



## The Forestry Commission and the sale of public forests in England

Standard Note: SN/SC/5734  
Last updated: 28 November 2014  
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Section: Science and Environment

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Following criticism of the Government's aborted plans to sell parts of the Public Forest Estate, in January 2013 it signalled its intention to establish a new public body to manage the forestry estate in its Forestry and Woodlands Policy Statement. Due to constraints in the parliamentary timetable no legislation to establish this body has not yet been made.

While there was no Forestry Bill announced as part of the Queen's Speech in June 2014, the Government did include the *Infrastructure Bill*, which makes provision to fund, plan, manage and maintain the UK's national infrastructure. Environmental groups raised concerns that this *Bill* could be used to sell-off public forest land, despite government reassurances to the contrary. In November 2014, to reassure parliament and the public, the Local Government Minister announced that it he would table an amendment to the *Bill* which would ensure the *Bill* could not be used sell off the public forest estate.

The Public Forest Estate in England provides multiple social and environmental public benefits valued at around £600 million per year, although it costs some £15 million per year to operate. Governments have been able to sell parts of the Public Forest Estate since 1981. In the eighties thousands of hectares were sold. There was a change in policy following the 1997 general election when the sale of such land was restricted.

On 29 October 2010, the Government signalled its intention to sell a significant proportion of the Public Forest Estate. Powers to enable the sale were included in the *Public Bodies Bill 2010*. A public consultation was launched on 27 January 2011.

Following criticism of the proposals the Government halted the public consultation and stopped the sale of land removing the relevant clauses from the *Public Bodies Bill*. In March 2011, the Minister set up an Independent Panel on Forestry to advise the Government on "the future direction of forestry and woodland policy in England, on the role of the Forestry Commission, and on the role of the Public Forest Estate".

The Panel issued its final report on 4 July 2012. It recommended that the public forest estate "should remain in public ownership", and it made a number of suggestions for the reform of

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forest management in England. The Government issued a full response in its Forestry and Woodlands Policy Statement in January 2013 which confirmed that the Public Forest Estate would remain in public ownership. It also set out plans to establish, via primary legislation, a new public forest estate body. Constraints in the parliamentary timetable mean that no legislation has yet been made.

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## 1 Background

The English Public Forest Estate (PFE) comprises over 1,000 woods covering some 258,000 hectares. It is the single largest land holding owned by the State. While the PFE only represents 18% of all woodland, it is much more accessible to the public—44% of the accessible woodland in England is part of the estate.<sup>1</sup> It is managed by Forestry Commission

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<sup>1</sup> [The Economic Contribution of the Public Forest Estate in England](#), EFTEC, January 2010

England on behalf of Defra.<sup>2</sup> Woodland covers 9% of England, which is one of the lowest percentages in Europe.<sup>3 4</sup>

The estate was valued at around £700 million in 2009-10.<sup>5</sup> In 2007/08 it cost the Government £15 million to manage the estate. The Forestry Commission said:

In 2007/08 we spent about £76 million managing the Public Forest Estate (Table 4). Unusually for a Government department, in respect of the Public Forest Estate we “trade”. In other words, we sell products and services from the Estate to generate income. We generated about £61 million in 2007/08 which was used to offset the costs of managing the Estate for public benefit. In this way, the total net operating cost to Government of the Estate was about £15 million. This was about £60 per hectare per year or 30p per year for each person in England.<sup>6</sup>

Under legislation introduced in the *Forestry Act 1981* the “government is able to dispose of land for any purpose provided the Public Forest Estate continues to occupy a substantial proportion of England’s forest resource”.<sup>7</sup> This Act led to thousands of hectares being sold.<sup>8</sup> Private sector involvement in the Public Forest Estate is also possible “through joint ventures and equivalent vehicles”.<sup>9</sup>

The 1997 Labour Party manifesto said that it favoured “a moratorium on large-scale sales of Forestry Commission land”.<sup>10</sup> After the election the Forestry Commission’s budget was increased to reduce the need to sell land.<sup>11</sup> A new policy was introduced stating that the Forestry Commission could only sell land that was ‘surplus to requirements’ and if it met certain conditions:

- The Forestry Commission may sell woods making a relatively limited contribution to Government objectives and providing limited added value from public ownership in the delivery of public benefits.
- Sales will contribute towards the funding of priority programmes and/or assist in the efficient management of the Public Forest Estate.
- Woods which are relatively inefficient to manage (e.g. some outliers on the Estate or woods with difficult access) and might have greater potential if sold to a neighbouring landowner.
- Leasehold woods with constrained public access, and freehold woods dedicated under CRoW but with limited public usage, are both included.
- Ancient Woodland Sites can be considered for sale. Exceptional-quality Ancient Woodland sites or those in “unfavourable condition” will only be considered for sale to a safe purchaser.
- Sales in a National Park, Community Forest, Area of Outstanding Natural Beauty or including a SSSI will only be considered to a safe purchaser. Sale of woodland SSSIs will not be considered.

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<sup>2</sup> [The long-term role of the Public Forest Estate in England: consultation; Analysis and summary of consultation submissions](#), Forestry Commission, December 2009

<sup>3</sup> [A Strategy for England’s Trees, Woods and Forests](#), Defra, 2007

<sup>4</sup> [Our Plans for 2008-2009](#), Forestry Commission England

<sup>5</sup> HC Deb 4 November 2010 c1028

<sup>6</sup> [The Long-term Role of the Public Forest Estate in England: Consultation](#), Forestry Commission, July 2009

<sup>7</sup> [Operational Efficiency Programme: Asset Portfolio](#), HM Treasury, 2009

<sup>8</sup> HC Deb 17 November 1983 vol 48 cc974-5

<sup>9</sup> [Operational Efficiency Programme: Asset Portfolio](#), HM Treasury, 2009

<sup>10</sup> Times Guide to the May 1997 General Election p.324

<sup>11</sup> HL Deb 30 July 1998 c246WA

- Woods are excluded that will contribute significant net income over the next five years.<sup>12</sup>

## 1.1 Sales and Acquisitions

According to a 2009 review of the PFE, since 1997 the land disposals policy has led to the following sales and acquisitions:

- land sales of 7,800 ha and purchase of 5,400 ha;
- 3,000 ha of this was woods and forests and land for tree planting as greenspace in the former coalfields and around our major cities;
- 2,000 ha of freeholds purchased to allow access in priority areas;
- about 30% more people living closer to the estate than it did in 1999 [including] people from more diverse and from more deprived communities.<sup>13</sup>

Most of this 'surplus' land has now been sold; changes would be required to the disposal policy for more land to be sold.<sup>14</sup>

The area of England PFE land sold and bought each year since 1997 are set out in the tables below. Figures were supplied by the Forestry Commission and should be viewed as an estimate rather than an exact figure:

<b>SALES - by calendar year 1997 to 2010</b>			
	<b>Woodland (Ha)</b>	<b>Other Land (Ha)</b>	<b>Total (Ha)</b>
1997	2662		2662
1998	1269		1269
1999	283		283
2000	441		441
2001	97		97
2002	888		888
2003	483	323	806
2004	477	389	866
2005	32	15	47
2006	132	66	198
2007	1572	65	1637
2008	301	5	306
2009	1051	5	1056
2010	1564	0	1564
<b>Total</b>	<b>11252</b>	<b>868</b>	<b>12120</b>

<sup>12</sup> [Long-term Role of the Public Forest Estate in England: Consultation](#), Forestry Commission, July 2009

<sup>13</sup> *ibid*

<sup>14</sup> [Long-term Role of the Public Forest Estate in England: Consultation](#), Forestry Commission, July 2009

## Acquisitions of land by the Forestry Commission England, 1997 to 2010

Hectares

	Community Wood	F/H Purchase Of Existing L/H	Estate Acquisition	National Forest - Community Wood	Management Agreement - Community Wood	Total
1997	82	0	0	0	0	82
1998	233	37	37	0	0	307
1999	54	161	74	0	0	289
2000	189	532	48	0	0	769
2001	650	305	7	0	0	962
2002	359	547	41	0	0	947
2003	152	100	0	199	0	451
2004	91	68	3	29	0	191
2005	179	284	0	0	0	463
2006	118	0	0	0	97	215
2007	214	0	6	0	55	275
2008	173	0	0	0	36	209
2009	0	0	0	0	72	72
2010 to date	58	83	0	0	30	171
<b>Total</b>	<b>2,552</b>	<b>2,117</b>	<b>216</b>	<b>228</b>	<b>290</b>	<b>5,403</b>

Note: Freehold purchase of existing leasehold land does not increase the total area of land owned or leased by the Forestry Commission. Equally these figures do not include new leasehold land.

Source: Defra

Detailed information on [Forestry Commission land sales and acquisitions](#) has been compiled by the Forestry Commission.<sup>15</sup>

## 2 Labour Government proposals post 2008

In the 2008 Pre-Budget Report the Treasury launched the Operational Efficiency Programme (OEP).<sup>16</sup> The Programme said that the Labour Government would:

...consider, for a number of government assets, the potential for alternative business models, commercialisations, new market opportunities and, where appropriate, alternatives to public ownership.

The press took this statement as meaning that the Labour Government would privatise the Forestry Commission.<sup>17</sup> However, the Government said that it remained “committed to a major public forest estate managed by the Forestry Commission in England. This is a key consideration and radical changes to this approach will not be considered. However some changes to the asset sale and re-investment programme will be investigated while remaining within this commitment”.<sup>18</sup>

When the Operational Efficiency Programme was published on 7 December 2009 it set out how alternative sources of income might be generated from the Public Forest Estate. It did

<sup>15</sup> [Open market woodland and other sales](#) – Forestry Commission website. Accessed online: 28 November 2014.

<sup>16</sup> *Operational Efficiency Programme: final report*, HM Treasury, April 2009

<sup>17</sup> *Pre-Budget report: Selling off the family silver to pay for spending*, Telegraph.co.uk, 23 November 2008

<sup>18</sup> *OPERATIONAL EFFICIENCY PROGRAMME AND THE PUBLIC FOREST ESTATE – Q+A*, Forestry Commission Trade Unions, April 2009

not include proposals to sell off large parts of the Public Forest Estate, although it indicated that there may be a move away from using the Estate to grow timber.<sup>19</sup>

### 3 Labour Government Review of the Public Forest Estate

The Labour Government published its *Strategy for England's Trees, Woods and Forests* in 2007.<sup>20</sup> The delivery plan for the strategy included a commitment to carry out a study of the Public Forest Estate, which was launched in 2008 by Hilary Benn MP, the then minister. The review was:

'to consider the future long-term sustainable role for the public forest estate and make recommendations about any necessary changes to improve its ability to deliver relevant priorities in the Strategy for England's Trees, Woods and Forests (ETWF) and contribute to other government objectives'.<sup>21</sup>

A working group comprised of representatives from academia, the civil service, industry and nature conservation was convened to undertake the review. A public consultation exercise was conducted and the views of over 4000 members of the public were collected. Research was conducted on the economic, environmental and social costs and benefits of the estate.<sup>22</sup>

The working group presented its final report to the Forestry Commission England National Committee in May 2010. The review's report was not formally published as "a change of government... meant that Ministers who agreed to the study being undertaken were no longer in power to receive the recommendations".<sup>23</sup> The report should appear on the Forestry Commission website in due course, but it is also available from the House of Commons Library.<sup>24</sup>

#### 3.1 Findings of the Review

##### Evidence collected

Respondents to the public consultation were in the main concerned about there being negative environmental impacts associated with privatisation and the sale of land, although some thought that the private sector could be better utilised in delivering the objectives of the estate.<sup>25</sup> Most respondents placed a "heavy emphasis upon overall management remaining in the public sector, citing that Forestry Commission should retain control".<sup>26</sup> In general, respondents supported the following commercial opportunities:

- Management of land distributed amongst 'safe' buyers (e.g. Woodland Trust)
- Private sector involvement in sustainable activities

##### Respondents generally voice concern over the following areas of commercial opportunities:

- Standards of private sector work

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<sup>19</sup> *Operational Efficiency Programme: Asset Portfolio*, HM Treasury, 2009

<sup>20</sup> *A Strategy for England's Trees, Woods and Forests*, Defra, 2007

<sup>21</sup> *The Study of the Forestry Commission Estate in England*, Forestry Commission, viewed 6 January 2011

<sup>22</sup> *Public Forest Estate: Evidence Gathered*, Forestry Commission, viewed 28 October 2010

<sup>23</sup> Personal communication, Forestry Commission, 5 January 2011

<sup>24</sup> *ibid*

<sup>25</sup> *Public Forest Estate: Evidence Gathered*, Forestry Commission, viewed 28 October 2010

<sup>26</sup> *The long-term role of the Public Forest Estate in England: consultation; Analysis and summary of consultation submissions*, Forestry Commission, December 2009

- General objection to long-term leases
- Timber production (due to time scale issues and negative impact on other forest uses)
- Non-sustainable, profit driven commercial development<sup>27</sup>

The economic evaluation of the Public Forest Estate set out the 'defining characteristics' of Forestry Commission woodland. This concluded that the PFE delivers multiple benefits such as recreation and biodiversity protection, worth around £600 million per year, in contrast to some non-Forestry Commission woodlands:

- managed for multiple objectives (including timber, recreation and biodiversity conservation motives). This is in contrast to some non-FC woodlands many of which are under very little management, although many other forest owners do manage under multiple objectives;
- covered by long-term Forest Design Plans developed through a multifactorial consideration of the potential for public benefit and wide ranging consultation;
- independently certified through the UK Woodland Assurance Standard (UKWAS). UKWAS is a voluntary audit protocol that gives access to the international certification schemes. All of the PFE in England is currently certified to the FSC (Forest Stewardship Council) certification scheme. For non-FC woodlands in England, 16% or 139,000ha are similarly certified. This includes all National Trust and Woodland Trust holdings. In all woodland, forest management has to comply with the UK Forestry Standard (the Government standard for sustainable forestry); this is a condition of receiving a licence for the operations, as well as for any grant-aid from the Forestry Commission;
- typically much larger woodlands: almost 150ha on average, compared to approximately 14ha for other ownership (National Inventory, 2001; note that these are figures only for woods over 2ha, and almost 75% of woods are under 2ha)
- much more likely to be accessible to the public: the PFE represents about 18% of woodlands in England, but about 44% of the accessible woodland in England is managed by the FC. Access is encouraged (except on some leasehold land where the lease restricts access) and various levels of facilities are provided on many sites;
- consistent with the above points, the FC makes significant expenditures and investments that may not be incurred by some other woodland owners, for example those who do not encourage public access or who do not manage actively.

While the economic study recognised the range of benefits associated with the PFE, it stated that "it is important to note that many of the products and services are also provided by woodlands in other ownership".<sup>28</sup> It went on to discuss the differences between Forestry Commission management and private management:

Given these differences, it is of interest to ask "what is the value added of FC management?" and "how might this be enhanced?". The FC incurs additional costs to yield enhanced non-market benefits, compared with hands-off management, or a

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<sup>27</sup> [The long-term role of the Public Forest Estate in England: consultation; Analysis and summary of consultation submissions](#), Forestry Commission, December 2009

<sup>28</sup> [The Economic Contribution of the Public Forest Estate in England](#), EFTEC, January 2010

purely commercial approach to forestry. Non-market benefits of forestry include biodiversity conservation, greenhouse gas regulation, water regulation and purification, aesthetic and recreational values, and so on. The assessment aims to consider the value of benefits generated by timber and by non-marketed products and services alongside the additional costs.

It is important to note that many of the products and services are also provided by woodlands in other ownership. To a greater or lesser extent these benefits are dependent on management practices, and any differences in values of the products and services are the result of forest structure and management, not of ownership per se. Other landowners who manage for multiple objectives, encourage access, and so on, will also create significant product and service values. However there may also be significant value associated with public trust, security, and accountability – value associated with the FC “brand”, and with some other organisations (for example National Trust, Woodland Trust). These values are not reflected directly in this report but further research here may be warranted. There are also values associated with the advantages of single ownership/management, such as ability to adopt a strategic approach to forest planning and risk management at a wide geographical scale – these values are not reflected directly here, but are inherent in the discussion of strategic scenarios for management of the PFE.<sup>29</sup>

The environmental assessment highlighted the environmental and heritage value of the PEF:

- Around 24% of the PFE is ancient woodland. Between 2002 and 2009, there was a 12% increase of restoration of conifer plantations to semi-natural woodland from 15,952 ha to 17,842 ha.
- Conservation priority woodland habitats on the PFE increased from 24,815 ha to 27,224 ha during 2004-2009. These habitats now represent over 10% of the total area of the PFE. Priority open habitats have also increased by 10% since 2004, and this will increase further.
- The PFE includes 67,772 ha of Sites of Special Scientific Interest (SSSIs). Those classified as being in target condition rose from 71% in 2003 to 98% by 2009.
- Scheduled ancient monuments in the PFE were considered to be at lower overall risk of loss or damage than those outside the estate.
- 45% of the estate was in a National Park or Area of Outstanding Natural Beauty (AONB).
- The PFE “is the largest single land holding in England, and as such can deliver large-scale change or subtle alterations in the wider landscape context. The Forestry Commission used forest design planning on the PFE to ensure the potential impact of any changes is fully assessed and consulted on”.<sup>30</sup>
- The PFE could play an important role in sustainably reducing flood risk.<sup>31</sup>

### **Conclusions of the working group**

The report has not been formally published. Electronic copies of the full draft report can be obtained from the Forestry Commission or the House of Commons Library.

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<sup>29</sup> *The Economic Contribution of the Public Forest Estate in England*, EFTEC, January 2010

<sup>30</sup> *Environmental Status Report – the Public Forest Estate in England*, Forestry Commission England, December 2009

<sup>31</sup> *ibid*

The working group made a large number of recommendations. It said that the current funding situation was “not sustainable” and indicated that there needed to be reforms:

Running costs are increasing as more public benefits are delivered, but public funding is decreasing, and asset sales are funding the gap. Standards on the PFE are generally high, but standards outside the PFE are variable. Many non-PFE woods and forests in England are also well managed. However, others are under managed and not realising their full potential.

[T]his and other evidence adds up to a case for change for the PFE[.] The PFE should build on its strengths; realise the opportunities; and resolve the challenges by:

- focusing more on its distinctive role in delivering a few key outcomes [such as creating and maintaining wildlife habitats, contributing to a low carbon economy and promoting well-being];
- playing a more active role alongside other mechanisms to realise the full potential of all woodland in England; and
- securing a more sustainable financial model.<sup>32</sup>

Regarding the specific point of ownership, and within the scope of the review, it recommended that the PFE should:

- remain large scale;
- be widely distributed across England;
- have a flexible and varied representative cross-section of all types of woodland in England;
- be able to provide a significant volume of products and services, skills and expertise; and
- remain under public control and accountability.<sup>33</sup>

The working group noted that the “extent of consensus we have developed within our group is noteworthy given the wide range of interests represented across the spectrum of stakeholders in English forestry”. However, it said that making recommendations for the future of the PFE was challenging, particularly with regards to:

- seeing the long-term role beyond the current severe financial challenge;
- differentiating between the value of all woodland and the distinctive value of the PFE; and
- dealing with a large set of connected factors that have no simple relationship.<sup>34</sup>

The group recognised that acting on its recommendations “would be challenging, require political commitment and a financial ‘bridging strategy’, and would take several years to implement”. It indicated that the bridging strategy could be funded through the careful sale of assets; however it made clear that asset sales should not proceed simply as a way to cover

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<sup>32</sup> *The long-term role of the Forestry Commission Public Forest Estate in England*, Report to Forestry Commission England National Committee by a multi-sectoral working group, Draft version 10, 20 May 2010

<sup>33</sup> *The long-term role of the Forestry Commission Public Forest Estate in England*, Report to Forestry Commission England National Committee by a multi-sectoral working group, Draft version 10, 20 May 2010

running costs. It was also clear that asset sales might undermine the delivery of key outcomes. The working group believed that implementation of the recommendations would move the PFE to “a sustainable financial position”.<sup>35</sup>

## 4 Planned land sales 2011/12 to 2014/15

As part of the Spending Review, Ministers announced that “approximately 40,000 hectares of land currently managed by Forestry Commission England would be sold over the four year period 2011/12 to 2014/15.”<sup>36</sup> This equates to around 15% of the estate. The selection criteria for these sales were set out on the Forestry Commission [website](#). The sale of this land was not going to be affected by the public consultation on the PFE.<sup>37</sup>

The Forestry Commission said that “the total value of the public forest estate sold would be around £100m. £74.5 million of net receipts will be returned to Defra and we are in discussions with Defra about how the balance of receipts will be spent as part of the spending review settlement”.<sup>38</sup>

These sales have been suspended pending the findings of the Independent Forestry Panel (see below).

## 5 The Government’s proposed sell-off

### 5.1 Announcing the possible reforms, and initial responses

On 29 October 2010, [Defra wrote to MPs](#) “outlining its intention to fundamentally reform the public forestry estate, with diminishing public ownership and a greater role for private and civil society partners”.<sup>39</sup> It said that a public consultation on the proposals would be conducted in late 2010, but this was not published until January 2011. The Coalition aimed to publish a Natural Environment White Paper by April 2011, although this too has been pushed back. The White Paper may include a number of policies that could be pertinent to the sale of Forestry Commission land, such as conservation credits.

While the sale of Forestry Commission land has helped to raised revenue for governments in the past, the Minister, Caroline Spelman MP, said that this was not the motivation behind the proposals. She said that the sale of public forests was not a “fire sale by a cash-strapped state”, “but the start of new approach to making their protection more local and less central”. The Minister stated that “we think it’s much better to give individuals, businesses, charities and local authorities the chance of a much bigger role in protecting their natural environment—and, frankly, those who live closest are most likely to protect it”. She said that one of the main motives for a sale was the need to “enhance biodiversity”.<sup>40</sup>

James Paice MP said in evidence to a House of Lords select committee that the public benefits of the estate would be protected:

...we are committed to the principle that protecting the range of public benefits—biodiversity, access, carbon fixation—and to achieve the increasing tree cover that I

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<sup>34</sup> *ibid*

<sup>35</sup> *ibid*

<sup>36</sup> [Selection Criteria for the sale of Forestry Commission England land in 2011](#), Forestry Commission, December 2010

<sup>37</sup> [The future of the Public Forest Estate in England: a public consultation](#), Defra, 27 January 2010

<sup>38</sup> [Delivering forestry policy](#), Forestry Commission, 6 January 2010

<sup>39</sup> Defra, “[Letter to MPs – Forestry in England: A new strategic approach](#)” (29 October 2010).

<sup>40</sup> [Setting the record straight on the sale of England’s woodlands](#), The Guardian, 12 November 2010

seek does not necessarily require the state to own the forestry. I take this opportunity to emphasise that we have absolutely no intention of reducing any of the protections that exist. Indeed, part of the consultation will be on whether other protections will be necessary. Felling licences will still be in place. All this nonsense we have read about golf courses and holiday camps on the forest is all complete and utter bunkum. It just will not happen.<sup>41</sup>

Mary Creagh MP, Shadow Environment Minister, called the potential reforms “an act of environmental vandalism”. She went on:

The public bodies bill, if it is passed, will be a loggers' charter. Private companies will cherry-pick sites for commercial development, and voluntary groups will be left to look after ancient woodlands without a budget. The true value of England's forests will never be reflected in the price the Tory-led government gets from selling them.<sup>42</sup>

Many NGOs were also concerned about the potential environmental impacts of the potential reforms. The Woodland Trust said:

The Woodland Trust has long held the view that not all of the existing public forest estate needs to be held in public ownership, especially those sites whose purpose is primarily the production of timber and which provide few benefits to the public, or where local community ownership is a viable option. But we have concerns about the fallout from a substantially accelerated disposal programme of public forest land of value for wildlife and for people.

Future sell offs create four major uncertainties: the restoration of planted ancient woodland sites (PAWS), the lack of guarantees that income from disposals will be used to support current forestry and woodland priorities such as woodland creation; the practical difficulties of ensuring that all existing public access to the current estate is maintained; and the ability of current protection mechanisms to safeguard the public value of woods to be sold.

Top of the Trust's list is the restoration of ancient woods. If the Government is determined to be the greenest government ever then it has to find a way to secure the future of 20,000 hectares of ancient woodland sites planted up with conifers over the last 60-70 years, which it currently owns.

“Ancient woodland is our richest and most fragile habitat, our equivalent of the rainforest. Restoring 20,000ha of ancient woodland would be the one of the most significant contributions we could make to improving the captivating and spectacular wildlife of UK's beleaguered woods”, commented Sue Holden, chief executive of the Woodland Trust.

“A substantially bigger programme of sales in the future with no means of securing their restoration would mean a massive opportunity would be lost, probably for ever,” she continued. “We feel the Commission should restore the planted ancient woods it owns, and only then should it even contemplate selling them to responsible owners.”

The conifers planted many years ago in place of native woodland cover are now reaching economic maturity yet these sites are ancient woods on the brink, retaining against all odds echoes of their past wildlife and cultural richness. The chance to restore them to native woodland is a once in a lifetime opportunity which must be

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<sup>41</sup> *Lords' Select Committee on Select Committee on the European Union Agriculture, Fisheries and Environment Sub-Committee Inquiry on Forestry*, Unrevised transcript of evidence taken on 24 November 2010

<sup>42</sup> England's forest sell-off plan gets a partial rethink, *The Guardian*, 26 January 2011

grasped with great urgency. Yet there are no mechanisms in place to guarantee that if sold to commercial or private interests that restoration would take place.

Asked if the Trust would be interested in acquiring any of the sites, Sue Holden said: "We need a strategic solution to the question of the future of FC land especially of PAWS, which addresses the problem wholesale not piecemeal, site by site. Buying a few planted ancient woodland sites will only scratch the surface of the issue. We would be willing to partner the FC to ensure restoration if that is what it takes.

"Even if we were interested, there is the huge question of where we would obtain the money from and how we would ensure that our limited funds were spent on priority sites, given the likelihood of many hundreds of woods going up for sale over a period of years".<sup>43</sup>

However, other commentators believed that negative environmental impacts could be avoided from a sale—depending on the way in which a sale was managed it could even help to increase the resources available for conservation:

Other conservationists are not overly concerned [about the sale] as long as there are guarantees they will be managed well. They point out that most nature conservation is now part-funded by business, and many nature reserves are already owned by private individuals.<sup>44</sup>

Morgan Parry, Chair of the Countryside Council for Wales, spoke about government approaches to the natural environment. He said that "it matters less who manages nature reserves, as long as their management is properly funded and done to the highest standards". He went on that in "rethinking how we manage the environment we need to understand what nature reserves are for: i.e. they are the genetic and ecological core areas which are crucially important to ecosystem function". Referring to Wales, where there was no change in forest policy, he referred to an ongoing debate "about how we scale up our efforts to manage our environment sustainably". He said:

I believe Government should increase its funding of conservation, and significant funding streams from the private sector should be added.

"Scaling up" will require more resources, not less, and (in my view) a continuing role for governments at all levels. If we can free up resources by being more efficient, avoiding duplication of effort, and involving a wider range of partners, we should do so.<sup>45</sup>

## **5.2 Public Bodies Bill 2010—powers to dispose of the Public Forest Estate**

The *Public Bodies Bill 2010*, introduced to the House of Lords, contains clauses 17 and 18 relating to the reform of the Forestry Commission. It would allow the "Secretary of State to make an order amending the *Forestry Act 1967* in relation to the exercise of certain functions, including those of managing, using, letting and disposing of forestry land". Subsection (3) of clause 17 allows the Secretary of State to exercise these functions "for any purpose or without condition".<sup>46</sup>

Defra Minister James Paice MP said that these powers were required to enable the Government to sell a substantial part of the PFE:

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<sup>43</sup> [Forestry Commission disposals](#), Woodland Trust, 22 December 2010

<sup>44</sup> *ibid*

<sup>45</sup> Morgan Parry, personal communication, 5 January 2011

<sup>46</sup> *Public Bodies Bill 2010*, HL Bill 025 2010-11

In order to have substantial disposal, we need to change the law. Our lawyers advise us that up to about 15% of the forest could be sold without risk of transgression of current legislation, which requires the Commission to own and manage the public estate. To get beyond that, we would need to change the law.<sup>47</sup>

On 17 February 2011, the Government announced that these clauses would be removed from the Bill.<sup>48</sup>

### 5.3 The public consultation

On 27 January 2010 the public consultation was launched for 12 weeks. The Government set out the key principles of its preferred approach:

The Government believes that there are other sectors of society which may be better placed to own or manage the public forest estate. For different types of forests, this change will have different types of benefits. For a wood that is important to a local community, it will mean they can have a greater say in it. For a nationally important forest, it will mean it will continue to be managed for the benefit of the nation while bringing together a wider group of partners in achieving this.

Meanwhile, the private sector will be given the opportunity to maximise the commercial potential of forests and woodlands but within a framework that safeguards public benefits. Government's approach to finding new owners and managers will be underpinned by a set of key principles which are designed to protect the public benefits that so many of us across the country enjoy and cherish. In taking decisions on new owners or managers for the public forest estate, the Government will seek to abide by the following principles:

- protect and enhance biodiversity to contribute to a network of wildlife corridors across England;
- maintain public access for recreation and leisure;
- ensure the continuing role of the woodlands in climate change mitigation and adaptation; and
- protect nationally important landscapes.<sup>49</sup>

The Government rejected an "open market sale" of the whole PFE. Instead it proposed a variety of options for changing the management of specific parts of the estate, with an increased sale programme targeted at woodland with "limited added value in terms of public benefits":

The Forestry Commission has, for many years, been active in buying and selling forest land and other properties. Our new approach will involve a significant scaling up of our sales and leasing activities together with developing new models of ownership and management which help to protect public benefits. In developing our approach, we have listened carefully to the public debate, including the consultation carried out by the previous administration on the longterm role of the Forestry Commission estate in England. We have also taken note of past discussions that took place when the Scottish Government proposed leasing some 100,000 hectares of publicly owned

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<sup>47</sup> [Lords' Select Committee on Select Committee on the European Union Agriculture, Fisheries and Environment Sub-Committee Inquiry on Forestry](#), Unrevised transcript of evidence taken on 24 November 2010

<sup>48</sup> [The future of forestry in England](#), Defra, 17 February 2011

<sup>49</sup> [The future of the Public Forest Estate in England: a public consultation](#), Defra, 27 January 2010

forest in 2008 and during an earlier GB-wide consultation in the 1990s. In addition, we have studied the Scottish National Forest Land Scheme.

On this basis, we have concluded that there is no one-size fits all solution that adequately protects public benefits in line with the principles above. Therefore, drawing on the characterisation set out in section 2.2, we are proposing to take forward a mixed model approach with the following elements:

- inviting new or existing charitable organisations to take on ownership or management of the heritage forests in order to secure their public benefits for the long-term future;
- creating opportunities for community and civil society groups to buy or lease forests that they wish to own or manage; and
- finding commercial operators to take on long-term leases for the large-scale commercially valuable forests. By leasing rather than selling, it will be possible to make sure that these forests continue to deliver public benefits through lease conditions.

In addition, the Forestry Commission is increasing its estate rationalisation through open market sales (and lease reversion). In 2010, Ministers announced that a further 40,000 hectares would be sold over the four years from 2011/12 to 2014/15. The selection criteria for these sales will be announced shortly. The selection criteria for these sales are published on the Forestry Commission's and Defra's websites. Sales will target woods which provide limited added value in terms of public benefits.

We have considered and rejected a number of other options that we considered would not offer enough opportunity for civil society involvement or enough protection for public benefits. These included an open market sale of all Forestry Commission assets to the highest bidder, establishing a new corporate vehicle (such as a Forestry Unit Trust) or a single charitable body to run the estate, and joint ventures.<sup>50</sup>

The consultation set out in more detail the process for charities taking over the management of heritage forests:

The Government proposes to transfer the ownership or management of the large heritage sites on the public forest estate to a charity or charities, via a trust arrangement or lease. The transfer would be at no cost to the new owner. The charity is likely to require ongoing funding from Government in return for the public benefits and would be expected to become less reliant on Government support over time.<sup>51</sup>

On Community Right to Buy proposals the consultation made clear that should a community not purchase the land it would be placed on the open market for sale:

Where a forest or woodland which is part of the public forest estate and is not 'listed' as an asset of community value through the Community Right to Buy process and comes up for sale, we would seek to implement the same kind of process. Before any forest is put on the open market, community groups would be given time to prepare to bid for the land should they wish to. Any sale would be at the open market value, but – should a community or civil society group wish to purchase the land – then the sale would not proceed to open market competition. There would need to be a clearly defined policy on what sort of group or groups would be eligible, and how they would

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<sup>50</sup> [The future of the Public Forest Estate in England: a public consultation](#), Defra, 27 January 2010

<sup>51</sup> *ibid*

make sure that the various interests in the forest were balanced. The design of the sales process will be informed by the Community Right to buy approach.<sup>52</sup>

The proposals indicated that commercial forests would be leased rather than sold, which would allow for conditions on issues such as management and access to be included in the terms of the lease:

Lease conditions would be applied to make sure that particular public benefits were safeguarded. It is possible to use lease conditions to require management in accordance with the UK Forestry Standard and the UK Woodland Assurance Standard, and continued provision of particular types of recreational access (such as cycling or horse riding). The Forestry Commission would need continued to make sure that the terms and conditions of the lease were being observed.<sup>53</sup>

## 6 Withdrawal of the proposal and the establishment of an Independent Panel on Forestry

On 17 February 2011, following widespread criticism of the proposals, the Government halted the public consultation, removed the relevant clauses from the *Public Bodies Bill* and suspended the sale of land.

The Minister, Caroline Spelman MP, announced that an “independent panel to consider forestry policy in England” would be established. The panel will advise the Government on “the future direction of forestry and woodland policy in England, on the role of the Forestry Commission, and on the role of the Public Forest Estate”.<sup>54</sup>

The Independent Panel on Forestry was launched on 17 March 2011. It is chaired by the Right Reverend James Jones, Bishop of Liverpool. More information about the members of the panel, its terms of reference and details of its meetings [can be found on the Defra website](#).

### 6.1 The Independent Panel on Forestry—recommendations

The Panel issued its final report on 4 July 2012. It recommended that the public forest estate “should remain in public ownership”, and it made a number of suggestions for the reform of forest management in England.

The recommendations focussed on maximising the social, environmental and business benefits of English woodland, so that the forestry industry will be on a more secure footing in the future.

The key recommendations were:<sup>55</sup>

- the public forest estate to be defined in law as **land held in trust** for the nation so that it will always remain as a national asset.<sup>56</sup> This would be by means of a Charter which would specify the public benefit mission and statutory duties and would be renewed every ten years.

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<sup>52</sup> *ibid*

<sup>53</sup> *ibid*

<sup>54</sup> *The future of forestry in England*, Defra, 17 February 2011

<sup>55</sup> Taken largely from Independent Panel on Forestry press release, *Report recommends “triple bottom line” valuation of England’s woodlands- delivering benefits for people, nature and the green economy*, 4 July 2012

<sup>56</sup> Independent Panel on Forestry press release, *Report recommends “triple bottom line” valuation of England’s woodlands- delivering benefits for people, nature and the green economy*, 4 July 2012

- The public forest estate to be managed by a **new public forest management organisation** evolved from Forest Enterprise England (currently within the Forestry Commission) with a new statutory purpose to sustain and build the social, natural and economic value of the estate for the long term for the benefit of the nation.<sup>57</sup>
- The **expansion of woodland** cover from 10% to 15% by 2060
- **A recognition of ecosystem services:** The report calls for the benefits of England's woods and forests to be re-valued for all the services they provide. These would include: recreation (the public forest estate is the single largest provider of outdoor leisure and recreation in England), clean air and water, habitats for wildlife, locking up carbon, shading in cities and flood reduction.
- **A revival of a woodland culture** that appreciates how important trees are for people, for nature and the economy. The report highlights how forestry delivers such a 'triple bottom line' with the public forest estate being the single largest timber producer with wood as the raw material for timber frame buildings, furniture, flooring, fuel, and paper.
- **England's woods and forests outside of the public forest estate (82%) to be sustainably managed to create a substantial impact.** The Panel identified an "urgent need" for the existing roles offered by Forest Services (currently within the Forestry Commission) to be significantly developed. The Panel envisages **a public body evolved from Forest Services** which will be a champion and advocate for trees, woods and forests providing expert advice, regulation and delivery of Government policy in partnership with other organisations and forestry professionals.<sup>58</sup>

The Chair of the Panel, The Right Reverend James Jones, Bishop of Liverpool said:

"Government investment is now needed to kick start these changes which will repay itself many times over in terms of public benefit"<sup>59</sup>

The report pointed out how, on balance, the forestry estate is providing a good return on investment taking into account the full range of benefits it provides and therefore there should be no question about continued investment by government:

The net annual cost of running the public forest estate to the public purse is currently only around £20 million, equivalent to 90 pence per household each year. The annual returns on this investment have been estimated at £400 million in terms of benefits to people, nature and the economy. Yet this still does not reflect some of the benefits it provides, such as peoples' ability to connect with nature or the preservation of historic customs and traditions. We fully believe that if these benefits were accounted for on a natural capital balance sheet then there would be no question over continued investment by Government. In the meantime sufficient funding must be made available to avoid the sale of woods and forests simply to enable the annual balancing of the books, which has occurred in recent years. This reduces the value of the public asset, and is unsustainable.<sup>60</sup>

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<sup>57</sup> Independent Panel on Forestry, *Independent Panel on Forestry – Final report*, 4 July 2012, p.9

<sup>58</sup> Independent Panel on Forestry, *Independent Panel on Forestry – Final report*, 4 July 2012, p.9

<sup>59</sup> Independent Panel on Forestry press release, *Report recommends "triple bottom line" valuation of England's woodlands- delivering benefits for people, nature and the green economy*, 4 July 2012

<sup>60</sup> Independent Panel on Forestry, *Independent Panel on Forestry – Final report*, 4 July 2012, p.10

## 6.2 Reaction to the Panel report

Response to the report was largely positive.<sup>61 62</sup> However, although broadly supportive of the recommendations, various campaign groups have expressed some ongoing concerns. For example, the [Our Forests](#) campaign group has doubts as to whether the report recommendations will be taken forward by the Government and appears suspicious about the idea floated in the report that it is:

...important for the managers of the public forest estate to be able to explore appropriate new funding streams where there is a net benefit to the total value of the estate including its social and environmental value.<sup>63</sup>

The [Save our Woods](#) campaign has some concerns about a lack of clarity regarding the new governance arrangements being proposed.<sup>64</sup>

## 6.3 Government response to the Panel's report

An initial response to the Panel's report was provided by then Defra Minister, Caroline Spelman MP, who delivered a short written statement to the House in July 2012. This statement confirmed that the Government would continue the general suspension of the sale of estate land and that it expected the Forestry Commission to continue to manage the estate to deliver the most public benefits.<sup>65</sup>

In her written statement, the Minister agreed with the Panel regarding its central conclusion that the "public forest estate should continue to benefit from public ownership" and recognised that a well-managed and publicly owned estate provided the sort of public benefits that need to be protected. She went on to indicate the Government's views on future funding:

But I also agree with the International [sic] Panel on Forests (IPF) that the way that the estate is cared for and managed should evolve to meet the challenges ahead of us. We need a new model that is able to draw in private finance, make best use of Government funding and a means to facilitate wider and more comprehensive community support...<sup>66</sup>

The Minister also highlighted that a comprehensive response to the Panel's report would be forthcoming in January 2013.<sup>67</sup>

## 7 Forestry and Woodlands Policy Statement

In January 2013, Defra published a full government response to all of the Panel's recommendations in its [Forestry and Woodlands Policy Statement](#). The statement set out a "refreshed government forestry policy" based around a clear hierarchy of priorities of "protecting, improving and expanding public and private woodland assets."<sup>68</sup> Furthermore, in his Ministerial foreword to the Woodlands Policy Statement, Owen Patterson MP stated that:

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<sup>61</sup> <http://www.bbc.co.uk/news/science-environment-18690019>

<sup>62</sup> <http://www.guardian.co.uk/environment/2012/jul/04/no-sell-off-forests-spelman?INTCMP=SRCH>

<sup>63</sup> Independent Panel on Forestry, *Independent Panel on Forestry – Final report*, 4 July 2012, p.55

<sup>64</sup> Save our Woods, *Save our Woods response to independent forestry panel report*, 4 July 2012

<sup>65</sup> [HC Deb c.55WS 4 July 2012](#)

<sup>66</sup> [HC Deb c.55WS 4 July 2012](#)

<sup>67</sup> [HC Deb c.55WS 4 July 2012](#)

<sup>68</sup> Defra, "Government Forestry and Woodlands Policy Statement: Incorporating the Government's Response to the Independent Panel on Forestry's Final Report" (January 2013).

“England’s Public Forest Estate will remain secured in public ownership – for the people who enjoy it, the businesses that depend on it and the wildlife that flourishes in it. We have rescinded the previous policy of disposing of 15% of the Estate and we will be providing sufficient funding in this Spending Review to ensure that high levels of public benefit can continue to be delivered. This includes £3.5m that we have specifically included in the Forestry Commission’s budget for 2013/14.”

The statement saw the government welcome the report from the Independent Panel on Forestry and highlighted their agreement and full acceptance of many its recommendations, including<sup>69</sup>:

- The need to develop a new woodland culture and a resilient forestry and woodland sector,
- The value of the Public Forest Estate, which will continue to benefit from public ownership, be held in trust for the nation and be managed by a new, operationally-independent body,
- The importance of protecting our woodland assets,
- The need to bring more woodland into active management and increase the extent of woodland cover in England,
- The need to help the sector to find its voice and improve its economic performance,
- The importance of preserving and maximising the social and environmental benefits provided by trees and woodlands, particularly in and around our towns and cities,
- The scope for developing new markets based around a better understanding of the value and potential of our trees, woods and forests,
- The value of retaining a skilled cadre of forestry experts within the public sector.

## **7.1 New Public Forest Estate Management Organisation (PFE MO)**

In the Woodland Policy Statement, the government committed to establishing, via legislation, a new, operationally-independent Public Forest Estate management body, to hold the estate in trust for the nation.<sup>70</sup> In July 2013, the Government published a paper outlining the mission and objectives of its proposed new Public Forest Estate Management Organisation (PFE MO).<sup>71</sup> This document built upon the initial objectives outlined in the Woodland Policy Statement 2013.

The government outlined a provisional mission statement for the new PFE MO, which aimed, “to protect and improve the public forests, woodland and other land assets held on behalf of the nation for the benefit of people, nature and the economy.”<sup>72</sup>

In addition, the government’s objectives in establishing the body, set out in the Woodlands Policy statement, are based around “more effective, focused management of the Public

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<sup>69</sup> Defra, “[Government Forestry and Woodlands Policy Statement: Incorporating the Government’s Response to the Independent Panel on Forestry’s Final Report](#)” (January 2013).

<sup>70</sup> Defra, “[Government Forestry and Woodlands Policy Statement: Incorporating the Government’s Response to the Independent Panel on Forestry’s Final Report](#)” (January 2013).

<sup>71</sup> Defra, “[New Public Forest Estate Management Organisation: Governance Premises Summary](#)” (July 2013).

<sup>72</sup> Defra, “[New Public Forest Estate Management Organisation: Governance Premises Summary](#)” (July 2013).

Forest Estate by a body with sufficient independence and freedom to maximise its economic opportunities while maintaining high levels of public benefit”.<sup>73</sup>

### **When will the government legislate for the new body?**

The government stated that the proposed governance structures outlined in the document required primary legislation to establish the proposed body, and would therefore be dependent on the parliamentary timetable.<sup>74</sup>

On 4 August 2014, Defra Minister Lord De Mauley, answered a parliamentary question asking when the government intended to bring forward legislation to establish a new Public Forest Estate Management Body, by stating that:

“The Government’s policy on the future of the Public Forest Estate is set out in its Forestry and Woodlands Policy Statement of January 2013. The Government is committed to maintaining the Public Forest Estate in public ownership and to establishing [sic] a new operationally independent public body to manage the estate for the long-term benefit of people, nature and the economy.

“There were many proposals competing for the limited space within the Fourth Session programme and the proposed forestry measures could not be accommodated. However, the Government stands by its commitment to establish the new public body as soon as parliamentary time allows.”<sup>75</sup>

However, when legislation to establish the PFE MO was not included in the Queen’s speech in June 2014, the [Independent Forestry Panel issued an open letter to the Government](#) in which they expressed regret that the Government had failed to bring forward legislation to protect the public forest estate.<sup>76</sup> The Panel also urged all the political parties to legislate as soon as possible after the general election to bring forward a Bill on establishing a public body to manage the forest estate:

“The fierce public debate prompted by the Government’s intentions for the future of the public forest estate demonstrated how important our forests are to the nation. The Independent Panel now urges the Government and all political parties to make a manifesto commitment to legislate as soon as possible after the General Election so that the future of our public forests is assured, protecting and developing the social, environmental and economic benefits of forests.”<sup>77</sup>

## **8 Infrastructure Bill: Forestry sell-off concerns**

The Infrastructure Bill [HL] 2014–15 was announced as part of the Queen’s Speech 2014, it makes provision for the Government’s proposals to fund, plan, manage and maintain the UK’s national infrastructure.

Amid concerns about the shortage of new houses, environmental groups expressed their concern that the *Infrastructure Bill* could be used to sell-off public forest land. These concerns centre on the provisions of clause 26 of the Bill (at report stage in the House of Lords), which provides powers to the Secretary of State to transfer the property, rights and

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<sup>73</sup> Defra, “[New Public Forest Estate Management Organisation: Governance Premises Summary](#)” (July 2013).

<sup>74</sup> Defra, “[New Public Forest Estate Management Organisation: Governance Premises Summary](#)” (July 2013).

<sup>75</sup> *HL Deb 4 Aug 2014* HL1506

<sup>76</sup> Press Association, “[Forestry panel attacks UK government](#)” *Guardian* (6 June 2014). Accessed online: 20 November 2014.

<sup>77</sup> [Independent Panel on Forestry Letter following Queens Speech](#) (4 June 2014).

liabilities of a public body to the Homes and Communities Agency (HCA). Commenting on the Bill in a blogpost in June 2014, for example, [the Woodland Trust stated that](#):

“[It was] very concerned about the potential implications of this element of the Bill. We are pushing hard for an amendment that recognises that not all land is appropriate for development. In particular it will be important to see exemptions for designated sites and irreplaceable habitats including ancient woodland. We are also calling for an exemption for the Public Forest Estate as without a Forestry Bill the nation’s forests remain vulnerable.”<sup>78</sup>

Responding to these concerns, on 1 July 2014, [Parliamentary Under Secretary of State for Communities and Local Government Baroness Stowell made a statement](#) that this clause would not result in the sale of the public forest estate, and that it was never the government’s intention to use the Bill to sell-off the public forest estate:

“Clause 21 [clause 26 at report stage] of the Infrastructure Bill is completely unconnected to the government’s stated policy to establish a new public body to hold the public forest estate.

“The government has no intention of transferring land from the new body to the Homes and Communities Agency, as the public forest estate is currently in use and not declared surplus. As such, the powers will not be used in relation to this body and will therefore have no effect on it.

“Instead, Clause 21 simply enables surplus land to transfer directly from named public bodies directly to the Homes and Communities Agency, rather than being transferred into the ownership of a Whitehall department first, saving unnecessary bureaucracy. The underlying policy intention is to make it easier for surplus and redundant brownfield land to be sold and help build more homes.

“The Clause 21 arrangements will only apply to public bodies included on a list set out in secondary legislation. I can confirm that this list will not include the new body to hold the public forest estate.”<sup>79</sup>

Despite the Government’s reassurances, campaign group 38 degrees launched a campaign in November 2014 calling for forest estate to be excluded from clause 26 in the Bill. Over 150,000 38 Degrees members [signed this petition](#).<sup>80</sup>

Consequently, on 6 November 2014, the [government confirmed](#) that it would include a commitment to not sell off public forests in law to reassure Parliament and the public.<sup>81</sup> This clause was moved at Committee stage in the Lords. [Local Government Minister Lord Ahmad commented on the decision](#) stating that:

“Throughout the passage of the Infrastructure Bill, the government has consistently stated that we have absolutely no intention of selling off our public forests, a point accepted and acknowledged in last night’s debate. However the government is

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<sup>78</sup> Victoria Bankes Price, [“The Infrastructure Bill – what does it mean for woods and trees?”](#) *WoodlandTrust.org.uk*, (27 June 2014).

<sup>79</sup> DCLG, [“Government response: The Infrastructure Bill and public forests”](#) *gov.uk* (1 July 2014).

<sup>80</sup> Amy Lockwood, [“U-turn over forests in the infrastructure bill is a victory for the environment”](#) *Guardian* (6 November 2014).

<sup>81</sup> BBC, [“Ministers vow not to transfer forests to housing body”](#) (6 November 2014). Accessed online: 12 November 2014.

pleased to affirm this commitment in law to further reassure Parliament and the public.”<sup>82</sup>

## **9 How much of the Public Forest Estate is in my constituency?**

An estimate of the area of land owned or leased by the Forestry Commission in each constituency in England was set out in a response to a [PQ on 18 November 2010](#).<sup>83</sup>

An interactive map showing Forestry Commission land across England can be found on the Forestry Commission [website](#).

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<sup>82</sup> DCLG, “[Infrastructure Bill: forests](#)” *gov.uk* (6 November 2014).

<sup>83</sup> *HC Deb 18 Nov 2010* c921W-923W