

Note of a meeting between LINK and SEPA held on 31 July 2014 at the LINK office.

1. **Welcome and Introductions.** Attending for LINK: Deborah Long, Chair and head of Plantlife Scotland; Lloyd Austin, Convenor of LINK's Governance taskforce, RSPB; Matthew Crighton, Convenor of LINK Economics taskforce, Friends of the Earth Scotland board member, Ross Finnie, LINK President, Alice Walsh, LINK staff.

Attending for SEPA: David Sigsworth, Chair; James Curran, CEO; Paula Charleson, Head of Environmental Strategy; Jo Green, Head of Change Delivery, leading on environmental aspects of the Regulatory Reform Bill.

2. Implementation of the Regulatory Reform Bill

Joint SG/SEPA consultation on new enforcement measures:

SEPA anticipates phased implementation of the Bill's measures. The first priority is an enforcement framework, plan to have regulations in place by Spring 2015. A SEPA/ScotGov consultation describes the direction of travel, enforcement policy, guidance etc, will go through SP Committee scrutiny. A stakeholder meeting on 21 August with the Crown office – if LINK can't attend we agreed to organise a separate meeting. **Action: SEPA and LINK.**

LINK has input at all phases, is comfortable with the direction of travel as long as enforcement is strict, with strong penalties applied. The legal options and issues were discussed; JG thought Mary Church's paper helpful; removal of financial benefit for crime (Vermont parallel) has influenced thinking; SEPA and LINK agreed on keeping crime in the current criminal system – environmental court is required for civil offences and compliance with Aarhus. Continuing efforts are required to educate professionals involved in the legal system to ensure Crown cases are well made and penalties properly reflect the extent of the environmental damage. A build-up of case law and consistency of approach will drive consistency in decision making. The options paper coming from Government will be on civil matters, though likely to be some grey areas of overlap, it is scheduled for production within this parliament, post referendum. SEPA's powers to impose civil penalties from low levels to £40k, will need to be credibly defensible on appeal. SEPA has a strong interest in a workable system, whether it is tweaks to the current system or something new.

Update on new regulatory charging model:

SEPA will streamline its 7 charging regimes into one, will be winners and losers, and LINK support welcomed as this goes through. The consultation on SEPA's statutory purpose, closing shortly, will provide useful context and direction. It will also replace statutory guidance on sustainable development. This will go to the SP Committee for scrutiny also. Links to the NPF guidance that ScotGov is giving to SEPA on how it

contributes to sustainable development. LINK has not formally responded to this consultation.

Action: continue liaison, SEPA to invite LINK to October stakeholder group.

3. National Performance Framework review and LINK's Flourishing Scotland project in relation

LINK's engagement with the Roundtable reviewing the NPF has been positive. The published briefing could make more links with the circular economy, and multiple benefits – drawing out more the human self interest in a healthy environment. Business interests may perceive it as asking too much to reform the economic landscape; can we provide a road map of where we want to get to? LINK's twin track approach: to influence the course of the NPF review, which is happening and to ensure it is a useful tool for measuring success by getting others, including media, interested. There is certainly scope for joint approaches on showing ways to get there, eg VIBES winners, the lessons to be learnt and shared. Agreed we can do more together to make the economic case for the environment.

Action: LINK Officer and SEPA staff to discuss further and Matthew to invite James to a workshop

4. Scotland's Climate Change Measures

LINK members work through our Climate Adaptation taskforce on adaptation issues, and through the wider Stop Climate Chaos Coalition on mitigation. SEPA's Climate Challenge has a strong element of leadership. Also through representation on various forums in Scotland and the EU, SEPA is pressing for better leadership generally on climate.

5. National Planning Framework and SPP progress and next steps.

All welcome the high level strategic direction, good rhetoric, needs to be followed up by good implementation, and experience shows we need better tools to address these challenges. There are gaps in guidance for dealing with some technologies for fossil fuel extraction onshore. SEPA is aware of the need to respond to proposals and commends FoES questions to SG in relation to underground gas. **FoES to liaise further with SEPA.**

LINK asked about SEPA's role in the planning system giving example of RSPB's objection to an application for a coal development on grounds of failure of bond mechanism to restore environment when companies go bankrupt. Despite some gains in Scotland, where it is established that responsibility lies with the company beyond bankruptcy, there is still the problem of funding restoration, which ultimately falls to the public purse. The problem is endemic across the EU. The review of the Environmental Liability Directive may look at this further. LINK will help

if it can and also through EEB and IUCN. SEPA is working with SG to tighten up where possible. LINK will continue to apply pressure.

6. Community engagement and the Community Empowerment Bill.

Some part of the Bill have direct impact on SEPA; named in Community Planning Partnerships though limited success as environment does not figure there. SEPA has written to Community Councils and CPPs with little response, and would like to work with eNGOs to improve the situation. The other interest is in Community Bodies, to set outcomes and delivery, very interested in exploring the potential. There was discussion on what community means in this case (of place/interest), unclear, and experience of the Climate Challenge Fund excluded NGOs. SEPA has done interesting work with communities in the Carse of Stirling. LINK has experience of dealing with SEPA over years on groups on flood risk management, river basin management (second round coming up), all about the challenge of getting more sustainable land management in the countryside, against the grain of the NFUS and the CAP settlement which starve resources for sustainable management. This could be a topic for another meeting to see if we can break the cycle of good visioning, lacking the means to follow it through.

Action: topic for a focussed meeting.

7. Intelligence sharing on what's ahead

Land fill tax: difference in approaches evident on whether the tax should be used for higher level strategic aims (SEPA's view), or for biodiversity related work by NGOs. NGO view is that public sector duties should be funded by the public purse and the LTC used for biodiversity projects (among others) as it is one of the only remaining funds available for that work. SEPA view is that it is a source of public funds being a tax, and should be used more strategically.

RESAS: SG is starting a project to commission work for the next round. An event on 5 November to which NGOs will be invited, a good opportunity to help shape where the funding goes, and also of the funding model.

Action: Paula will ensure LINK is invited.