy Association provided further detail to support these assertions in their written evidence:

In 1997, the Marine Foresight Panel reported: “It has been estimated that if less than 0.1% of the renewable energy available in the oceans could be converted to electricity, it would satisfy the world demand for energy more than five times over.” The UK is blessed with abundant marine energy, possessing 50% of Europe’s tidal energy resource (10–15% of the global resource) and 35% of Europe’s wave energy resource. Our country is acknowledged to be the current world leader in marine energy technologies. There are numerous developers of marine energy generators, with a handful of lead companies that have reached a critical stage in progressing their technology to market.⁹³

70. Other stakeholders also pointed out the wider socio-economic benefits that successful development of tidal and wave power could bring. When the Highland and Western Isles councils gave evidence to us, they stressed how important it was for local communities to receive some of the benefits as these new industries developed. Mr Calum Maciver, Director of Development at the Western Isles Council, told us that “we believe an area like the Outer Hebrides has got some of the richest marine resources in Europe and it will be a failure in many ways if the Crown Estate do not take best advantage of it and it will be a

89 Q 3

90 Q 14

91 Q 23

92 Q 21

93 Ev 64

failure in many ways nationally and locally if we do not make that resource work for us.”⁹⁴ He went on to explain that:

[...] They [the Outer Hebrides] are situated on the very periphery of Europe where the economy and the socioeconomics of the areas is dictated by our geography and most of the time that geography is a socioeconomic disadvantage. For once, in offshore renewable and the potential west of the Hebrides our geography gives us real potential. We have got to capture some of that potential coming out of our environment. We have got to capture it and make it work for the Outer Hebrides, so that capturing has to be in community benefit, rentals, manufacturing, getting developments to work. What I see and what I think is important is that there is local benefit for the area.⁹⁵

Similarly, in their written evidence the Highland Council stressed that “a vital concern of the Council’s is that it needs to secure major local financial community benefits (in addition to employment, training and business benefits) from marine energy development around the Highlands and Islands.”⁹⁶ Caithness Chamber of Commerce linked the development of renewable energy to the rundown of the Dounreay nuclear site:

As the clock ticks on decommissioning it is critical that any plans to help meet this challenge are implemented now. The area’s economy hangs in the balance and marine renewable energy is the area’s major opportunity and lifeline. Our local supply chain, facilities and location are well placed to capitalise on the opportunities in the Pentland Firth. The Dounreay nuclear site injects some £80 million into the area’s economy each year with one in every five jobs in Caithness located there. A baseline study undertaken in 2006 estimated that Dounreay supports one in every four jobs in Caithness. So as you can see there is extremely urgent need to diversify the area’s economy.⁹⁷

Gas storage

71. Renewable energy is not the only new opportunity for offshore economic development. Mr Roddy Monroe is Chairman of the Gas Storage Operators’ Group, a trade association formed in May 2006 with 16 members comprising, it asserts, “almost all the active participants in the GB Gas Storage Market.”⁹⁸ He told us that:

In terms of our gas storage offshore, there is an awful lot at stake. The need for the UK to have additional storage for energy security of supply and for the reduction of transporting was recognised many years ago. In 2007 the need for gas storage was made very clear. Unless gas storage is developed offshore in depleted gas fields, in salt

94 Q 38

95 Q 43

96 Ev 62

97 Ev 87

98 Ev 71

caverns of such a size to give us seasonal storage, we can foresee problems going forward in the future.⁹⁹

For Mr Monroe, the bottom line in terms of what is at stake in this sector was “energy security”¹⁰⁰ and the key issue was “will the projects go ahead or will they not, and if the projects do go ahead then we will have a sort of energy mix and infrastructure to cope with the uncertainty of future energy supplies.”¹⁰¹

Carbon storage

72. There is a third offshore development issue, in relation to carbon capture and storage, arising out of measures to address climate change. Dr Jeff Chapman, Chief Executive of the Carbon Capture and Storage Association, which states that “it brings together a wide range of specialist companies across the spectrum of carbon capture and storage (CCS) technology, as well as a variety of support services to the energy sector”¹⁰², told us that:

The carbon capture and storage industry is likely to be very, very big into the future, probably measured in trillions of dollars. The UK is committed to do four projects and the CO₂ for these four projects will have to be stored offshore. This should position us in the way of this industry, so it is very important that we get on with these projects as quickly and efficiently as possible.¹⁰³

His organisation’s written evidence highlighted that “the UK is now legally committed to ambitious targets, whilst ensuring a diverse and secure energy supply portfolio. Meeting these targets, whilst ensuring a diverse and secure energy supply portfolio, represents a significant challenge.”¹⁰⁴ Dr Jeff Chapman highlighted cost as a major challenge, telling us:

I have to say that whilst it sounds like a very big market, we are dealing with a low value waste product and, therefore, any additional cost in the value chain is very significant, especially because the storage cost of CO₂ is relatively small compared with the cost of capturing the CO₂.¹⁰⁵

Performance

73. The CEC are involved in important developments in harbours and offshore. By virtue of their monopoly position for licensing and leasing the use of the seabed in both domains, they have a pivotal role to play in helping to realise the ambitions recorded in the preceding paragraphs. The CEC’s own assessment of their performance is characteristically upbeat. Their Chief Executive told us that:

99 Q 2

100 Q 21

101 Q 20

102 Ev 66

103 Q 4

104 Ev 66

105 Q 4

the first thing to say is that on all aspects of offshore energy and related activities we are doing all we can to facilitate the development of these things in the national interest—offshore wind, wave and tidal and so on. The position on gas storage is that we have made available our proposed terms for the renting of gas storage facilities undersea since, I think, 2007.¹⁰⁶

And went on to propose that:

When it comes to wave and tidal one of the things that the Crown Estate has done is actually groundbreaking—we are the first country in the world that has actually launched a wave and tidal bidding round. I think that is something of which we can be proud [...]¹⁰⁷

In their written evidence, the CEC observed that, in particular, “the renewable energy programme presents significant challenges to the UK” and outlines three ways in which the CEC, “by virtue of its ownership and vested rights” is responding to challenges in the marine environment:

- Helping facilitate the establishment of a robust framework to provide confidence for investors and developers to participate in the next phase of the renewable energy programmes.
- Helping facilitate the establishment of offshore transmission networks for electricity distribution.
- Working alongside the UK Government and regulators to establish a robust licensing and leasing programme for the first Carbon Capture Storage projects.¹⁰⁸

Their written evidence went on to emphasise that “in light of these new activities the marine estate has invested in appropriate systems and processes and recruited additional qualified and experienced people from relevant sectors.”¹⁰⁹ Stakeholder assessment of CEC performance is, however, much more mixed.

Performance offshore

Renewable energy

74. It is striking that stakeholders in different types of offshore development have expressed similar concerns about the balance between revenue maximisation and long-term development, partnership working and the CEC’s monopoly position. With regard to renewable, Mr Hulm drew a distinction between offshore wind and wave and tidal power, observing that “wave and tidal is a far less mature industry...I think the industry needs

106 Q 214

107 Q 215

108 Ev 46

109 *Ibid.*

nurturing far more than that much more mature industry that is offshore wind.”¹¹⁰ Whilst commending the CEC “for their drive and ambition to help deliver this industry”¹¹¹ he argued for a more flexible, collaborative approach using pilot projects to demonstrate the technology before rolling out a fully fledged commercial strategy. In their joint written evidence, the British Wind Energy Association and Scottish Renewables were similarly complimentary about CECs boldness but similarly concerned that “the competitive process has put developers in competition with each other, yet at this early stage, collaboration may be more appropriate if we are to overcome the substantial common hurdles and risks, such as access to the grid. The current process could risk leading to inefficient allocation of sites and resources.”¹¹²

75. In an echo of concerns expressed by some Crown Estate London residents and their representatives, a number of marine renewable stakeholders also urged the CEC to be more transparent, and to consult more. In its written evidence, the Renewable Energy Association stated that “some REA members have stated that it would be helpful if TCE provided more transparency regarding their future plans”¹¹³ and Lunar Energy felt that “there was little or no consultation with industry prior to launching the Pentland Firth and Orkney waters Leasing Round for wave and tidal (PFOWLR) nor was the strategy communicated to stakeholders” and that “we do not believe that the Crown Estate tender process was transparent.”¹¹⁴ The two Scottish councils who gave evidence also urged greater dialogue. Councillor Dr Michael Foxley, Leader of the Highland Council, complained that, in relation to the development in the Pentland Firth:

The first we knew about the details was when we opened our newspapers on that particular Monday morning. Argyll had no fore knowledge of the developments off the Argyll Islands...Now that is not remotely partnership working.¹¹⁵

The Scottish councils referred to the Memorandum of Understanding that they and other councils were discussing with the CEC and which they hope will, as Mr Maciver put it, “drive them down the partnership route.”¹¹⁶

76. In his evidence to us, Mr Bright acknowledged concerns around consultation and general approach, explaining that lessons had been learned from the wave and tidal bidding round:

One of the things that was a mistake, there was a perceived need to get on with this as quickly as possible because there was a lot of pressure to get the wave and tidal industry off the ground, and we were obviously very keen to play our part in that; but with the benefit of hindsight perhaps we could have undertaken more consultation

110 Q 13

111 Q 25

112 Ev 85

113 Ev 66

114 Ev 89

115 Q 42

116 Q 48

in the early stages. This was not a deliberate omission, if I can put it like that; it was because we wanted to get this moving as quickly as we could. The Pentland Firth wave and tidal round does provide for demonstration models of about 10 megawatts and also anywhere else in the UK developers who want to install demonstration projects under 10 megawatts can apply for us do so.¹¹⁷

In sum, he acknowledged that the CEC needed to “be careful of over promising and make sure that we consult properly.”¹¹⁸ **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.**

Gas storage

77. The Gas Storage Operators Group was particularly critical of the CEC’s performance in the marine environment. Mr Monroe told us that “from an offshore development perspective, I believe the Crown Estate is seen as one of the biggest impediments to actually getting the projects to fruition with the level of rental charges that they are proposing, the delay that we are having in actually trying to get the lease arrangements sorted out.”¹¹⁹ He was forthright in his assertion that “there appears to be no real focus from the Crown Estate on the wider need for gas storage and purely focusing on revenue generation.”¹²⁰ He was also very critical of the CEC’s monopoly position, accusing them of including a monopoly element in its rental charges for offshore fields, and arguing that “if ever there was a case for some form of regulatory oversight this is one where it is needed.”¹²¹

78. The Gas Storage Operators Group’s written evidence further developed the argument that the CEC’s charging regime for this sector puts them in breach of their statutory duties under the Crown Estate Act 1961 which, as we noted in a previous section, instructs the CEC to “exclude any element of monopoly value.” To comply with the Act, the Gas Storage Operators Group asserted, “the CEC should introduce rental charges based on administrative cost plus a reasonable return for risk undertaken (if any).”¹²² In response, the CEC mounted a robust defence of their record, though they subsequently had to correct their statement that they had “reached agreement with three of the four operators”¹²³ in this area. In supplementary evidence, they explained that “the precise position is that we have reached settled terms with two and are close to settling all but the rent with a third.”¹²⁴ With respect to rent charges, the CEC advised that:

117 Q 215

118 Q 218

119 Q 6

120 Q 6

121 Q 17

122 Ev 71

123 Q214

124 Ev 118

Undersea gas storage is a commercial activity in a competitive market and that it is fair and reasonable to charge a commercial rent for this activity; and that such a rent may legitimately exceed the cost plus basis favoured by GSO9 without offending the rules around anti-competitive behaviour.¹²⁵

The CEC also offered to refer the level of rents either to the Valuation Office or an alternative independent valuer and we also received further written evidence from the CEC and Gas Storage Operators Group about their discussions.

79. There appear to us to be two issues here. The first is whether the CEC are abusing their monopoly obligations under the Crown Estate Act 1961. This could potentially be decided in the Courts. The second is whether, regardless of whether it is permissible for the CEC to charge commercial rent in this context, it is in the wider public interest for it to do so. As this issue feeds into a wider debate we explore it in the final section.

Carbon storage

80. The development of carbon storage is at an earlier stage than gas storage. Dr Chapman explained that he had “no problems”¹²⁶ with the CEC at the moment, and that they were being “as helpful as they possibly can.”¹²⁷ The risk therefore is that there will be disputes over applicable rent charges in the future. As Dr Jeff Chapman explained, however, the context will be different because “support for carbon storage will arise out of a levy on electricity consumption, so that levy on electricity consumption will pay the operators of the carbon capture and storage chain to do their thing and some of that money will get paid to the Crown Estate.”¹²⁸ He further observed that “how we determine that amount of money fairly I actually do not know at the moment, given the monopoly position, but you can see that there is the potential here for this to become regarded as a stealth tax.”¹²⁹ In anticipation, perhaps, of stormy waters ahead, he urged the CEC, when they come to setting lease fees for carbon storage, to be “open, transparent and fair. Be prepared to justify the level of fee, because it will be very difficult to justify, and be prepared to be scrutinised on that. I would not like to see a propensity for regulators, but I do agree with Roddy [Mr Monroe] that this is unusual in that it is an unregulated monopoly.”¹³⁰

Ports and harbours

81. The CEC have a long-standing involvement with ports and harbours where the Crown owns the seabed and any foreshore. In its memorandum, the British Ports Association, a membership organisation representing 86 port authorities throughout the UK, told us that “the majority of BPA members will have dealings with the Crown Estate mainly in reaching agreement on leasehold negotiations, but also on joint projects to develop the

125 Ev 118

126 Q 23

127 Q 22

128 Q 15

129 Q 15

130 Q 31

marine estate.”¹³¹ In oral evidence, Mr Ted Sangster, Chief Executive of Milford Haven Port Authority, representing the British Ports Association, highlighted the challenges arising from the need to support on land new developments offshore:

[...] for the UK to secure the maximum potential for what has been identified offshore there is some £1 billion going to be spent, needing to be spent, in new port facilities over the next ten to fifteen years. Therefore, it is important for ports and the role of ports to be recognised by all those who have a part to play, including the Crown Estate, and in forming the linkages and involving ports to assist UK plc in gaining the maximum advantage.¹³²

82. In his evidence to us, Mr Sangster explained that the British Ports Association would like the CEC to play a more active role in developing the infrastructure necessary to support offshore development. He asserted that “if they [CEC] adopted a more flexible point of view the long-term benefits to them and also to the ports and the communities would be increased.”¹³³ He felt that “they are very much driven by this revenue remit”, and argued that in “some circumstances, perhaps a new development or where there is a degree of regeneration” it was not always appropriate for CEC to look for “15% up front.” In fact, “loading their requirements upfront can swing a potential development into either not taking place or taking place in a different way.”¹³⁴ He also expressed concern about the CEC’s monopoly position, explaining that:

In terms of ports, many of which have dealings with the Crown Estate for leases for extraction of the seabed, there is the recognition and the slight discomfort that the Crown has a monopoly and there is no reference point to the market value in what is being discussed and agreed or proposed. Whilst in the main there are not many significant difficulties, there is always at the back of my colleagues’ minds in ports, in dealings with the Crown Estate, whether what is being required of them is a true reflection of the market value when the only market is from the one supplied at Crown Estate.¹³⁵

In sum, whilst he was at pains to stress that “the situation with ports and the Crown Estate has improved significantly over the past ten years and that is very positive” there remained a tension between “abstracting as much revenue as possible and long-term sustainability and many opportunities are perhaps not being maximised by the views taken by the Crown Estate in extracting as much as they can at the moment.” His impression was that the CEC “speak and they talk about their preparedness to invest and to work in partnership [...] but there have not been many instances of such delivery[...]”¹³⁶

131 Ev 87

132 Q 4

133 Q 11

134 Q 11

135 Q 16

136 Q 31

83. Councillor Foxley expressed similar concerns more robustly. He spoke in particular of his frustrations about the “protracted negotiations”¹³⁷ with the CEC when he was a member of Maillaig Harbour authority, over the development of an outer breakwater. Recalling that “the Crown Estate were not actively involved with that development or assisting in that development,”¹³⁸ he pointed out that “Maillaig Harbour is an example that applies to the other harbour authorities and Trust Ports in Scotland. It controls the water but it does not control the seabed.”¹³⁹ What he was looking for was partnership, but he felt that the CEC were only interested in “rent collection” and that “to actively work to progress the development, that is what is lacking.”¹⁴⁰ Whereas Mr Sangster’s solution was for the CEC to become more actively involved in longer term projects, Councillor Foxley went further and advocated transfer of ownership of the relevant part of the seabed to harbour authorities “to own and manage the seabeds in the best interests of the community.”¹⁴¹

84. In his evidence to us, however, the CEC’s Chief Executive confirmed that:

we have a policy which is generally disposed against selling bits of seabed [...] and the reason for that is bitter experience because in the past historically we had sold parcels of land in ports and harbours and we found that that stores up a problem for the future because somebody may come along 20, 30, 40 years later and want to construct a new development of some sort of harbour and it can be extraordinarily messy if there is a patchwork quilt of ownership in the harbour.¹⁴²

He did stress though that “we grant long leases [...] which we have never found has been an inhibition to development or the financing of development.”¹⁴³

85. Improvements in the facilities provided by ports and harbours are an essential part of being able to service the important offshore developments now required. **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.**

86. We were not able to investigate further the role of the CEC within harbour authority areas due to the limited scope of our inquiry, but consider that this particular sphere of the CEC’s operations warrants further consideration by the CEC. We explore the broader question about the CEC’s monopoly position below.

137 Q 40

138 Q 40

139 Q 40

140 Q 40

141 Q 40

142 Q 220

143 Q 220

Monopoly position

87. As the above sections reflect, there is a widespread concern about the CEC’s monopoly position in the marine environment. The CEC and Treasury both confirmed to us that they recognise that the CEC is in a monopoly position and we asked Mr Bright how, as a monopoly, the CEC set a fair price for the rental of marine developments. He replied that:

That is a very good question. Basically, the first thing to say is that our Act expressly says that we may not take advantage of our monopoly position; so we are quite clear, it is spelt out that we cannot exploit our monopoly position. How do we do this? Basically, we have to find a starting point and the starting point is, if you like, an analogous activity that might be undertaken on dry land. Many of these activities – not all of them, obviously wave and tidal are not one—cables, pipelines, wind farms and so on, there is a dry land starting point. We then go to independent valuation experts who will arrive at a value using the guidelines of the RICS Red Book which actually explains how you discount any element of monopoly value. On certain new industries we will take advice from other independent consultants, so in relation to carbon capture and storage, for example, we took advice also from Ernst and Young and also from an energy consultancy called Oxera to satisfy ourselves that we were actually looking for a fair rent from these sites. So that is what we are trying to do.¹⁴⁴

We were also concerned about how operators could appeal against a level of charging by the CEC that they considered unfair when the CEC’s marine operations are an unregulated monopoly. The British Ports Association reported that “within the BPA we have got a Memorandum of Understanding with the Crown Estate of an appeal procedure which brings in the district valuer as a means of reference for that. It has not been used often, but it is there and it is a mechanism which would appear to be appropriate.”¹⁴⁵ Mr Monroe of the Gas Storage Operators’ Group was more frustrated by his situation, observing that “at the moment we talk to the Crown Estate and we say, ‘we are sorry, we cannot accept these rents. These rents will materially damage our projects’, and the Crown Estate says, ‘Well, go onshore’. As I explained previously, you cannot go onshore.”¹⁴⁶ The Minister in her evidence to us on this question pointed out that “there is the option for any operator that thinks they have been a victim of a monopoly situation to approach the Office of Fair Trading on this.”¹⁴⁷

88. It seemed to us that the Memorandum of Understanding between the BPA and CEC provides a useful pathway for considering disputed charges in that context. We see that there could be merit in the CEC clarifying with other sectors how they will respond to appeals against charges they are setting. However, we believe there are bigger and important questions here about the CEC’s monopoly position. We therefore welcome the

144 Q 216

145 Q 17

146 Q 17

147 Q 281

Exchequer Secretary's view on this in her evidence to us that she thinks "there is a case for looking at it"¹⁴⁸ and that "this is a matter we do have to look at"¹⁴⁹.

89. 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.

Marine planning and regulation

90. As a number of submissions highlighted, there is also an important further dimension to partnership working in the marine environment—the relationship between the CEC's leasing and licensing arrangements in the marine environment and the government systems for planning and regulating the use of that environment. The evidence we received directed our attention to the need for the CEC to "work with the grain of government" with respect to two new Government bodies—the Marine Management Organisation (MMO) and Marine Scotland, following the Marine and Coastal Act 2009 at Westminster and the passage of the Marine Scotland Act 2010 in the Scottish Parliament. The MMO will "deal with a range of functions (including marine planning, licensing and enforcement) that together provide a holistic approach to marine management,"¹⁵⁰ while Marine Scotland will fulfil a similar remit with respect to Scottish waters. DEFRA's Marine Bill White Paper noted that "the MMO will [...] need to develop a close working relationship with the CEC when exercising its functions" and expressed the hope that:

This close relationship will evolve through the marine planning process, and the MMO will benefit from understanding the Crown Estate Commissioners' position. In turn, the Crown Estate's involvement in the preparation of marine plans will enhance its understanding of Government policy in the marine area, which will assist in its performance of its general duty—for example, through granting licences in relation to the Crown's property interests in relation to the seabed.¹⁵¹

DEFRA's 'Managing our Marine Resources: The Marine Management Organisation' publication further noted that "as the MMO and The Crown Estate will need to work together on a number of activities, the need for a Memorandum of Understanding will be explored."¹⁵² Ms Linda Rosborough, Head of Marine Planning and Policy, Scotland Government, recognised the need for a close relationship between the CEC and Marine Scotland and explained that:

The legislation both in terms of the Scottish legislation and the UK legislation brings in a new statutory system of marine planning and the Crown Estate will be bound by marine plans, as other government agencies and departments are bound by marine

148 Q 281

149 Q 283

150 DEFRA, *A Sea Change: A Marine Bill White Paper*, Cm 7047, March 07, executive summary

151 *Ibid.*, p 147

152 DEFRA, *Managing our marine resources: The Marine Management Organisation*, 2009, p 31

plans. So the new legislation will provide an integrating force and a momentum in the right direction.¹⁵³

91. Several submissions drew attention to the potential for duplication and delay if the Government bodies and the CEC did not develop a suitably close relationship. The Renewable Energy Association expressed surprise that “as owners/managers of the seabed, the Crown Estate was no more involved than any other marine stakeholder or consultee in formulation of the Marine and Coastal Access Bill,” and observed, with a degree of understatement, that “it would be helpful to developers if the marine licensing system and seabed leasing arrangements for development were to be integrated.”¹⁵⁴ The Carbon Capture and Storage Association similarly stressed that “there is a strong need to ensure that the role that TCE plays in the development of CO₂ storage is fully compatible with and complementary to other regulation” and that “whilst the role of landlord is different to that of the regulator (DECC), the two will need to work very closely together to avoid any bureaucratic duplications or complications.”¹⁵⁵ The Scottish councils also highlighted the need for integration of the role of the CEC with the responsibilities of Marine Scotland for marine planning and licensing.

92. We put it to Sarah McCarthy-Fry MP, the Exchequer Secretary to the Treasury, that having both the Government’s system of licences and fees and the CEC’s system of leases and charges could create extra delays and bureaucracy compared with countries where only Government is responsible for managing the seabed. We asked whether the two-tier arrangement was under review to check that it was not getting in the way of urgent, offshore development. We were reassured by her response that “if it could be shown that it was getting in the way then, yes, it would need to be looked at.”¹⁵⁶

93. 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.

94. 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.

153 Q 70

154 Ev 66

155 Ev 67

156 Q 284

Wider benefit

95. In the marine environment, as with the urban environment, local socio-economic issues were prominent concerns raised with us. The contrast in locations between communities in housing estates in the middle of London and communities spread across the Highlands and Islands was striking. However, in both cases, the community representatives argued that the CEC should give greater weight to local social factors in their approach. In London, the issue was the need for affordable housing and stable communities in the centre of the city. In the Highlands and Islands, the issue was the need for the marine environment to contribute to local development in remote communities. In both cases, the question was the extent to which the CEC can and should recognise these factors in fulfilling its statutory remit.

96. The Scottish councils which gave evidence to us stressed the importance of the marine environment to communities in the Highlands and Islands. This is apparent from the region's location as shown on the map in the CEC's evidence of the UK's territorial sea and continental shelf areas.¹⁵⁷ It is also noteworthy that the six Highlands and Islands councils that produced the report on the Crown Estate in Scotland¹⁵⁸ have a foreshore that is nearly 30% longer than the total length for England and Wales. The councils were frustrated that local communities were not benefiting from the CEC's involvement in traditional activities such as harbours and determined that there should be major economic benefits for the region arising from its location at the centre of marine renewable energy development. As Mr Maciver, Director of Development, Western Isles, told us "the investment by the Crown Estate in our communities is fairly minimal. They will be involved in some small-scale pier work with communities but that is very, very marginal to the potential that exists in the marine resource around us."¹⁵⁹ Councillor Foxley, leader of the Highland Council, noted that "there is nothing in terms of pump priming to get the pilot projects going. In the vast majority of cases they are simply collecting rental without any communication and it is a fact that is so annoying."¹⁶⁰

97. We noted earlier the discussions between the councils and CEC over a memorandum of understanding. This seems to us to offer scope for improvements in traditional activities such as harbours and to develop the partnership working necessary to realise the training, employment and business benefits that renewable energy development could bring the region. However, the councils believed there should be additional major financial benefits to communities from these developments. Councillor Foxley agreed with our suggestion that he was looking for some finance to be diverted from the renewable industry, in the same way as the Shetland Islands Council received funds from the offshore oil industry. Mr Maciver added that:

157 Ev 45

158 The Report of the Crown Estate Review Working Group, *The Crown Estate in Scotland: New opportunities for public benefits*, December 2006. See also paragraph 105 of this Report.

159 Q 44

160 Q 45

We would like the Crown Estate and other developers, maybe along the Shetland model, to be contributing to a fund that can help the University of the Highlands and Islands, that can help us locally to drive new technology and new ideas in the area. It is a way for the Crown Estate, if you like, to reinvest in the community.¹⁶¹

98. We asked Mr Bright for his thoughts on a socioeconomic fund along the lines envisaged by the Scottish councils, he replied that:

I think it would be very difficult under the terms of our Act for us to put money straight into such a fund. I think it would almost certainly fall foul of the provisions in our Act.¹⁶²

He was in fact very careful in his assessment of where the CEC could help to realise wider community benefit from offshore renewable energy, laying most stress on spin-offs from “economic activity in the communities.”¹⁶³ To develop onshore wind farms, companies are required to put a capital sum and an annual income into a community fund. We pressed the Chief Executive on whether the CEC was prohibited from entering into such arrangements with the communities which were hosting its activities. He replied that:

I think it is fair to say that the Crown Estate Act would not allow us simply to make payments into a fund[...]¹⁶⁴

When further pressed, he made it clear that, in the CEC’s view, it was for developers, rather than the CEC, to contribute to socio-economic funds.

99. We note that, as the CEC themselves pointed out, they can make some relatively small direct contributions to coastal communities as they do through their Marine Stewardship Fund, but we accept that the provisions of the Crown Estate Act essentially preclude the CEC contributing directly on any substantial scale to a socio-economic fund. We do consider, however, that the CEC should be more engaged with the councils and Scottish Government in seeing how its operations can facilitate the development of the local economy and community in the Highlands and Islands. This should include, for example, putting socio-economic benefit on the agenda in their discussions with potential developers to see how they might be able to contribute.

100. 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. In section 9, we explore further the degree to which the CEC have the flexibility to accommodate such wider public interests within their remit to generate

161 Q 50

162 Q 221

163 Q 221

164 Q 222

revenue for the Consolidated Fund, and whether there is a role for Government to assist them to strike the most appropriate balance.

8 Scotland

Extent of holdings

101. Since 2002 the CEC have ceased to treat Scotland as a separate business division. Nonetheless, we have opted to consider the CEC's activities in Scotland separately both because of the distinctive character of their holding and because of the number of submissions we received expressing concern about the CEC's lack of accountability in Scotland.

102. In 2009, the CEC produced a Scotland Report which provided financial figures for the operations of their Marine, Rural and Urban Estates in Scotland. In total, the Crown Estate in Scotland accounts for 4% of the value of the overall Estate and 6% of revenue—so the CEC's interests in Scotland represent only a very small part of the UK-wide Crown Estate. In Scotland, the CEC's marine activities produced the largest gross revenue surplus (£7.4 million in 2008–09), and their rural holdings had the highest property value (£109.6 million in 2008–09).

103. The Crown property, rights and interests in Scotland that are managed by the CEC are legally different from those forming part of the Crown Estate in the rest of the UK. This is because Crown property rights in Scotland are defined and governed by Scots law, including Scotland's Crown rights in Scotland's territorial seabed and continental shelf area. The distinct character of the Crown rights in Scotland is also reflected in Crown rights that have no equivalents elsewhere—as shown in the CEC's schedule in the Appendix. The position is recognised by the inclusion of provisions relating to the Secretary of State for Scotland in the Crown Estate Act 1961 and the designation of one of the CEC Board members as 'Scottish Commissioner.'

104. Devolution is another important part of the different context in Scotland. As a result of the Scotland Act 1998, the Scottish Parliament can legislate over the extent and nature of Crown property rights in Scotland, legislate to regulate the use of land and property rights and issue guidance on standards of good management. However, the Act reserved the CEC's administration of Scotland's Crown property rights that make up the Crown Estate in Scotland, and their revenue to Westminster. The Secretary of State for Scotland therefore remains the Minister responsible for the CEC's operations in Scotland.

Issues at stake

105. As we saw in our discussion on the Marine Estate, the Scottish councils who gave evidence to us were frustrated with the state of their relationship with the CEC. The Highlands and Islands councils published a report in 2007 entitled "The Crown Estate in Scotland—New Opportunities for Public Benefits"¹⁶⁵ that called for a full review of the Crown Estate in Scotland. In his evidence to us, Councillor Foxley, Leader of Highland

¹⁶⁵ The Report of the Crown Estate Review Working Group, *The Crown Estate in Scotland: New opportunities for public benefits*, December 2006. Our Specialist Adviser was also the Specialist Adviser for the Councils' Report.

Council, told us bluntly that “the management of the Crown Estate should be managed in Scotland...The management should be transferred to Scotland and then down to the local authorities over certain aspects to get that management right.”¹⁶⁶ He acknowledged, however, that little had changed since the publication of the report. Mr Maciver of Western Isles Council further observed that “there has been a breakdown in relationships.”¹⁶⁷

106. In similar vein, Ms Linda Rosborough, Head of Marine Planning and Policy, Scottish Government, affirmed the view of the Scotland Government that the optimum means of improving relations with the CEC in Scotland would be through the “administration of the Crown Estate to happen within Scotland under a different constitutional arrangement.”¹⁶⁸ Short of this though, she told us that “we are looking for additional leverage over the administration of the Crown Estate in Scotland.”¹⁶⁹ She acknowledged that “I think the Crown Estate has improved in terms of the visibility of the work they are doing in terms of additional investment,”¹⁷⁰ but felt that problems remained with regard to their accountability, engagement and involvement in Scottish affairs, observing that “the Crown Estate is quite an Anglo-centric body as it stands at the moment.”¹⁷¹ To counter-balance this, she stressed the importance, “if we continue with the current arrangement”¹⁷² that there is a [Scottish] Commissioner who has knowledge of Scottish interests” particularly “given that half the seas around the UK are Scottish seas”.¹⁷³

107. The CEC have a different view of their Scottish interests and relationships. Their Scottish Report states that they are a commercial organisation “but with a difference”, and puts great emphasis on the long-term economic benefits they bring to Scotland and “the strengths of the partnerships we have formed”. They highlight in particular their major commitment of time and resources to support the growth of marine renewables, their £6 million investment over the last three years in ports, harbours and marinas, their support for fish farming, and support for Scottish agriculture. They also emphasise their commitment to improving relationships in Scotland, citing by way of example the Scottish Liaison Group that they have set up to “help us work more effectively with our partners in Scotland.”¹⁷⁴

Calman Report and beyond

108. In 2009, the same issues were considered within the wider context of the inquiry of the Commission on Scottish Devolution chaired by Professor Calman. The Report acknowledged that the Commission had received evidence calling for the CEC to be

166 Q 34

167 Q 37

168 Q 67

169 Q 67

170 Q 71

171 Q 78

172 Q 78

173 Q 78

174 The Crown Estate, *Scotland Report 2009*, July 2009, Overview

devolved “to enable the Crown Estate to be made more accountable and to help ensure that its Scottish assets are managed in Scotland’s interests”.¹⁷⁵ It noted, too, arguments that “the current management of the Crown Estate focuses too narrowly on securing revenue, leading to unnecessarily high charges, and that this surplus is not fully re-invested into Scotland.”¹⁷⁶ It observed though that “an important counter-argument to this, however, is the benefits that the Crown Estate in Scotland derives from being part of a much wider (and more profitable) Estate” and that “Crown Estate profits which flow to the UK Treasury are also used for the benefit of all UK taxpayers.”¹⁷⁷

109. In sum, the Calman Report did not consider that legislative competence over the administration of the Crown Estate in Scotland should be devolved. It did however “take note of the strength of feeling in the evidence submitted that the Crown Estate in Scotland has given too great a priority to maximising income”. This of course is precisely what we also found in relation to the evidence we received on the Urban and Marine Estates. The Calman report recommended, therefore, that:

The Secretary of State for Scotland should more actively exercise his powers of direction under the Crown Estate Act 1961, with the additional requirement for formal consultation with Scottish Ministers in doing so, to ensure that the Crown Estate Commissioners, in discharging their statutory duties, have due regard to Scottish interests and the wider context within which the Crown estate in Scotland operates.¹⁷⁸

110. The Calman Report also believed that “it would be appropriate for the recommendation as to the appointment of a Scottish Crown Estate Commissioner to be made following formal consultation with Scottish Ministers”,¹⁷⁹ a recommendation also subsequently accepted by the UK Government. This seems to us to be a welcome step in the direction of fostering a closer working relationship between the Scottish Government and the CEC. We consider though, given the strong cases made by both Scottish local and national Government, that further steps are also required. The Scottish Government saw merit in having a more formal memorandum of understanding or concordat with the CEC, and during oral evidence the CEC stated that they “would obviously be receptive to that if it was felt that would be helpful.”¹⁸⁰ We also see merit in this. The extent of the Scottish Government’s powers and responsibilities, including those over Scotland’s marine environment and renewable energy development, mean that it is essential that there is a close and constructive working relationship between the CEC and the Scottish Government. Finally, we consider that in order to engage with the Scottish Government,

175 Calman Commission on Scottish Devolution, *Serving Scotland Better: Scotland and the UK in the 21st century*, June 2009, p 179

176 *Ibid.*, p 180

177 Calman Commission on Scottish Devolution, *Serving Scotland Better: Scotland and the UK in the 21st century*, June 2009, p 179

178 *Ibid.*, p 181

179 *Ibid.*, p 181

180 Q 152

and to adapt as necessary to the different public policy environment in Scotland, the CEC will need greatly to strengthen their management arrangements within Scotland.

111. 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.

112. The UK Government rejected the Calman Commission recommendation that the Secretary of State for Scotland should, in consultation with Scottish Ministers, more actively exercise his powers of direction under the Crown Estate Act 1961, affirming only that "the Government recognises the case for proactive engagement with the Crown Estate in Scotland, and the Secretary of State does and will continue to engage on important issues as they arise, but that "the statutory powers of direction in the 1961 Act, a reserve power for use in extreme circumstances never used, remains a sanction of last resort."¹⁸¹ We explore wider questions about the oversight role of Government in relation to the CEC, and the scope of its powers of direction, in the next section.

181 Scotland Office, *Scotland's Future in the UK: building on ten years of Scottish devolution*, CM 7738, November 2008, p 28

9 The wider public interest

113. The more we have looked at CEC activity within its individual business divisions, the more we found ourselves asking a larger question—what exactly should the CEC do? It is clear that the CEC see themselves primarily as a well-managed, commercial business organisation. Other stakeholders, however, want the CEC to give greater prominence to wider public interests and act more as if they were a government agency. In truth, the CEC are neither of these. In many areas—such as for instance retail property in central London and elsewhere—their management of the Crown Estate along professional, commercial lines is appropriate and is producing commendable results. However, in other areas—such as their management of affordable and key worker housing and aspects of their role in the marine environment—we believe that the CEC could align its policies more with wider public interests. Left alone, the CEC will be cautious about how much weight they place on wider public interest considerations, not least because of their concerns over the extent that they are constrained by the terms of the Crown Estate Act 1961. We turn our attention now, therefore, to the flexibility in the Act and the Government’s oversight role, and consider whether Ministers should take the opportunity to align the CEC’s operations better with wider public aims.

Good management

114. We asked Sarah McCarthy-Fry MP, the Exchequer Secretary of the Treasury, about the extent to which the Government considered the CEC might be able to help deliver wider public interests while fulfilling their duty to maintain and enhance the value of the Crown Estate and the return obtained from it to public funds. The following oral evidence exchange makes the Government’s opinion quite clear:

Chairman: So you are not specifically interested in how they might meet wider public policy objectives of the Government?

Sarah McCarthy-Fry: I do not believe it is in their remit.¹⁸²

We consider that the CEC has more flexibility to accommodate such interests than the Government appears to realise. We note, first, that the CEC’s remit in the 1961 Act to increase value and revenue is subject to giving “due regard to the requirements of good management”. As discussed in previous sections and acknowledged by the CEC, the standards of good management for the CEC as a public body go beyond those of the private sector. The question is the extent to which other public interests can or should be accommodated as part of the CEC fulfilling its financial remit. There is, for example, no requirement in the Act for the CEC to *maximise* the value of the Crown Estate or of the return obtained from it. The requirement to enhance value and revenue is also for the overall Estate, not in every instance. While Section 3(1) of the Act does oblige the CEC to secure “*the best consideration in money or money’s worth which in their opinion can reasonably be obtained*” in their transactions, this is followed by “*having regard to all the*

circumstances of the case, but excluding any element of monopoly value attributable to the extent of the Crown's ownership of comparable land [our italics]". Section 3(6) and Section 4 are other provisions in the Act that also give the CEC discretion in deciding the "best consideration" in particular situations.

115. The issue between the CEC's financial remit and taking account of other public interests comes into sharp focus in the marine environment where, as Mr Bright put it:

There is a need for us to make sure that we are not doing anything other than supporting the achievement of government policy in this instance, but also we are realising a return from our assets which is our statutory duty.¹⁸³

What though is a reasonable rate of return in these circumstances? During the course of our inquiry, many concerns were raised with us about the level of the CEC's charges, including concerns about their impact on public policy goals. We consider next whether the Government should play a stronger role in assisting the CEC to strike the most appropriate balance between raising revenue for public funds and supporting wider public interests.

Government's relationship with the Crown Estate Commissioners today

116. As we have seen in previous sections, the two lead Government departments—HM Treasury and the Scotland Office—both take a fairly narrow view of their responsibilities in relation to the CEC. In written evidence, HM Treasury told us it had "limited powers of oversight" and observed that "it is rarely necessary to trouble Treasury Ministers with matters involving TCE's management in the round."¹⁸⁴ In oral evidence to a previous inquiry the Exchequer Secretary told us that the CEC's remit was simply "to deliver best value for the taxpayer"¹⁸⁵ and that "the Crown Estate are managed at arm's length"¹⁸⁶ Similarly, in its response to the Calman Report, the Scotland Office was only interested in engaging in important matters as they arise.

117. We were struck by the extent to which dialogue between Government and the CEC takes place at official level, and how seldom officials appear to see a need to engage Ministers subsequently. **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.**

Powers of direction

118. The Crown Estate Act 1961 granted powers of direction over the CEC to the Chancellor of the Exchequer and the Secretary of State for Scotland. Section 4 states that:

183 Q 150

184 Ev 101

185 Oral evidence taken before the Treasury Committee on 8 December 2009, HC (2009-10) 156, Q 521

186 *Ibid.*, Q 526

The Commissioners shall comply with such directions as to the discharge of their functions under this Act as may be given to them in writing by the Chancellor of the Exchequer or the Secretary of State.

However, the section also states that “in giving powers of direction”, Ministers:

shall have regard to subsection (3)—the general duty of the Commissioners to maintain and enhance revenue and value with due regard to the requirements of good management.

There is a legitimate debate to be had, therefore, about the scope of the powers of direction.

119. In supplementary written evidence to us, HM Treasury claimed that “the Act clearly expects the power to be used exceptionally, and only within the requirements of subsection (3).” The Scotland Office’s response to the Calman Commission Report similarly asserts that the powers of direction are “a reserve power for use in extreme circumstances never used...a sanction of last resort.”¹⁸⁷ In oral evidence, the Exchequer Secretary told us that she could only really apply powers of direction where the CEC was clearly acting outside the terms of the Crown Estate Act 1961. She did not see them as strategic powers that might also serve to help the CEC to interpret their remit in the light of changing circumstances.

120. We discussed the powers of direction with Speaker’s Counsel. As a matter of construction, we consider there is nothing in the Act to indicate that the powers of direction are only to be used in exceptional circumstances. Even though they have never been used, they are not necessarily a nuclear option. It is also evident on the face of the statute that it cannot have been intended that the power was intended to be limited to directing the CEC to abide by the Act. If that were the limit of the power, there would have been no reason to make provision in s.1(4) for the possibility that a direction might conflict with the duty under s.1(3) by noting the need that any directions must “have regard to” that duty.

The way ahead

121. We consider that the Government has more scope to provide advice and, if necessary, direction than it appears to realise. We accept that the CEC are not a Government agency and do not require comparable political direction. However, given that there is a balance to be struck, and that there are exceptional circumstances in the marine environment arising from the need to develop new industries and help ensure that some of the benefits are felt by local communities, we consider that the Government does have a locus to provide stronger guidance to assist the CEC at this time. The issue is not whether the CEC depart from their statutory obligations, but rather that, with the Government’s help, they should seek to interpret them in a manner which is more sympathetic to wider public interests. This rebalancing exercise may well be achievable without reference to powers of direction. However, with a new endeavour on the scale of marine renewable energy and where the government has clearly stated strategic policy objectives, a formal direction from

¹⁸⁷ Scotland Office, *Scotland’s future in the UK: building on ten years of Scottish devolution*, Cm 7738, November 2009, p 28

ministers could provide a useful framework for the CEC. If such a formal power of direction were seen to be helpful by the CEC and/or the Government, we consider that the powers of direction are sufficiently broad to enable the Government to guide the CEC to re-balance its general approach to encompass more issues of wider public interest.

122. 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.

Wider Review

123. As we observed at the beginning of this report, this has been a necessarily short inquiry, albeit one that has thrown up more fundamental issues than we had originally anticipated. We believe that, in the wider public interest, the Government should take a more active role in its relationship with the CEC. We are clear that there is sufficient flexibility within the current framework for the CEC and Government to work more closely. That said, as the Exchequer Secretary remarked to us, the Crown Estate Act 1961 “is a very old Act.”¹⁸⁸ There is also evidence that the CEC would welcome a review, at least into the financial rules under which they currently operate, and indeed are already pushing against their boundaries.

124. We noted in this context that the CEC have recently started to invest in joint venture property partnerships. We asked HM Treasury whether, given the restriction on borrowing, this was permissible under the Crown Estate Act 1961. Ms Paula Diggle, Treasury Officer of Accounts explained why she had approved the first Joint Venture in 2007—the Gibraltar Limited Partnership—which has since encountered grave difficulties:

I looked into it very carefully with them. I discussed it with my seniors in the office. We first of all check that the vires existed. The vires say that it is proper for the Crown Estate to make investments in land and property, and this is actually an investment in a property asset. It happens to involve incidental borrowing. I was troubled by the apparent but not real conflict with the requirements of the Act. We therefore discussed and voluntarily agreed a limitation—quite a severe limitation—on the extent to which implied borrowing could take place.¹⁸⁹

188 Q 249

189 Q 276

She was cautious, however, on committing herself to approving similar ventures in future, answering that “I would look at it very carefully on its merits at the time.”¹⁹⁰

125. We put it to Mr Bright that the example of the Gibraltar Limited Partnership was of concern. The 2009 CEC Annual Report records, in relation to this joint venture, that “circumstances give rise to material uncertainty that could cast significant doubt upon the partnership’s ability to continue as a going concern.”¹⁹¹ He replied that the Gibraltar Partnership was “very much a toe in the water” and “an extremely small part” of the CEC’s overall portfolio with limits on the extent of the gearing agreed with the Treasury. He accepted though that the joint venture “had been a victim of market developments in the last year or two.”¹⁹² In response to further questioning, he affirmed that “I think we have learned the lessons of that and fortunately the exposure here is pretty small [£18 million]¹⁹³. It was a useful experience.”¹⁹⁴ He was also adamant that the purpose of the joint venture was not to get round the borrowing rules, stating that “we are quite clear that that would not be an appropriate use of such vehicles”. Rather, he explained, that:

The principal purpose was to gain exposure to bigger assets than perhaps we would normally have been able to acquire on our own but also to gain experience and draw on the experience of other people who were more expert in this particular field.¹⁹⁵

126. 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.

127. The Chief Executive of the CEC told us that the CEC would like to see the constraints on borrowing in the Crown Estate Act 1961 eased:

[...] We have managed to live within the 1961 Act as it is. As you kindly observed, we have managed to perform reasonably well within that constraint, but as you mentioned, the property industry has moved on a long way since 1961. It is a more sophisticated industry now than used to be the case. It uses a number of different kinds of vehicles. Having the ability to participate in some of those would, I am sure, be helpful [...]¹⁹⁶

128. 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

190 Q 277

191 The Crown Estate, *Annual Report 2009*, July 2009, p 76

192 Q 140

193 Ev 116 In supplementary evidence the CEC further explained that the £18million was the sum, as at March 2009, they had voluntarily placed on deposit to support the partnership’s banking covenant as the value of the investment declined. The deposit is returnable once values recover and the banking covenant is being fulfilled. It is therefore not irretrievable.

194 Q 141

195 Q 143

196 Q 138

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.

Other scrutiny

129. Finally, we are convinced that our inquiry into the CEC's management of the Crown Estate has been a useful one. **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.**

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)
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)

General Performance

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

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)
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 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)

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 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)
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)
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)
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)
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)
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)

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 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)

Appendix: Schedule of the Crown Estate's properties, rights and interests as at December 2009

This schedule details The Crown Estate's properties by reference to the four main Estates (Urban, Rural, Windsor and Marine). It draws a distinction between property which is ancient possession or a modern acquisition. Rights and interests are detailed in section 5 (*Other Rights and Interests*).

For the sake of conciseness, this schedule includes only properties with areas greater than 1000m² (for the Urban Estate) and greater than 10ha (for the Rural, Windsor and Marine Estates).

The information and figures used in this schedule are as at December 2009.

1. Urban Estate

| County/Unitary Authority | Estate description | Classification and area (in m ²)* | | | | | | Ancient Possession? |
|--------------------------|---|---|--------|--------|-------------|------------|------|---------------------|
| | | Office | Retail | Other* | Residential | Industrial | | |
| England | | | | | | | | |
| Berkshire | Kings Ride Park industrial estate, Farley Hall and Kingswood offices, Berkshire | 12,800 | 500 | 3,000 | -- | 6,000 | No. | |
| | Bath Road Retail Park, Slough | -- | 19,000 | -- | -- | -- | No. | |
| Buckinghamshire | Unit G, Magna Park, Milton Keynes | -- | -- | -- | -- | 60,500 | No. | |
| Cambridgeshire | Cambridge Business Park | 29,000 | -- | -- | -- | -- | No. | |
| Cheshire | Chester Castle | 1000 | -- | 2,000 | -- | -- | Yes. | |
| City of Bristol | Honda vehicle depot, Avonmouth | -- | -- | -- | -- | 167,000 | No. | |
| Cumbria | Carlisle Castle | 2,500 | -- | 500 | -- | -- | Yes. | |
| Devon | Princesshay, shopping centre, Exeter | 1,700 | 28,500 | 500 | -- | -- | No. | |
| | Hoe, Plymouth | -- | -- | 4,000 | -- | -- | Yes. | |
| Essex | Zenith Industrial Estate, Basildon | -- | -- | -- | -- | 18,500 | No. | |

| County/Unitary Authority | Estate description | Classification and area (in m ²)* | | | | | | Ancient Possession? |
|--------------------------|---|---|--------|--------|-------------|------------|----------|---------------------|
| | | Office | Retail | Other* | Residential | Industrial | | |
| England | | | | | | | | |
| | Queensgate Centre retail park, Harlow | -- | 21,000 | -- | -- | -- | No. | |
| Greater Manchester | Altrincham Retail Park | -- | 20,500 | -- | -- | -- | No. | |
| | St James' House, Manchester | 6,500 | -- | -- | -- | -- | No. | |
| Herefordshire | Superstore, Hereford | -- | 6,500 | -- | -- | -- | No. | |
| Hertfordshire | The Willows Business Park, Hemel Hempstead | -- | -- | -- | -- | 5,500 | No. | |
| | Abbey View Campus, St Albans | 8,000 | -- | -- | -- | -- | No. | |
| Isle of Wight | Carisbrooke Castle | -- | -- | 69,000 | -- | -- | Yes. | |
| | Osborne | -- | -- | 4,500 | -- | -- | No. | |
| Central London | Royal Mint Court and offices in Holborn Viaduct and Farringdon Street, City of London | 54,500 | 500 | -- | -- | -- | No. | |
| | St James's (including: Haymarket, Lower Regent Street and Pall Mall) | 281,500 | 41,500 | 30,500 | 14,000 | -- | In part. | |
| | Kensington Palace Gardens and Palace Green | -- | -- | -- | 991,000 | -- | No. | |
| | Lee Green | -- | -- | -- | 5,500 | -- | | |
| | Millbank | 18,500 | -- | -- | 18,000 | -- | No. | |

| County/Unitary Authority | Estate description | Classification and area (in m ²)* | | | | | | Ancient Possession? |
|--------------------------|--|---|---------|--------|----------------|------------|----------|---------------------|
| | | Office | Retail | Other* | Residential | Industrial | | |
| England | | | | | | | | |
| | New Oxford Street | 18,000 | -- | -- | -- | -- | No. | |
| | Park Lane | 2,000 | 3,000 | 2,000 | -- | -- | Yes. | |
| | Regent's Park (including Cumberland Market) | 19,500 | 500 | 38,500 | 1,153,000 | 500 | In part. | |
| | Regent Street | 108,500 | 208,500 | 28,000 | 5,000 | -- | In part. | |
| | Stamford Street | -- | -- | -- | 42,000 | -- | No. | |
| | Trafalgar Square and The Strand | 6,000 | 1,500 | 13,000 | -- | -- | In part. | |
| | Victoria Park | -- | -- | -- | 30,500 | -- | No. | |
| | Whitehall and Victoria | 47,000 | 18,000 | -- | -- | -- | In part. | |
| | Blackheath and Eltham | 1,000 | 2,500 | 9,500 | # ¹ | -- | Yes. | |
| Greater London | Carlsberg, Marlow Way, Croydon | -- | -- | -- | -- | 7,500 | No. | |
| | Hampton | -- | 500 | 500 | -- | -- | Yes. | |
| | Victory Business Centre, Isleworth | -- | -- | -- | -- | 4,000 | No. | |
| | Richmond and Sudbrook | 3,000 | -- | 10,000 | -- | 1000 | Yes. | |
| | Weir Road Industrial Estate, Wimbledon | -- | -- | -- | -- | 10,000 | No. | |
| | Trinity Gardens and Stockbridge House, Newcastle | 14,500 | -- | -- | -- | -- | No. | |
| | The White Lodge Business | -- | -- | -- | -- | 33,500 | No. | |
| | | | | | | | | |
| Newcastle | | | | | | | | |
| Norfolk | | | | | | | | |

| County/Unitary Authority | Estate description | Classification and area (in m ²)* | | | | | | Ancient Possession? |
|--------------------------|---|---|--------|--------|----------------|------------|-----|---------------------|
| | | Office | Retail | Other* | Residential | Industrial | | |
| England | | | | | | | | |
| | Estate, Norwich | | | | | | | |
| Northamptonshire | Crick Distribution Depot | -- | -- | -- | -- | 4,500 | No. | |
| Oxfordshire | Oxonian Park Industrial Estate, Oxford | -- | -- | -- | -- | 12,000 | No. | |
| Somerset | Taunton Industrial Estate | -- | -- | 1,000 | -- | 27,000 | No. | |
| Surrey | Guildford | 24,000 | -- | -- | -- | -- | No. | |
| | Oxshott | -- | -- | 2,000 | -- | -- | No. | |
| Warwickshire | Scottish Equitable House and Atwood House, Birmingham | 1000 | 4,000 | -- | -- | -- | | |
| Wiltshire | Faraday Park, Swindon | -- | -- | -- | -- | 11,000 | No. | |
| Worcestershire | Crown Gate Shopping Centre, Worcester | -- | 31,000 | -- | # ¹ | -- | No. | |
| Scotland | | | | | | | | |
| City of Edinburgh | 39/41 George Street, Edinburgh | 2,000 | 1000 | -- | -- | -- | No. | |

Notes

* Areas have been rounded to the nearest 500m².

** Properties which cannot be classified as being used as office, retail or industrial space. The types of “other” usage includes: The marine biological building at Plymouth Hoe, clubs, hotels, educational and medical centres (for example the Royal College of Physicians and the London Business School), car parks, a police station, leisure facilities (for example, golf clubs), yachting and boat facilities, Palaces (for example the Palace of Richmond) and a village hall.

#¹ These estates contain some residential properties. The Blackheath and Eltham Estate has 130 residential tenancies. The Richmond and Sudbrook Estate has 51 residential tenancies. The Worcester Estate has 15 residential tenancies.

2. Rural Estate

| County | Estate description | Area (in hectares)* | Classification | Ancient Possession? |
|--------------------------|---------------------|---------------------|------------------------------|---------------------|
| England | | | | |
| Bedfordshire | Chicksands | 100 | Forestry | No. |
| Cambridgeshire | Holmewood | 550 | Agricultural | No. |
| Cheshire | Delamere | 50 | Minerals / Derelict building | Yes. |
| | Tabley | 1,450 | Agricultural | No. |
| Cumbria | Aldingham | 250 | Agricultural | In part. |
| | Muchland and Torver | 950 | Common Land | Yes. |
| Devon | Rosehill Farm | 50 | Agricultural | No. |
| Dorset | Bryanston | 2,000 | Agricultural | No. |
| | Bryanston Forest | 150 | Forestry | No. |
| | Portland | 250 | Common Land / Minerals | In part. |
| East Riding of Yorkshire | Derwent | 900 | Agricultural | In part. |
| | Gardham | 450 | Agricultural | No. |
| | Garton-on-the-Wolds | 800 | Agricultural | No. |
| | Sunk Island | 4,650 | Agricultural | No. |
| | Swine | 2,100 | Agricultural | In part. |
| Essex | Stapleford Abbotts | 1,450 | Agricultural | In part. |

| County | Estate description | Area (in hectares)* | Classification | Ancient Possession? |
|------------------|-------------------------------|---------------------------|---------------------------|------------------------|
| | Feering | 50 | Agricultural | No. |
| Gloucestershire | Clearwell | 400 | Agricultural | No. |
| Hertfordshire | Gorhambury | 1,400 | Agricultural | No. |
| | Putteridge | 1,350 | Agricultural | No. |
| Kent | Neats Court (Isle of Sheppey) | 250 | Agricultural | In part. |
| | Romney Marsh | 3,700 | Agricultural | No. |
| Leicestershire | Gopsall | 3,050 | Agricultural | No. |
| | Gopsall Forestry | 150 | Agricultural | No. |
| Lincolnshire | Billingborough | 5,700 | Agricultural | In part. |
| | Ewerby | 1,750 | Agricultural | No. |
| | Friskney | 1,250 | Agricultural | No. |
| | Louth | 1,900 | Agricultural | No. |
| | Whaplode | 2,750 | Agricultural | In part. |
| | Wingland | 4,200 | Agricultural | No. |
| Norfolk | Croxton | 3,550 | Agricultural | No. |
| | King's Lynn | 6,050 | Agricultural / Salt marsh | No. |
| Northamptonshire | Ashby St Ledgers | 650 | Agricultural | No. |
| North Yorkshire | Boroughbridge | 1,350 | Agricultural | In part. |
| Nottinghamshire | Bingham | 3,500 | Agricultural | No. |
| | Laxton | 750 | Agricultural | No. |
| Oxfordshire | Wychwood | 500 | Agricultural | Yes. |
| Somerset | Dunster | 2,600 | Agricultural | No. |

| County | Estate description | Area (in hectares)* | Classification | Ancient Possession? |
|-----------------------|----------------------|---------------------|--------------------------------------|---------------------|
| | Dunster Woods | 1,450 | Forestry | No. |
| | Taunton | 4,050 | Agricultural | No. |
| | Taunton Forestry | 900 | Forestry | No. |
| Staffordshire and | Patshull | 1,650 | Agricultural | No. |
| Shropshire | Patshull Forest | 250 | Forestry | No. |
| Surrey | Oxshott | 700 | Agricultural / Woodland | No. |
| Wiltshire | Devizes | 4,150 | Agricultural | No. |
| | Savernake | 4,000 | Agricultural | No. |
| Wales | | | | |
| Monmouthshire | Tintern | 50 | Agricultural | No. |
| Cardiganshire | Aberystwyth | 50 | Agricultural | No. |
| | Plynlimon | 1,200 | Agricultural | In part. |
| Inland Wales | Welsh Commons | 26,900 | Agricultural / Common Land/ Minerals | Yes. |
| Scotland | | | | |
| Stirling | Stirling | 200 | Grazing / Leisure | In part. |
| Dumfries and Galloway | Applegirith | 6,850 | Agricultural | No. |
| | Applegirith Forestry | 650 | Forestry | No. |
| Moray | Fochabers | 4,650 | Agricultural | No. |
| | Fochabers Forestry | 200 | Forestry | No. |
| | Glenlivet | 18,550 | Agricultural | No. |
| | Glenlivet Forestry | 3,800 | Forestry | No. |
| Midlothian | Whitehill | 1,400 | Agricultural | No. |

| County | Estate description | Area (in hectares)* | Classification | Ancient Possession? |
|--------|--------------------|---------------------|----------------|---------------------|
| | Whitehill Woods | 250 | Forestry | No. |

Notes

* Areas have been rounded to the nearest 50 ha.

3. Windsor Estate

| Windsor Estate | Classification | Area (in hectares)* | Ancient Possession? |
|--------------------------|-----------------------------|---------------------|---------------------|
| Commercial & Residential | Offices, retail and hotel | 250 | In part. |
| Leisure | Golf Clubs/Ascot Racecourse | 250 | |
| Agriculture | Farms | 1200 | |
| Parkland | Home Park/Great Park | 1600 | |
| Forestry | Woodland areas | 3100 | |

Notes

* Areas have been rounded to the nearest 50 ha.

4. Marine Estate

| Estate | Description | Ancient Possession? |
|--|---|---------------------|
| Foreshore (tidal land between Mean High Water and Mean Low Water*) | Approximately 55% of the UK's foreshore (Non-Crown Estate ownership is geographically scattered and includes some substantial areas of coastline, e.g. Cornwall and Lancashire, vested in the respective Duchies). | Yes. |
| Territorial seabed | All the UK's seabed from Mean Low Water* to the 12 nautical mile limit. | Yes. |
| Continental shelf & extra-territorial rights | Sovereign rights of the UK in the seabed and its resources vested by the Continental Shelf Act 1964 (sub-soil and substrata below the surface of the seabed, but excluding oil, gas and coal), the Energy Acts 2004 (renewable energy) and 2008 (gas and carbon storage). | No. |

Notes:

* The definition of foreshore limits is slightly different in Scotland.

5. Other Rights and Interests

| Other Rights and Interests* | Description |
|---|--|
| Bluewater and Solihull shopping centres | The Crown Estate has a 4.97% share of Lend Lease Retail Partnership which provides an equity interest in both Bluewater Shopping Centre, Kent and Touchwood Court Shopping Centre, Solihull. |
| Fort Kinnaird shopping park, Edinburgh; Gallagher retail park, Cheltenham; The Shires retail park, Leamington Spa and Crown Point shopping park, Leeds. | 50% interest. |
| Retail/office buildings, Princes Street, London W1 | 66.67% interest. |
| Savoy Estate Appointment | Right to receive 23% of the income from the Duchy of Lancaster's Savoy Estate in London. |
| Minerals | Mineral rights in land where The Crown Estate does not own the surface interest (approximately 115,000 hectares). |
| Mines Royal | Gold and silver in mineral strata in the UK. |
| Salmon fishings (Scotland only) | Salmon fishings in both tidal and non-tidal waters (if not granted to third parties). |
| Native mussels and oysters (Scotland only) | Ownership of wild crustaceans (not cultivated). |

| Other Rights and Interests* | Description |
|------------------------------------|---|
| Reverters and contingent interests | <ul style="list-style-type: none"> - Properties sold by The Crown Estate for public benefit with a reverter clause, e.g. on cessation of educational or religious use. - Hereditary properties of the Monarch currently in Government use, which revert to The Crown Estate in the event of the Government use ceasing. |

Notes:

* Certain very minor historic rights of no commercial significant are omitted.

Formal Minutes of the Treasury Sub-Committee

Monday 22 March 2010

Members present:

Michael Fallon, in the Chair

| | |
|-----------------|-------------------|
| Mr Graham Brady | Mr James Plaskitt |
| Jim Cousins | Mr Mark Todd |
| Ms Sally Keeble | Mr Andrew Tyrie |
| John McFall | Sir Peter Viggers |

Draft Report (*The management of the Crown Estate*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 129 read and agreed to.

Summary agreed to.

A Paper was appended to the Report.

Resolved, That the Report be the Second Report of the Sub-Committee to the Committee.

Ordered, That the Chair make the Report to the Committee.

[Adjourned to a day and time to be fixed by the Chairman.]

Formal Minutes of the Treasury Committee

Monday 22 March 2010

Members present:

John McFall, in the Chair

| | |
|-------------------|-------------------|
| Mr Graham Brady | Mr James Plaskitt |
| Jim Cousins | Mr Mark Todd |
| Mr Michael Fallon | Mr Andrew Tyrie |
| Ms Sally Keeble | Sir Peter Viggers |

Draft Report (*The management of the Crown Estate*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 129 read and agreed to.

Summary agreed to.

A Paper was appended to the Report.

Resolved, That the Report be the Eighth Report of the Committee to the House.

Ordered, That the Chair make the Report to the Committee.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence reported and ordered to be published on 26 January, 9, 22 and 24 February, 3 and 16 March was ordered to be reported to the House for printing with the Report.

[Adjourned to tomorrow at 9.30 a.m.]

Witnesses

| Wednesday 24 February 2010 | <i>Page</i> |
|--|-------------|
| Roddy Monroe , Chairman, Gas Storage Operators' Group, Ted Sangster , Chief Executive, Milford Haven Port Authority, representing the British Ports Association, Joe Hulm , Marine Development Manager, representing the Renewable Energy Association, and Dr Jeff Chapman , Chief Executive, Carbon Capture and Storage Association | Ev 1 |
| Councillor Dr Michael Foxley , Leader, and George Hamilton , Natural Resources Manager, Highland Council, Calum Iain Maciver , Director of Development, Comhairle nan Eilean Siar | Ev 6 |
| Linda Rosborough , Head of Marine Planning and Policy, Scottish Government | Ev 10 |
| Rosemarie MacQueen , Strategic Director Built Environment, Westminster City Council, Stephen Bee , Director of Planning and Development, English Heritage, and James Howe , Royal Institution of Chartered Surveyors | Ev 12 |
| Wednesday 3 March 2010 | |
| Roger Bright CB , Chief Executive, Crown Estate Commissioners | Ev 19 |
| Sarah McCarthy-Fry MP , Exchequer Secretary, Paula Diggle , Treasury Officer of Accounts, HM Treasury, and John Henderson , Deputy Director, Scotland Office | Ev 29 |

List of written evidence

| | | |
|----|---|--------------------------|
| 1 | Andy Wightman | Ev 37 |
| 2 | Country Land and Business Association Ltd | Ev 38 |
| 3 | The Crown Estate (Crown Estate Commissions) | Ev 39, 47, 115, 117, 122 |
| 4 | Gills Harbour Ltd | Ev 55 |
| 5 | Highland Council | Ev 62 |
| 6 | Project Management Support Services Ltd | Ev 63 |
| 7 | The Renewable Energy Association | Ev 63 |
| 8 | The Carbon Capture and Storage Association | Ev 66 |
| 9 | Tom Appleby | Ev 68 |
| 10 | Gas Storage Operators' Group | Ev 70, 115 |
| 11 | National Farmers Union | Ev 72 |
| 12 | BP plc | Ev 75 |
| 13 | Natural England | Ev 76 |
| 14 | English Heritage | Ev 79 |
| 15 | Scottish and Southern Energy | Ev 80 |
| 16 | Comhairle nan Eilean Siar (Western Isles Council) | Ev 81 |

| | | |
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| 17 | British Wind Energy Association (BWEA) & Scottish Renewables | Ev 83 |
| 18 | Scottish Government | Ev 86 |
| 19 | British Ports Association | Ev 87 |
| 20 | Caithness Chamber of Commerce | Ev 87 |
| 21 | The Co-operative Farms | Ev 88 |
| 22 | Lunar Energy Group Ltd | Ev 89 |
| 23 | Statoil ASA | Ev 90 |
| 24 | Scottish Salmon Producers Organisation | Ev 91 |
| 25 | Westminster City Council | Ev 93 |
| 26 | Regent Street Association | Ev 95 |
| 27 | British Marine Aggregate Producers Association | Ev 99 |
| 28 | HM Treasury | Ev 101, 116 |
| 29 | Crown Estate Residents' Associations at Victoria Park, Millbank, Lee Green, and Cumberland Market | Ev 102 |
| 30 | Regent's Park Ward | Ev 106 |
| 31 | Caithness & North Sutherland Regeneration Partnership | Ev 107 |
| 32 | Frank Dobson MP, Meg Hillier MP and Bridget Prentice MP | Ev 108 |
| 33 | British Property Federation | Ev 110 |
| 34 | Christopher Fisher and Teresa Hogan | Ev 111 |
| 35 | London Borough of Camden | Ev 112 |
| 36 | Members of the Vincent Square Ward | Ev 113 |
| 37 | Royal Institute of Chartered Surveyors | Ev 114 |
| 38 | Marine Environmental Information Network and the North Sea Action Group | Ev 119 |

Reports from the Treasury Committee during the current Parliament

Session 2009–10

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| First Report | Proposals for European financial supervision: further report | HC 37 |
| Second Report | Work of the Committee 2008-09 | HC 134 |
| Third Report | Credit Searches | HC 197 |
| Fourth Report | Pre-Budget Report 2009 | HC 180 |
| Fifth Report | Reporting contingent liabilities to Parliament | HC 181 |
| Sixth Report | The failure of the Presbyterian Mutual Society | HC 260 |
| Seventh Report | Administration and expenditure of the Chancellor's departments, 2008-09 | HC 156 |

Session 2008–09

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| First Report | Administration and expenditure of the Chancellor's departments, 2007–08 | HC 35 |
| Second Report | Pre-Budget Report 2008 | HC 27 |
| Third Report | Work of the Committee, 2007-08 | HC 173 |
| Fourth Report | Appointment of Paul Tucker as Deputy Governor of the Bank of England for Financial Stability | HC 34-I |
| Fifth Report | Banking Crisis: The impact of the failure of the Icelandic banks | HC 402 |
| Sixth Report | Appointment of Paul Fisher to the Monetary Policy Committee of the Bank of England | HC 419 |
| Seventh Report | Banking Crisis: dealing with the failure of the UK banks | HC 416 |
| Eighth Report | Budget 2009 | HC 438 |

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| Ninth Report | Banking Crisis: reforming corporate governance and pay in the City | HC 519 |
| Tenth Report | Appointment of Professor David Miles to the Monetary Policy Committee of the Bank of England | HC 765 |
| Eleventh Report | Appointment of Dr Adam Posen to the Monetary Policy Committee | HC 764 |
| Twelfth Report | Banking Crisis: International Dimensions | HC 615 |
| Thirteenth Report | Evaluating the efficiency programme | HC 520 |
| Fourteenth Report | Banking Crisis: Regulation and supervision | HC 767 |
| Fifteenth Report | Mortgage arrears and access to mortgage finance | HC 766 |
| Sixteenth Report | The Committee's Opinion on proposals for European financial regulation | HC 1088 |

Session 2007–08

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| First Report | The 2007 Comprehensive Spending Review | HC 55 |
| Second Report | The 2007 Pre-Budget Report | HC 54 |
| Third Report | The Work of the Committee in 2007 | HC 230 |
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| Fifth Report | The run on the Rock | HC 56 |
| Sixth Report | Financial Stability and Transparency | HC 371 |
| Seventh Report | Administration and expenditure of the Chancellor's departments, 2006–07 | HC 57 |
| Eighth Report | Re-appointment of Dr Andrew Sentance to the Monetary Policy Committee | HC 454 |
| Ninth Report | The 2008 Budget | HC 430 |
| Tenth Report | Re-appointment of Mervyn King as the Governor of the Bank of England | HC 524 |

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| Eleventh Report | Counting the population | HC 183 |
| Twelfth Report | Inherited Estates | HC 496 |
| Thirteenth Report | Budget Measures and Low Income Households | HC 326 |
| Fourteenth Report | Appointment of Lord Turner of Ecchinswell as Chairman of the Financial Services Authority | HC 916 |
| Fifteenth Report | Appointment of Charlie Bean as Deputy Governor of the Bank of England | HC 917 |
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Session 2006–07

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| Second Report | The 2006 Pre-Budget Report | HC 115 |
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| Fifth Report | The 2007 Budget | HC 389 |
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| Seventh Report | The Monetary Policy of the Bank of England: re-appointment hearing for Ms Kate Barker and Mr Charlie Bean | HC 569 |
| Eighth Report | Progress on the efficiency programme in the Chancellor's department | HC 483 |
| Ninth Report | Appointment of the Chair of the Statistics Board | HC 934 |
| Tenth Report | Private equity | HC 567 |
| Eleventh Report | Unclaimed assets within the financial system | HC 533 |
| Twelfth Report | The Monetary Policy Committee of the Bank of England: ten years on | HC 299 |

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| Thirteenth Report | Financial inclusion follow-up: saving for all and shorter term saving products | HC 504 |
| Fourteenth Report | Globalisation: prospects and policy responses | HC 90 |

Session 2005–06

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| First Report | The Monetary Policy Committee of the Bank of England: appointment hearings | HC 525 |
| Second Report | The 2005 Pre-Budget Report | HC 739 |
| Third Report | The Monetary Policy Committee of the Bank of England: appointment hearing for Sir John Gieve | HC 861 |
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| Fifth Report | The design of a National Pension Savings Scheme and the role of financial services regulation | HC 1074 |
| Sixth Report | The administration of tax credits | HC 811 |
| Seventh Report | European financial services regulation | HC 778 |
| Eighth Report | Bank of England Monetary Policy Committee: appointment hearing for Professor David Blanchflower | HC 1121 |
| Ninth Report | Globalisation: the role of the IMF | HC 875 |
| Tenth Report | Independence for statistics | HC 1111 |
| Eleventh Report | The Monetary Policy Committee of the Bank of England: appointment hearings for Professor Tim Besley and Dr Andrew Sentance | HC 1595 |
| Twelfth Report | Financial inclusion: credit, savings, advice and insurance | HC 848 |
| Thirteenth Report | “Banking the unbanked”: banking services, the Post Office Card Account, and financial inclusion | HC 1717 |
