

House of Commons Treasury Committee
The Management of the Crown Estate
Eighth Report 2009-10

Briefing by Andy Wightman 30 March 2010

This briefing summarise some of the key points arising from the Treasury Committee's report into the management of the Crown Estate and provides some analysis. The comments are restricted to Scotland.

On 30 March 2010, the Treasury Committee of the House of Commons published its report on 'The management of the Crown Estate' following a short inquiry. The report is published at a time of increasing public interest in the Crown Estate and its role in the development of marine renewable energy in particular. The key findings of the inquiry are as follows.

Lack of clarity over terminology

The report makes clear that the Crown Estate is not an organisation but the Crown property rights administered by the Crown Estate Commissioners (CEC). As the report comments, these are public resources managed by a public body for public benefits. Furthermore, contrary to recent comment in the press and by Alex Salmond and others, 'The Crown Estate' or CEC do not own the seabed. The CEC is a management organisation and Scotland's seabed is Scottish Crown land.

Communication and transparency

Following criticism in the evidence to the Committee, the Committee recommends that the CEC adopt greater openness, transparency, consultation and partnership working in its approach to the development and licensing of marine renewable energy and other marine operations. The report also identifies the CEC's role in ports and harbours as a topic that requires further investigation.

Marine Planning

With the advent of the new public agency, Marine Scotland, to oversee the planning and regulation of marine developments in Scottish waters, the Committee recommends that the CEC agree a Memorandum of Understanding between themselves and Marine Scotland to ensure their arrangements are suitably integrated with those of Marine Scotland.

Two Tier System

The Committee noted that other European maritime countries have a single body - the Government - which manages the seabed and highlighted that the involvement of the CEC in the marine environment here means the UK has a two tier system. The Committee stress that it is imperative that the Government reviews the relationship to see if it is working as an effective system for managing marine development and the Treasury Minister, Sarah McCarthy-Fry MP, agreed that "if it could be shown it [CEC] was getting in the way then, yes, it would need to be looked at"..

Monopoly Position

The Committee in considering issues over the CEC's approach to revenue generation, raised concerns about the CEC's monopoly position in the marine environment by virtue of the extensive rights it manages. The Treasury Minister Sarah McCarthy-Fry gave the Committee a commitment that the Government intends to review the CEC's monopoly position in the marine environment.

Wider Benefits

The Committee express concern that the CEC is not taking sufficient account of wider public interests in the degree to which it focuses on generating surplus revenue to go to the Treasury. The Committee recommends in particular that the CEC adopts an approach which is more sympathetic to local socio-economic benefit. Following evidence from the Highland Council and Comhairle nan Eilean Siar, the Committee considers 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."

Scotland

The Committee reserve a full chapter for Scotland which is in itself significant. The report points out that the Crown property rights managed by the CEC in Scotland are defined by Scots law and thus under the jurisdiction of the Scottish Parliament. The administration of these rights and their revenues by the CEC is, however, a reserved matter.

The report highlights the frustration in Scotland over the lack of engagement of the CEC in Scotland and notes the view of the Scottish Government that "the optimum means of improving relations with the CEC in Scotland would be through the 'administration of the Crown Estate to happen in Scotland under a different constitutional arrangement'".

The Committee recommends that there should be a concordat between the Scottish Government and the CEC over the CEC's operations in Scotland, a proposal that the CEC agreed to in their evidence to the Committee.

The Committee also recommends that the CEC greatly strengthen their management arrangements within Scotland "to engage with the Scottish Government and to adapt as necessary to the different public policy environment in Scotland".

Need for a full review

In their final conclusions, the Committee noted that their inquiry was necessarily a short one and recommends that over 50 years since the last review, "the future Government commission a wider review of the management of the Crown Estate and the 1961 Act" under which the CEC operate.

Commentary by Andy Wightman

This is an important report from an influential House of Commons Committee which should prompt renewed interest in the Crown Estate in Scotland.

There have been growing demands in Scotland for a review of the administration and management of the Crown Estate. At the same time, the Scottish Government have been keen to co-operate with the CEC in the emerging marine renewable energy industry. This has highlighted the tensions and inadequacies of the current arrangements whereby a Scottish public asset (the seabed and foreshore) governed by Scots law and under the jurisdiction of the Scottish Parliament, is managed by a reserved body in London.

The Treasury Report opens a number of important doors to improving the management of the Crown Estate in Scotland and ensuring that it delivers the full range of public benefits it is capable of. To achieve this, however, national and local government in Scotland need to be more explicit about how they see the future working relationship between the CEC and the Scottish Government, Marine Scotland and local authorities.

Key questions are: -

- What is the Scottish Government's response to this report?
- How is the CEC planning to improve transparency, consultation and partnership working? What different management arrangements for the Crown Estate should improve the delivery of public benefits?
- Will the CEC review its use of inappropriate and misleading terminology in relation to its responsibilities?
- What role will the Scottish Government, Parliament and local authorities play in the review that is proposed?

FURTHER INFORMATION

The full report can be obtained from:

www.publications.parliament.uk/pa/cm/cmtreasy.htm

Recent blog posts on the administration of the seabed by the CEC and the role of the Scottish Government can be found at www.andywightman.com/wordpress/?cat=11

Andy Wightman's evidence to the Treasury Committee appears at the beginning of the written evidence which can be downloaded at www.parliament.uk/documents/upload/CrownEstatesEvidence6.pdf.

The Crown Estate Review Working Group's report of December 2006 is available here www.highland.gov.uk/yourenvironment/landandwater/crownestatereviewwg.htm