

Response to Nature Recovery Green Paper

About the Institute

The Institute of Chartered Foresters is the Royal Chartered body for tree professionals in the UK. Its membership covers the full range of tree professionals, and this range of expertise is one of its greatest strengths. It has 2,000 members who practise forestry, arboriculture and other related disciplines in the private and third sectors, central and local government, research institutions, universities and colleges throughout the UK. The Institute regulates standards of entry to the profession. It provides support to members, guidance to professionals in other sectors, information to the public, and educational advice and training to students and tree professionals seeking to develop their careers.

Introduction

We understand the critical importance of addressing the nature crisis in parallel with climate crisis and welcome this opportunity to feed into government's proposals on nature recovery and environmental regulation.

It is well recognised that trees and woodland offer valuable habitat for nature. We know that we need all types of woodland to tackle the environmental crisis, including the materials crisis, and we know that all types of woodland support biodiversity. We must continue working towards a better, more nuanced understanding of this, resisting polarisation of debate. Regulatory barriers are seriously hampering planting in England, with many practitioners concentrating across the border in Scotland where there is less designated land. It is crucial that we rationalise our regulatory system to remove these barriers, whether real or conceptual, and enable the sustainable planting and establishment to occur that we so desperately need.

Sector group agreement

In April and May the Institute convened a cross-sector group comprising prominent organisations, experienced practitioners and thought leaders to discuss some of the proposals in the Green Paper. From just two meetings we have a wealth of expertise and ideas about the challenges and opportunities for supporting the government's ambitions for nature and we would urge Defra to engage with us on this.

The main themes of the discussion, which the Institute fully endorses, were as follows:

- Issues are not with the regulation itself but with its implementation
- There are serious resourcing and skills shortages in the public bodies
- Risk aversion in regulatory bodies hampers woodland creation efforts
- There are inconsistencies in regulatory process and application by geography and approach
- Better communication and collaborative working between agencies is needed
- Any merger or creation of a new body would risk loss of forestry capacity, momentum, expertise and voice
- We need a comprehensive process for working through issues with existing regulation and any proposed changes with the sector, including technical workshops on Environmental Impact Assessment (EIA) process.

Institute response to selected questions

Protected sites: site management and protection

Question 18: Do you have suggestions for improving the EIA scope and process for the Defra EIA regimes?

Yes – Forestry EIA regime

The challenge

The current EIA process is a significant barrier to woodland creation; we need to speed up the process considerably if we are to meet targets. The sector is broadly in agreement that the issue is not the regulation itself but its implementation. We would not want to see any weakening of regulations, since even small sites can be contentious, but a rationalisation of how the regulations are interpreted and the resources placed behind them. Applicants may not do many actual EIAs, but the process overall is clunky, drawn out, lacking in resources and expertise, inconsistently applied, with high risk aversion and creating major bottlenecks for increasing woodland cover.

Delays

Our members, landowners, agents, other practitioners, and agencies themselves are aware of long delays in processes, with thousands of hectares of planting being pushed into subsequent years or abandoned altogether. Much of this is due to delays in EIAs and difficulties with surrounding process like breeding bird surveys. The need for surveying may not fit with tight grant funding windows, so surveying is not done at the right time of year – or even at all, if the surveying requirement is over a longer term than the grant is available. This needs to be taken into account both in designing grant schemes and in the dialogue that takes place as part of the EIA process. We will need many new small woodlands and the majority of these will be in England, in a busy landscape – we must streamline the process for these and all other applicants.

Resourcing

With ambitious targets, government must consider the staff resource and capacity they need to meet them, at every stage of the process. Capacity and expertise within the public bodies is arguably the major contributing factor to the bottleneck. We strongly support the Forestry Commission in its role, but they are having to respond to hundreds of enquiries from potential new applicants which is diverting from their regulatory role, and we should consider where enquiries can be passed to the private sector. Regulators must have appropriate capacity and expertise to weigh evidence and make decisions.

Risk aversion

Public bodies can be extremely risk averse and reluctant to approve creation or felling schemes that may not have support from every side. There is often an imbalance between agencies in terms of their influence in the decision-making process or traction with government. The risk is often on the applicant's side, which is a barrier. It needs the agencies to be empowered to take risk themselves, but this is hampered by large numbers of new staff, lack of clarity in the process, and poor communication. Too much reliance on online sources of information as opposed to fieldwork – both by the applicant and the regulator – can exacerbate the impacts of risk aversion.



Variability

We know there is a lot of variability in how regulation is applied and in the process each applicant undergoes, with particular challenges in the North of England. Inconsistency is also marked in the approach to regulation, including EIAs, for example in overruling local woodland officers.

Other approaches

There is strong support for light touch EIAs or a landscape approach with zones where there is a presumption in favour of planting, using low-risk target maps to form the basis of need for EIAs. This may be particularly practical with some of the Community Forests such as Mersey and the National Forest where they have strong knowledge base, forest plans and good reputation, as well as mandate and resource from Defra; these could be used to trial new ideas.

Technical workshops

New proposals need detail and to be worked through properly. We strongly recommend Defra sets up technical workshops to address these challenges, with appropriate contributions from experts. The regulatory issues have not been adequately discussed between regulators and the sector – we may not have all the answers yet but there is agreement across the full range of interests in the sector about the importance of EIAs. The challenge is with implementation, and this now needs a dialogue (we note the recent Defra survey on EIAs which gathered data on the process including the costs borne by businesses). From these technical workshops, clear guidance can be developed for regional teams and proper sector training provided on EIAs, their rationale, expectations, barriers etc. This is particularly important for EIAs because they are so critical to planting efforts, but it is needed in the rest of the proposals in the Green Paper and their interrelationships too.

Question 19: What are your views on our proposal to establish priority areas for afforestation?

See points on other approaches with EIAs above.

Complexity of grants and regulation, including multiple consultations needed, is one of the most significant barriers to new planting. Priority areas for afforestation is one way to solve this and the Institute is strongly supportive of this, when developed with appropriate evidence and sector engagement.

30 by 30

Question 21: What are your views on our proposal to reform forestry governance and strengthen protections for the Nation's Forests?

The consultation suggests that the focus of state forestry is timber and social benefits and that this needs to shift. Our view is that Forestry Commission is already working for biodiversity outcomes in woodland of all types throughout the country, through sustainable modern forestry practice. We would be supportive of changing its legal remit to include responsibility for nature, especially if this gives them a clearer mandate to deliver and to access funding – as long as timber production remains a key priority and that any changes do not make it more difficult to fulfil this function. We are currently faced with a materials crisis – we and the rest of the global economy need increasing amounts of timber and wood products to sustain our way of life and protect the environment, for example by replacing steel and concrete in construction.



Timber is a crucial part of the Public Forest Estate's remit, as it should be of all woodland managers, where this is compatible with the landowner's objectives. The consultation acknowledges the need to finance responsible nature interventions, and timber pays – it would not make sense to take timber production away. We must emphasise that timber production vs nature recovery is a false dichotomy – the forestry industry has a long history of meeting both objectives within individual woodlands. Previous consultations from Defra and the rest of government have not shown an appreciation of this and steps must be taken to correct any misapprehension.

There should also be active consultation with the sector so we can all work together towards our goals. The public forest estate, the sector and the government have a duty to balance the three pillars of sustainable development: environmental, social and economic benefits.

Question 22: What are your views on our proposal to adjust forestry permanency requirements for certain project types?

We understand the reasons for considering forestry permanency requirements given that permanency is cited as one of the barriers to woodland creation, particularly among farmers concerned about taking land out of food production, wanting their businesses to be agile or a perceived loss of value. However, the Forestry Act does currently allow scope for flexibility on converting wooded areas or replacing them elsewhere. We suggest guidance is needed on what is possible within the existing legislation, which could overcome this reluctance.

This issue needs careful exploration with the sector. When we consider public and political support for increasing tree cover, this is generally taken to mean permanent trees and woodland. The steady increases we have seen would not have been possible without the requirement to restock. The decision to establish woodland is a purposeful one and it is unlikely to be removed after it is properly established. Each landowner must decide based on their objectives, and the right guidance and advice would help them do this.

Defra's environmental targets consultation proposes including orchards, scrub and urban trees, but excluding short rotation forestry, presumably on the basis of impermanence. It is critical that government does not take a piecemeal approach to all these proposed regulatory changes – they will have complex, interdependent relationships that need to be worked through carefully with the sector.

Delivering for nature through public bodies

Question 29: What are the most important functions and duties delivered by Defra group ALBs to support our long-term environmental goals?

Question 30: Where are there overlaps, duplication or boundary issues between ALBs, or between ALBs and government? How could these be addressed?

Question 31: What are the benefits and risks of bringing all environmental regulation into a single body?

Question 32: What are the opportunities for consolidating environmental delivery functions into a single body? Which programmes and activities would this include?

Our main concern with bringing environmental regulation into a single body is the loss of capacity, momentum, expertise and voice that would result from a merger, just when they are needed most. We need qualified personnel, preferably holding professional forestry qualifications, responsible for forestry policy. With the loss of a dedicated forestry department the sector would lose its profile, its voice and its access to policymakers and to government. Merged agencies can result in an imbalance



due to relative size of each of the respective components. Professional foresters have the expertise and skills to plan for the long term and to consider a wide range of issues but there is a risk that this is gradually eroded if an organisation is steered by short-term protection of the status quo.

This is not the first time England has considered bringing environmental regulation into a single body, and we have an example in Wales to look to. Our members' experiences in Wales are mixed, with many encountering the same barriers as their English counterparts of delays, risk aversion and inconsistency from the regulator, and sometimes a culture that works at cross purposes from its government's objectives. We would like to understand what the success criteria would be behind this proposal. We recognise that Defra wants a solution to the regulatory challenges and perhaps considers that a merger could solve some of the issues, for example with EIAs, but looking at Natural Resources Wales a lot of capacity and momentum was lost through agency change that would be destructive to woodland expansion efforts. Reorganisation creates distraction, especially at a time of urgency and ambitious targets.

The challenge is to enable the existing forestry agencies to work collaboratively and constructively together. Better communication does not require a new agency. There is already some good record of the 'Defra family' working together, and we would support trialling of a 'one team' approach where Forestry Commission, Natural England, Environment Agency etc. find a new way of working together, better communication and service level agreements about the time taken to undertake components of the process. There are cultural barriers that get in the way, but these are barriers that would also be problematic for any merger and result in a body unsure of its purpose and a substantial performance dip at a critical time for the environment.

For these reasons, particularly the loss of a dedicated forestry agency, we would find it difficult to support such a move.

Cost recovery

Question 33: Please provide your views on how more effective cost recovery for regulation would affect: a) environmental protections b) businesses.

Question 34: What is the most efficient way of ensuring businesses and regulated persons pay an appropriate share of the cost of regulation?

Cost recovery for environmental regulation, such as paying for felling licences, seems to be creating more barriers, when we already know there are too many. This is another area of this set of proposals where we urge caution and the critical need to consider regulation holistically, in detailed, technical consultation with the sector – no single proposal can be considered or decided on in isolation.

In the case of cost recovery, this would disproportionately hit small woodlands (particularly small woodlands with high biodiversity) whose owners already struggle to access grants and are not armed with advisers or expertise. Where there is already illegal felling this usually happens out of ignorance, but with an extra barrier there are likely to be unintended consequences and unscrupulous practice. We need to support small businesses that are already disproportionately affected by measures, however welcome, such as the new plant healthy requirement for grants. In Wales, Ministers have publicly stated that they have no immediate plans to charge for forestry licences – Defra should consider making a similar statement.



Conclusion

We acknowledge that there are many issues that need addressing for the forestry sector to deliver on nature and climate targets. However, the sector is broadly supportive of existing regulation – it just needs to work better. We have a duty to balance core sustainability principals of environmental, social and economic benefits, and this includes government needing to recognise timber production as one of the benefits of modern, sustainably managed woodlands.

While we acknowledge the scale of the challenges that Defra is aiming to solve, we have serious misgivings about an agency merge or the creation of a new regulatory body, for reasons discussed above. We are concerned about some of the proposals, in the Green Paper and elsewhere, which have complex, interdependent relationships that need to be worked through carefully.

We strongly urge Defra to initiate a process for engaging meaningfully with the sector to explore the issues and come up with solutions. As an Institute we are well placed to act as partner and convener in this process and we would welcome further discussion with Defra and across the Defra family.