

Consumer Focus Board

Paper 7

Title: Transition management

Date of meeting: 29 September 2011

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Attachments: Appendix A: Transition work in Scotland
Appendix B: Checklist for closure

1 Issue

- 1.1 The Board will wish to see an overall plan on transition and worked up options with resource implications at the appropriate time. The Chair has decided, in consultation with the Chairs of Human Resources and the Audit and Risk Committee, that there should be an item on each main Board agenda covering transition issues. Key issues for discussion are likely to cover:

Finance – the costs of transition;
Value – how we are transferring values, e.g. IPR, data, skills;
Staff – how the interests of staff are being promoted;
Risks – how risks around transition are being identified and managed.

Whilst we continue to anticipate closure in April 2013, transition planning in most of the organisation is not advanced and remains difficult due to uncertainties about the future destination of our functions and lack of clarity on which and how bodies will undertake our functions in the future. Clarity may be achieved by the end of the calendar year.

2 Recommendations

- 2.1 The Board is invited to note the work done so far, agree the work which needs to be done in the future and in particular agree the general case for extra resources and note the pressures which the organisation will face in the remainder of its life and the limitations this will impose on what we can deliver for consumers.

3 Background

- 3.1 On October 14th 2010 the Government announced that it wished to abolish Consumer Focus, citing the need to rationalise the number of public bodies, streamline the consumer organisational landscape and save public money. Therefore they proposed to transfer “most of the consumer related research and advocacy functions, currently undertaken by OFT and Consumer Focus, to Citizens Advice and Citizens Advice Scotland”. Vince Cable said that “subject to the agreement of the Government departments (subsequently clarified to include devolved administrations) concerned, BIS “would like to extend this model across as many regulated sectors as possible”, i.e. water, communications and aspects of transport. This would include, amongst other things, the Consumer Council for Water and Passenger Focus.
- 3.2 In June 2011 BIS launched a public consultation on changes in the advocacy, advice and enforcement landscape. The consultation closes on 27th September. BIS said:

in addition to transferring functions to the Citizens Advice service, they propose to transfer our functions in respect of postal services in Northern Ireland to the General Consumer Council for Northern Ireland;

in respect of Scotland and Wales, BIS say that they want to “create a structure which provides consistency of advocacy provision for consumers while recognising the national, regional and local differences which may exist and also respecting the devolution settlements in each case”. More generally they have made it known that they will be listening to the views of the devolved administrations as to the best models in Scotland and Wales;

if the Citizens Advice service took on functions from existing public bodies this could be in partnership with sectoral or general consumer organisations, e.g. Which?, Age UK, and Shelter. BIS say “the Government would expect the Citizens Advice service to work closely with Which? and other organisations”;

alternative approaches might be to move responsibility for sector advocacy to organisations such as Which?;

they are consulting on integrating the functions of “various bodies”, by implication Consumer Focus, the Consumer Council for Water and Passenger Focus, into a “Regulated Industries Unit”.

- 3.3 Other related developments since last October include: the transfer of the advocacy functions of Waterwatch in Scotland to Consumer Focus, which took place in August 2011, the removal of Passenger Focus from Schedule 1 of the Public Bodies Bill - thus removing the threat of abolition under that Bill and the Gray Review which concluded that there was a strong need for representing consumers and that the Consumer Council for Water should continue to represent consumers but if the Government wished to abolish CCW in line with the BIS position, they saw attractions in its functions being included in a Regulated Industries Unit as described by Consumer Focus and thought this could best be done if the RIU was a separate body. Gray stressed the importance of accountability in any new arrangements. During the elections in Wales all the major parties argued for an independent Welsh consumer body and this is now the policy of the Welsh Government. The Scottish Government set up a Working Group to look into the question of arrangements in Scotland and is still considering its position. Given the prospective future of Consumer Focus the Scottish Government (with CFS) has set in train action to find new homes for the projects which it funds Consumer Focus Scotland to carry out on its behalf.
- 3.4 BIS confirm that, subject to the outcome of the consultation, it is still their estimate that Consumer Focus could be abolished by April 2013. It is expected that the Public Bodies Bill will receive Royal Assent by mid November 2011. An Order under the Act could then be introduced abolishing Consumer Focus and other bodies, and transferring functions, and possibly our legal powers, to other bodies. Such an Order would follow the super affirmative procedures in both Houses of Parliament.

4 Implications for Consumer Focus

- 4.1 The Government has not confirmed its intention to abolish Consumer Focus. Whilst there has been considerable turbulence around the proposals, from outright opposition from a range of sources and questions being raised by others, the momentum behind abolition in line with last October’s statements by Ministers on abolishing quangos may be irresistible, although it seems likely that CCW and Passenger Focus may well survive as Ministers in DEFRA and DfT may not support the abolition of organisations which are working well and which are fulfilling a valuable function for consumers – last October it was only stated that CCW and PF might be abolished. Ministers are keen to state that

the proposed abolition of Consumer Focus is not based on a judgement that we are not doing a good job, and they praise our work, or that the job does not need doing, but that they think it could be done even better elsewhere. Confirmation of our abolition could come at any time after the end of the public consultation but will probably take some months. Proposals for our future were covered in the same consultation as those on enforcement, Trading Standards and the role of OFT therein, and BIS may want to move simultaneously on advocacy and enforcement. This could speed up or slow down a decision on Consumer Focus.

- 4.2 Given what the UK Government has said about its willingness to consider different outcomes in Scotland and Wales, and the view of the Welsh Assembly Government and the potential view of the Scottish Government, it is possible that our transition may be more complicated than that outlined in the Government's proposals. This will not only involve more work but poses governance challenges in that the boards in Northern Ireland, Scotland and Wales may take a different view to that of the main Board. A divergence of views may occur but as far as possible the Boards will no doubt seek consensus wherever possible.

5 Action we have taken

- 5.1 We have been working on the assumption that Consumer Focus will indeed be abolished by April 2013. The Audit and Risk and Human Resources Committees have been addressing the issues around closure, as opposed to transition where we still face uncertainty. The Audit and Risk Committee have overseen the attached table of actions which will be updated for the next meeting. We have created a Transition Risk Register. BIS has set up a forum of those bodies involved in the consumer landscape changes and it was agreed that all parties would share their risk registers. We have shared our Risk Register with BIS and repeatedly asked BIS to share the other Risk Registers. We can only presume that BIS have not received copies of others' Risk Registers.
- 5.2 The Human Resources Committee has also been addressing transition. They oversaw this year's redundancy programme which was necessitated by budget cuts, and this was a useful learning experience for what is likely to lie ahead. They have also overseen various restructuring exercises which have followed reductions in resources. They have considered the potential issues around TUPE, COSOPS and a legislative transfer under the Public Bodies Bill and have discussed the issues around the NSMC which are before the main Board.
- 5.3 Although it is BIS's ambition to streamline the consumer landscape by including water and passengers alongside Consumer Focus functions in the Citizens Advice service, it seems most probable that only Consumer Focus's functions will be transferred to the Citizens Advice service. Ministers concerned with water consumers and passengers may not be convinced by the arguments for the Citizens Advice model. The extent to which abolishing Consumer Focus will save public money is not yet clear as the Citizens Advice service and the General Consumer Council for Northern Ireland are working on the basis that they will "inherit" our income. Government have said they want the Citizens Advice service to take on most of our functions and said that "almost all central Government funding for.....advocacy..... will transfer to Citizens Advice". Citizens Advice for their part have, understandably, made it clear that they will only take on work which they are funded to do. There will also be significant costs, as yet unquantified, of abolishing Consumer Focus.
- 5.4 Although the destination of our functions and the people who work at Consumer Focus has become less certain over the last year, given that the Government have raised the possibility of alternatives to the Citizens Advice service, we have nonetheless been

attempting to work closely with Citizens Advice and Citizens Advice Scotland as they are the Government's preferred candidates for our role and hopefully will provide jobs for at least some of our staff. This has mainly focussed on providing the Citizens Advice service with extensive information on what we do and how we do it. We provided comprehensive documentation, starting last December, and have met more than 20 times since last October. We have set up Transition Working Groups with both Citizens Advice and Citizens Advice Scotland. In addition BIS now chair a group bringing together Consumer Focus and the Citizens Advice Service. Early in 2011 BIS also set up a structure bringing a wider group together including trading standards, devolved administrations apart from Northern Ireland, and local government groups. These included an overall group and working groups on advocacy, enforcement and advice although this structure appears to be in abeyance.

- 5.5 Progress on planning for transition with the Citizens Advice service has been slow despite the amount of effort we have put in. There may be a number of reasons for this. Until the Government confirm their policy there may be a perception that we are not "planning for real". The Citizens Advice service need to reach a conclusion on how they will deliver our functions and they may have more pressing priorities in taking on the Consumer Direct service from OFT from next March and they are also seeking to restructure the 500 Bureaux which are independent charities. Government are also consulting on whether the Citizens Advice service will be given our legal powers. There has also been uncertainty as to which functions the Government wish the Citizens Advice service to undertake. Citizens Advice need to know the size and structure of the budget they might inherit from Consumer Focus in 2013/14 as this will effectively determine what they can do and how many Consumer Focus staff they will take on. As we understand it, this has been the subject of considerable discussion between the Citizens Advice service and BIS.
- 5.6 A breakthrough was made recently when the Citizens Advice service showed us, in confidence, their schematic plans for carrying out advocacy functions based on inheriting our 2011/12 budget. This is necessarily without any commitment from the Citizens Advice service, and we cannot place reliance on it, but it is useful in helping us understand what they would like to do given the resources. This should inform our planning for next year. The number of our staff they may wish to take on is considerable. Clearly there are major issues about the costs of doing so as the Citizens Advice service would require an indemnity from Government for taking on such staff as their terms and conditions would have to be maintained. We have provided relevant details to BIS so that the Government Actuary can calculate costs. These would be large but would not be met by Consumer Focus although we would have to meet the redundancy costs for those not transferring insofar as we are able but we could approach BIS for support if we are not able to do so.
- 5.7 We have looked into whether there are aspects of our work which we could transfer in advance of legislation to those bodies expected to take on our role. One candidate was our work on post in Northern Ireland. Both we and the General Consumer Council for Northern Ireland were willing to contract out our work on post to GCCNI but we are advised by BIS that the legislative hurdles meant such action is not feasible. We have also explored contracting with the Citizens Advice service for the delivery of the EHU service, including the Welsh language service, in advance of legislation given the importance of maintaining the service to vulnerable consumers and integrating the service with Consumer Direct which the Citizens Advice service is taking over next April. Although Citizens Advice would take over delivery, we would not be passing over our legal duty and I would remain accountable. BIS were concerned that there would be a legal obstacle but have told us verbally that no such obstacle exists. We await confirmation in writing. Citizens Advice and Citizens Advice Scotland are willing in

principle to enter into in such an arrangement, with the latter providing the service in Glasgow as now. We are also willing in principle but we would need to put a detailed case to the Board before action was taken.

- 5.8 Given our probable abolition the Scottish Government wish to move their funded projects out of Consumer Focus Scotland which has successfully operated them for some years. The Scottish Government has also moved the advocacy functions of Waterwatch into Consumer Focus and presumably this will transfer to Citizens Advice Scotland. Therefore transition is already happening in Consumer Focus Scotland whereas it is only in prospect in the rest of Consumer Focus apart from the National Social Marketing Centre. We have therefore appointed a Transition Manager in Consumer Focus Scotland. A note from Marieke Dwarshuis on transition activity in Scotland is attached.

6 Action we will need to take

- 6.1 Assuming a closure date of April 2013, we have 18 months to go. We need to address our corporate management capacity to deal with this period and the challenges it will bring. The environment in which we work is complex, fraught and uncertain. Uncertainty is likely to continue for some months. We have 26% less money than we had two years ago and we can expect more cuts in 2012/13.

Operating within this environment we will need to:

- (i) continue to deliver on our remit for consumers;
- (ii) transfer "value" to those organisations whom the Government choose to take on our functions;
- (iii) close the organisation down in an orderly fashion.

The challenges which we face will be:

- (i) retaining capacity – particularly people, both to deliver on our remit and pass it on to other organisations. Although we have lost valued colleagues, we have done well in keeping people despite the Government's proposals. Between October 2009 and September 2010 we lost 23 people but between October 2010 and September 2011 we lost 27 people. Depending on how it is handled, the biggest danger of losing staff will occur if and when Government confirm their decision to abolish Consumer Focus and transfer some of our functions to the Citizens Advice service;
- (ii) implementing redundancy schemes, sooner or later or both;
- (iii) maintaining morale and commitment amongst those people who stay;
- (iv) transferring value, i.e. people, IP, information and learning.

In order to meet this challenge we need external agencies to do the following:

- (i) BIS needs to give us certainty on our 2012/13 budget as early as possible;
- (ii) put in place retention packages, if BIS give their agreement;
- (iii) BIS needs to confirm which functions the Government wants to see maintained in the new landscape and which organisations it wishes to take on our functions (the situation with the Scottish Government funded projects is different but we also need to work closely with them);
- (iv) those who will take on our role need to make clear how they will deliver our functions in order for us to plan transition.

The tasks we must undertake are:

responding to the Condoc – although responses are due at the end of September it is likely that discussions will continue beyond that date;

managing high quality policy outputs and managing the organisation's profile;

supporting CSF's transition challenges, i.e. Scottish Government projects, EHU, Waterwatch;

transition discussions, planning and delivery involving other organisations including any in Scotland and Wales if alternative outcomes are agreed;

implementing the Board's decision on the future for NSMC;

a redundancy programme, at some stage.

- 6.2 We are already stretched in terms of our corporate management. We have reduced our strategic planning capacity - we made the Head of Strategy and the Corporate Planner posts redundant. We are not replacing the DCEO post. Pressure will grow as we face the additional demands which transition will bring. We will have to continue with "business as normal" and, subject to the size of our budget next year, that is still a substantial business and the needs of consumers will not decline even if our capacity does. We will become even more stretched as we lose more people. Despite our best efforts, people are likely to leave if they find a better opportunity, and we are grateful to colleagues who have stayed despite the situation in which we find ourselves. Reinforcing our capacity early in the next 18 months would provide us with useful cover should this happen. We also need to reduce the pressure on senior management who have borne a heavy burden and who, if not in danger of collapsing under the pressure, are likely to become less effective and efficient if burdens increase or indeed stay at their current level.
- 6.3 One can overemphasise the importance of senior management but losses would undermine the Government's wish for us to continue to deliver for the next 18 months and pass on expertise to organisations who will take on our function. It should also be remembered that it is unlikely that senior management staff at Consumer Focus will be "Tupe'd" over to successor organisations and the Citizens Advice service have made this clear. Therefore the incentive to stay is less.
- 6.4 We have taken action in Scotland where the pressures are critical and where transition is already taking place. An early transfer of the EHU work would increase the pressure. Consumer Focus Wales is facing less change but as a 15 person unit it is vulnerable and the particular challenges of the consumer landscape in Wales place a heavy burden on senior management. Consumer Focus Post Northern Ireland has lost its senior staff member to Consumer Focus Scotland. We have lost Philip who performed an important policy leadership and networking function. Adam Scorer is now covering virtually all Philip's brief. I have kept international work.
- 6.5 We have corporate management capacity although it is fully stretched. We could be facing very complex transitions to a number of organisations. Depending on the nature of transition we will need to expand our capacity in:
- HR – we will be dealing with TUPE or TUPE like provisions or redundancy for about 150 people;

Finance - transition interface and internal accounts / risk registers, financial modelling;

Project Management skills and the ability to plan, prioritise and meet deadlines.

- 6.6 The sheer weight of work will be in addition to that which we do now to deliver for consumers and which we will continue to be bound to do until Parliament gives the job to somebody else. In my view we will need a Transition manager to lead on liaison with CitA/CAS/GCCNI, or whomsoever takes on our functions, on policy capacity transfer, i.e. transferring our IP and methodology. Depending on the Board's decision we may need to oversee NSMC transition. They will need to work with Scottish Transition Manager.

Transition work in Scotland

1 EHU and CFS advocacy work

The Scottish Transition Group between CAS and CFS is now well established, and its first tangible output is that CFS have arranged a part-time secondment from CAS, to work on EHU related transition issues. In the first instance, these will focus on ensuring that the Consumer Direct change to Citizens Advice and CAS will take account of the referral pathways and other arrangements that are currently in place in respect of the EHU, so that there will be no disruption in the EHU's ability to assist vulnerable consumers.

There now appears to be consensus amongst all parties (including BIS) on a transfer of the EHU, as is, to CAS ('lift and shift'), to deliver a GB wide service. We will now proceed to plan for this, and this will be the second stage work for the CAS secondee, in conjunction with the CFS Transition Manager. There is however no immediate urgency to this, as all parties are agreed that a transfer date of approximately September 2012 would be preferable (allowing time for the Consumer Direct changes to have taken place).

There are however some difficulties to overcome if a transfer is to take place prior to CitA and CAS taking on the functions of Consumer Focus, as the statutory duty to deliver advice to vulnerable energy and post consumer would remain with CF (until CF is abolished, presumably). BIS' initial advice is that there appear to be no legislative obstacles to CF subcontracting this work out. A thorough appraisal of the options, as well as risks, costs and benefits of early transfer will be prepared for the Board in the next few months. Implications for staff rights would need to be considered and the resource required for giving effect to a temporary arrangement prior to a full and final transfer would need to be considered worthwhile.

2 Waterwatch Scotland (WWS) Transfer

Following the signing of the Commencement Order on 21 June there was a six week period agreed by all parties for the HR process to be completed, and the transfer to take place, on 15 August.

The posts that we have, fully funded by the levy from Scottish Water, and agreed with the Scottish Government, are as follows:

- Full-time Policy Manager
- Full-time Policy Manager (Economic and Market Issues)
- Full-time Policy Advocate
- Half-time Consumer Engagement Officer
- Half-time Administrator

Job matching with two WWS members of staff took place on 5 August and posts offered to both. One of these has been accepted, and the other still to be clarified due to the relevant members of staff being signed off sick. We have now started recruitment for the two vacant posts internally, and approval is being sought, and expected to be granted by BIS, for wider recruitment if necessary.

Otherwise, the final stages of the transfer process have gone according to plan. The work programme for water advocacy has been agreed by the CFS Board and has been submitted to the Scottish Government.

3 SG funded projects

CFS have now appointed a Transition Manager: Chris Thirkettle (currently Head of Consumer Focus Post, Northern Ireland) will start in Glasgow on 3rd October.

Marieke Dwarshuis, together with Graham Clark and Donna White (Solicitor (TSol), providing legal advice to CF on transition issues) met with relevant people in Scottish Government having responsibility for each of the four SG funded projects, to discuss the key financial and legal issues arising in respect of the intended transfers of the projects to new host organisations. These centre on:

- what exactly would get transferred - as that may determine whether it is a TUPE situation. At present there is no clarity on this as SG have not indicated (apart from in the case of SAIF) what it would want delivered after March 2012 in the case of each of the projects. This means it is difficult to progress any further for both parties in each case. We had a discussion about likely timeframes for firm commitments – this is linked, but only in part, to Scottish Spending Review decisions
- scale of and liability for pension costs (and any compensation costs arising on later redundancy). Subject to the above, it is likely that TUPE would apply directly to these transfers. In addition HMT Fair Deal provisions might apply relating to the protection of pension rights. All this would have considerable financial implications for the receiving organisations, and SG needs to engage with this issue now
- how (and when) can CF share information with receiving organisations in order for them to prepare for/commit to the transfer, what are the limitations on us doing so are and how we may be able to overcome these

It has been very useful to finally have this exchange with SG officials across all projects, as there had been difficulties in getting engagement on these matters from SG. We pressed for a coordinated approach across all projects, in order to get consistency and to ensure there was no duplication of effort.

4 Community Food and Health (Scotland) (CFHS)

A possible host organisation (Scottish Community Development Centre) has been identified by Scottish Government some time ago. Little further progress has been made in particular as SG officials appear not to be able as yet to give sufficient clarity on the scope of the work that they will expect the new host to deliver, or the budget that could be made available. This will need to be taken forward as a matter of urgency by the Transition Manager, and once Spending Review decisions have become clear.

5 Health Rights information Scotland (HRIS)

The preferred destination (from Scottish Government point of view) is NHS Inform, who will be drawing up their plans for delivering patient centred information in the next couple of months, based on functions set out by Scottish Government. These functions appear to cover the functions currently carried out by HRIS, which would therefore likely result in a transfer situation. The input of the Transition Manager is urgently needed here too.

6 Scottish Accessible Information Forum (SAIF)

The situation for SAIF should be relatively straightforward (Spending Review outcomes permitting), as an in principle 3 year agreement, with workplan and budget agreed, is in place. A preferred new host organisation has been identified (SCVO) in discussion with Scottish Government and the SAIF advisory forum. Detailed discussions with SCVO and SG on SAIF transfer can commence as soon as the Transition Manager is in post.

7 Healthyliving award

CFS have started discussions with Scottish Government on future funding for the HLA (current funding agreement comes to an end in March 2012), including whether the management of the project would remain with CFS or a possible successor. The current thinking is that, given the changes the Award will shortly implement as a result of restrictions on the types of health claims that may be made following new EU regulations, time should be allowed to evaluate the impact of these changes before significant decisions can be made on the future of the Award, both in terms of its nature and what it does, as well as on where it is then best hosted. Therefore, it is likely that the current funding arrangement with CFS will be extended for one year (subject to Spending Review outcomes), to allow decisions on the future to be made during the course of next financial year, with any transfer by April 2013.