

Investing in the future to protect the past

A feasibility study into options for creating a stronger, unified identity for the Welsh heritage sector

Cadw

March 2016



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Introduction

Wales is a small country with a huge cultural reach. It has a rich cultural and natural heritage which includes extraordinary buildings, sites and landscapes, as well as diverse collections and archives. As well as important physical remains of the past, Wales has a powerful intangible culture centred on the Welsh language, but also rooted in music, legends, stories and traditions.

That heritage is important for many reasons – as a source of identity and pride, as a powerful driver for jobs through its role in tourism and construction, as a source of social engagement and opportunities for all, and as a key part of the wider environment.

However, in an age of austerity it is important to find new ways to sustain cultural heritage, and in particular new sources of income to care for places that matter. The sector needs to be more financially resilient and robust in order to flourish, and to enable heritage assets to be celebrated for communities.

There are a group of organisations that play a key role in caring for heritage in Wales at a national level. Cadw, the Welsh Government (WG)'s historic environment service, both looks after properties in the care of the Welsh Ministers, and also has a wider role in the protection and management of the historic environment across Wales.

Amgueddfa Cymru/the National Museum of Wales (NMW) is a charitable organisation and Welsh Government Sponsored Body (WGSB) with seven museums across Wales; the National Library of Wales (NLW) is also a charitable organisation and WGSB which is the national legal deposit library of Wales; and the Royal Commission on the Ancient and Historical Monuments of Wales (the Royal Commission) which is established by Royal Charter and is the investigation body and national archive for the historic environment of Wales.

This report focuses on Cadw and in particular on its property operations, and looks at opportunities to grow commercial income through a different organisational structure for managing the properties in care.

Whilst Cadw is at the centre of this report, there are clear synergies with the other national bodies in Wales, including the NMW, the NLW and the Royal Commission. There are also potential opportunities to work more closely with the National Trust in Wales. This report therefore also looks at better opportunities to collaborate and work together across the national heritage institutions in Wales.

Background

As WG's historic environment service, Cadw has two distinct roles in terms of statutory heritage protection and the management of the properties in its care.

In its role of managing the properties in care, Cadw looks after and opens to the public 129 properties across Wales in the care of WG. 26 of these historic monuments, which include Caernarvon and Conwy Castles, are staffed and receive

1.2 million visitors every year. This enables Cadw to generate over £5m in income each year, mainly through admission charges and retail. Other revenue streams include memberships, events, site hires and weddings. That income plays a critical role in supporting the wider core purposes of Cadw which include education and outreach, the care and conservation of sites in the care of Welsh Ministers and the care of the wider historic environment across Wales.

In May 2015, the Minister for Economy, Science and Transport established an independent Commercial Advisory Panel ('the Panel') which reported in July 2015. The Minister identified the potential for Cadw to generate more revenue by adopting a more commercial approach to its activities and management of heritage sites. Against this backdrop, new national heritage structures have been put in place in England, Scotland and Northern Ireland in recent years with the aim of creating more sustainable models for managing heritage sites.

The Panel suggested that a new organisation be created to manage the properties at arms-length from government. It might be a charity, or a not for profit community interest company, possibly known as Treftadaeth Cymru/Wales Heritage.

PwC have been commissioned by Ministers to undertake a feasibility study which explores options for a future organisational structure that would enable Cadw to realise the commercial potential from the properties in its care and how this can contribute to the creation of a stronger, unified identity for the Welsh heritage sector.

It is important to be clear at the outset that throughout this report references to improving commercial performance are not intended to be read in isolation from the fundamental purpose of Cadw which is to conserve the national heritage, to provide access to it and make it available for current and future generations. Adopting an increasingly commercial approach is a means to support the vital work that needs to be done to maintain and protect the heritage of Wales when public finances are under pressure.

Scope and objectives

The aim of this report is to provide professional advice to WG Ministers on potentially appropriate organisational structures which would maximise Cadw's commercial revenue generation capacity, as well as exploit any synergies that exist with the wider cultural/heritage sector in Wales. This report focuses on options for the property operations and income generating/commercial functions of Cadw but also takes into account the potential impact on the wider functions in relation to the historic environment in Wales.

Specifically, we have been engaged to prepare a feasibility study which:

- examines the scope for the creation of a separate commercial organisation serving the heritage sector in Wales;
- provides specialist professional advice on the legal, financial and HR aspects of creating such an organisation;

- examines the potential for Cadw to increase its commercial income through greater synergies and increased collaboration with other cultural/heritage organisations;
- takes account of the recommendations of the Panel regarding the potential for increasing commercial income at Cadw;
- takes account of recent comparable developments elsewhere in the UK including the creation of English Heritage (EH)/Historic England and Historic Environment Scotland (HES); and
- includes a realistic and achievable implementation plan with an indicative timetable for the creation of the separate organisation.

We worked closely with a stakeholder group chaired by Baroness Randerson throughout this study, and the views expressed here also reflect those of the stakeholder group. The membership of the group is shown in Appendix 2. We would like to thank all members for their cooperation and contribution to the study.

Commercial income

The focus of this report is on generating commercial income from property operations including visitor services. Throughout this report, we recognise that purpose of generating income through activities at heritage sites is to better support the core functions of heritage organisations, including conservation, caring for sites, providing great visitor experiences and engaging with communities.

Heritage sites and museums generate income in many different ways. The scope of this report covers 'commercial income' from property operations, defined as income generated through activities designed to provide a return on investment where that return can be put towards other core purposes such as conservation or public outreach. These include:

- admissions charges;
- retailing;
- sale of memberships;
- sale of food and beverages;
- venue hire activities (eg weddings, commercial events);
- capital investment in visitor and commercial facilities;
- charging for services; and
- online commerce.

Other sources of self-generated income include paid-for public programmes and events at sites, paid-for exhibitions and facilitated learning programmes for schools. These activities contribute to overall income but are not necessarily 'commercial' in

that most activities are part of the core purposes of the organisation, and are provided on a cost-recovery basis.

Other sources of self-generated income for organisations such as Cadw which may not be strictly 'commercial' include income from fundraising, philanthropy and private giving and activities such as research partnerships and through charitable foundations.

Our approach

Overview

Our work was undertaken in a number of phases between January and March 2016:

- Phase 1 – Mobilisation – we met with senior Cadw representatives, Baroness Randerson and the stakeholder group in order to understand in detail the background for the review and reviewed key documentation provided to us. During the mobilisation phase we explored the various options available for the establishment of a new organisation and began to consider which options should be taken forward and the criteria against which they should be assessed.
- Phase 2 – Data Gathering and Analysis – during this phase we obtained further information in respect of Cadw and other organisations in scope and used this information to inform our consideration of shortlisted options for the commercial operation in the future prior to the interview and challenge phase where the suitability of each option will be subject to more testing with key stakeholders.
- Phase 3 – Interview and Challenge – following data gathering and analysis we were in a position to draw preliminary conclusions regarding issues, weaknesses or opportunities which may have a material effect on the options. We recognised that such preliminary conclusions needed to be tested and challenged by stakeholders in order to ensure that they are both fully informed and credible based on the information used and the knowledge and experience of those involved in the delivery and receipt of the services provided. This stage was undertaken through a number of individual interviews.
- Phase 4 – Generate Options – whilst stages 2 and 3 were being undertaken, we conducted research into the suitability of the shortlisted options for the delivery of the service in the future. This process involved our subject matter specialists in order to ensure that all of the aspects that impact upon the decision making process are considered.
- Phase 5 – Reporting – we presented our draft findings to Baroness Randerson and the heritage review group and brought them together into this report.

Development of options

We initially discussed a wide range of potential legal vehicles with Cadw including the transfer of the properties and commercial activities into private ownership. These were considered fully at the mobilisation stage and it was clear that options such as this should not be taken forward due to the responsibility of Ministers to retain guardianship of the heritage assets of Cadw.

The option of a Community Interest Company (CIC) was also part of these early discussions and it was also agreed that this would not be considered further because it is difficult to identify many material benefits conferred by CIC status and CICs are more suitable for specific social purpose organisations and would not be suitable for a national body.

Following the discounting of a private company or CIC, the remaining options were built into the following shortlisted options to be considered in more detail.

Option 1 – Improve commercial skills and joint working of national heritage organisations

This option explores the possibilities for the improvement of commercial performance through better joint working within the current organisational structures of Cadw, NMW, NLW and the Commission (henceforth referred to in this report as ‘the national heritage organisations’). It would also explore how a unifying ‘Welsh Heritage’ brand could be created and promoted by heritage organisations working together more formally potentially through a commercial or contractual joint venture, partnership and other federated models of working together, or with private sector partners.

This option also acts as a baseline to identify the restraints within the current structure for implementing the recommendations of the Panel.

Option 2 – Creation of a new charity

This option explores the feasibility of the creation of a new charitable body with heritage charitable objects but with the ability to operate commercially (directly or with a trading subsidiary passing profits to the parent body using gift aid) in order to increase income from heritage sites to support their preservation and promotion. This option considered how existing heritage charities, e.g. the National Trust and the new English Heritage operates.

Option 3 – Creation of a new Executive Agency

This option explores the feasibility of the creation of a new Executive Agency. The option was developed from the understanding of the recent changes in Scotland resulting in the creation of HES where full consideration was given to whether HES should take the form of an Executive Agency or a Non Departmental Public Body (NDPB).

Option 4 – Merger of existing national heritage organisations

This option explored the scope to merge existing national heritage organisations where there is common purpose and duplication of activity.

Evaluation criteria

In order to evaluate the relative merits of each of the shortlisted options, in addition to identifying the legal, financial and HR matters to be considered, we considered what the important characteristics of a new organisation would be at this early stage.

The following criteria were agreed with Cadw and the stakeholder group:

- **protects and preserves heritage for future generations**
 - the extent to which the option will support the ability of the organisation to create the resources, skills and opportunities to repair and maintain properties and their collections for future generations
- **creates a stronger, unified identity for the Welsh heritage sector**
 - the extent to which the option will facilitate better joint working across heritage organisations in Wales, and improve the ability to market and present Welsh heritage to wider audiences both in the UK and abroad
- **improves the commercial performance of heritage sites and the contribution of the wider heritage sector to the Welsh economy**
 - whether the option will reduce barriers to income generation or provide opportunities to share costs effectively
- **realises synergies in key areas**
 - the extent to which the options will assist organisations to work together better to generate commercial income
- **has appropriate accountability and governance arrangements**
 - the extent to which each option will provide a transparent and accountable structure for income generation that does not compromise the delivery of other core objectives including professional standards and legal requirements
- **ease of implementation**
 - the temporal and operational issues that would need to be resolved in order to implement a new structure.

It should be noted at this stage that these criteria should be refined further at the next stage of detailed business planning in order to be clear on what the objectives of a new organisation are to be. This is outside of the scope of this study. Our assessment against these criteria is based on our discussions with Cadw and other stakeholders.

During this study we identified a number of different models used by heritage organisations for the management of individual heritage sites including working with partners such as local authorities, community trusts, the National Trust or other organisations. It is clear that there is not a 'one size fits all' solution to how to manage the various sites in Cadw's care and this study does not go into that level of detail. It focusses on organisational options and does not consider what the optimum commercial or management strategy might be for individual heritage sites.

Executive Summary

Overview

The heritage sector in Wales supports nearly 40,000 jobs and generates £749m (2.6 per cent of the Welsh economy) and is twice the size of the agricultural sector.

The sector faces the challenges of continuing to protect the historic environment for future generations, increase its accessibility to the public and improve the experience for visitors whilst managing reductions in core funding. This has led to an imperative to generate more commercial income and both a Commercial Panel commissioned by Cadw and our interviews with stakeholders identified that there is potential to do so.

This report contains the findings of a feasibility study commissioned by Cadw which considers what organisational structures would enable it and its national heritage partners to further realise this potential and thus creating a stronger, unified identity for the Welsh heritage sector.

The remit of this study is broad and it has been conducted within a short timescale. It is intended to be a rapid assessment at an early stage of what may or may not be feasible in order to inform more detailed business planning. In order to do so, this report focusses on four main organisational options which were agreed with the stakeholder group.

The options explored in the sections that follow are:

Option 1 – Improve commercial skills and joint working of national heritage organisations

Option 2 – Creation of a new charity

Option 3 – Creation of a new Executive Agency

Option 4 – Merger of existing national heritage organisations

These are further explained on page 7.

In developing the options, we drew upon the experiences of those involved in the creation of English Heritage and Historic Environment Scotland and also the National Trust in order to inform this study. Whilst those experiences are indeed informative and have been very helpful, it should be stressed that the scale of Wales and that nature of its historic environment is very different to other parts of the UK and a uniquely Welsh approach is likely to be needed.

Option 1 – Improve commercial skills and joint working of national heritage organisations

We began by looking at the existing landscape and the option of continuing with the current structure and improving commercial skills and joint working of national heritage organisations. This option establishes examples of where the national

heritage organisations are working together and looks at whether identified barriers to further improvement could be overcome within the current structure.

This option has the greatest ease of implementation because it builds upon the structures and joint working arrangements already in place and the heritage sites remain under the existing guardianship arrangements, governance arrangements and government funding would be unchanged. There would also be minimal impact on employees.

There are inherent limitations of operating within government and sponsored body structures to be able to operate commercially but progress is being made in focussing on overcoming some of these limitations.

We identified a number of examples of progress being made in relation to joint working between the national heritage organisations and there is evidence that the national heritage organisations have increased commercial income within the existing structure and other heritage organisations in the UK have also been able to do so whilst operating within government.

The national heritage organisations have established an informal commercial partnership in which different members take the lead on the development of particular commercial activities, recognising that expertise lays in different places in the national heritage organisations and synergies are being explored where the organisations can work in a more consistent and unified way. This could also be used to develop more unified branding across the national heritage organisations.

However, there is a risk that the individual organisations focus on their main business at the expense of progress of the informal partnership, in part due to their accountability to Ministers for delivering their organisational priorities and in part due to the natural tendency with limited resources for this to happen in any such arrangement. The national heritage organisations would therefore welcome greater flexibility to work more closely together and financial support to do so.

It may therefore be beneficial to put the existing informal partnership or another form of joint working arrangement on a more formal footing, perhaps in the form of a partnership or joint venture arrangement accompanied by contractual agreements, which specialises in commercial expertise and the development of a unified brand. Further legal consideration would be required in respect of State Aid, Teckal and Public Procurement Regulations in order to take such an arrangement forward.

Option 2 – Creation of a new charity

Our next step was to consider whether a new charity could be established with heritage charitable objects which could manage Cadw properties and operate at arms-length from government. We drew upon the recent changes in England and Scotland and considered whether those changes would be appropriate to Wales.

The conditions are different in Wales to both England and Scotland and it is not straightforward to assume that setting up a new charity in Wales is the best way forward because it has been so in England and Scotland.

Charitable status has a number of advantages, including direct taxation advantages, including gift aid, which are offset by the loss of favourable VAT arrangements afforded to Cadw currently being in government. Based on high level financial analysis these benefits are not expected to be significant. However, access to additional income streams may prove beneficial.

Operating at arms-length from government would afford a new charity with more freedom to operate commercially and could enter into agreements and working arrangements with other heritage organisations.

A new charity could focus on the management of Cadw properties and be developed in time to work more closely with the other national heritage organisations building upon the work being already undertaken. However, an important consideration is whether a new charity focussing only on the management of properties would have the economies of scale in relation to conservation activities that the current structure has.

In addition, specialist legal advice will be required in order to establish whether legislation will be required if the management of properties is to be undertaken by a non-governmental organisation. Establishing a Welsh Government Sponsored Body which is also charitable (which is the status of NMW and NLW) should be considered as part of this advice.

If a new charity is to be created clarity over funding for the significant maintenance backlog on Cadw properties will need to be established as a matter of priority. Indeed this is an important consideration when looking at the future of the national heritage organisations under any of the options. In addition, specialist legal advice should be obtained regarding the implications of Ministers discharging their guardianship responsibilities through a non-government organisation and legislation may be required.

The creation of a new charity would also have important HR and pension implications which would need to be worked through in respect of staff that may transfer to a new charity under TUPE regulations.

Option 3 – Creation of a new Executive Agency

Our next consideration was whether the creation of a new Executive Agency would be a viable option. Establishing an Executive Agency responsible for commercial and property activity only would present similar issues regarding scale as noted above for the establishment of a new charity and therefore two further sub options were considered. We therefore looked at three sub-options:

3a) an Executive Agency responsible for the commercial and property activity previously in Cadw;

3b) an Executive Agency responsible for the commercial and property function previously in Cadw and also the commercial services to support the other national heritage organisations; or

3c) an Executive Agency which is formed from the de-merger of Cadw (both the commercial and property and the strategy, policy and historic environment functions).

This option has advantages in respect of remaining close to government but with the ability to operate with a more independent leadership and governance model and access to wider expertise through non-executive directors. It is also likely that this option would not require legislation because an Executive Agency is not an entity in its own right. However, the limitations on operating commercially under the current structure would largely remain in place.

Under option 3a) an important consideration is whether a new Executive Agency would generate more than 50% of its income from commercial activities. If this were to become the case further change would be required in the future because it would not be able to continue as a government organisation under ONS classification rules.

Option 3b) may be a way for realise synergies between the national heritage organisations in a more formal way than the pursuit of Option 1. It may also be a method to develop further expertise in core commercial areas and the development of a unified brand across the national heritage organisations.

Option 3c) creates the least disruption of the three sub-options because it does not involve the split of Cadw's functions. It therefore has advantages from a HR perspective in particular as staff would be expected to move to a new Executive Agency on the same terms and conditions and there would be an expectation of continuation in pension arrangements.

Option 4 – Merger of the national heritage organisations

Finally we considered whether merging the national heritage organisations may be a viable way of enabling the sector to operate more commercially and engendering a stronger, unified identity.

Whilst it appears obvious to state that a single organisation would provide a stronger, unified identity, getting to that point through the merger of what are four quite different organisations would be a very lengthy and complex process.

Whilst the national heritage organisations are unified in their commitment to the heritage of Wales, they cover a wide and diverse programme of activities and responsibilities. The different legal status of the national organisations would make merger legally complex. The trustees of the NMW and NLW in particular, as registered charities, would need to carefully consider whether merger would be in the best interest of the charities and their beneficiaries. Charity Commission consent would also be required.

Synergies could be realised in time through the removal of duplicated functions and bringing collections together into one body could provide opportunities to make more of them commercially. Significant financial due diligence in addition to legal due diligence would be required in order to establish whether savings from synergies would outweigh the costs of merger, which can be substantial in areas such as the harmonisation of terms and conditions of staff and changes to pension arrangements.

Next steps

We recommend that Option 1 is pursued as soon as possible in order to continue to build upon the momentum already underway.

Whilst this is taking place, further consideration should be given to developing the new Charity or Executive Agency option and we have highlighted areas where initial focus on obtaining legal advice is required.

If either a new Charity or Executive Agency are to be taken forward following clarification of legal and other matters highlighted in this report the next phase of development is to prepare an outline business case using the OGC 5 case model in order to explore more fully the objectives and role that a new organisation may have and the benefits of its creation.

Option 4 could be a realistic long term option to ensure the sustainability of national heritage services but needs to be very carefully considered. Achieving option 4 would however require significant time and resources which need to be balanced against a full consideration of the potential benefits for the cultural and heritage sectors.

In addition a broader look at mergers within the sector may be of value, particularly in light of the view of stakeholder group that merger of the Royal Commission with either Cadw (as previously considered) or NLW.

Current delivery of national heritage services in Wales

This section sets out the wider context of heritage in Wales and its value for the people of Wales. Within that wider context, it identifies the role and function of Cadw and the other national heritage organisations that are the focus of this report.

Heritage in Wales

The heritage of Wales comprises all of those things that we value and want to hand on to future generations, including intangible heritage such as Welsh language and culture, place names and traditions, as well as tangible heritage – the physical remains of the past. Those physical remains of the past include

- three World Heritage sites;
- collections in local and national museums, as well as large movable items such as ships or locomotives;
- archives and historic records;
- historic buildings and townscapes including industrial structures;
- landscapes including historic parks and gardens and designated landscapes;
- maritime heritage and sites; and
- archaeological sites and monuments.

Some of that heritage is formally designated, protected or recognised – in the form of listed buildings, scheduled ancient monuments, registered parks and gardens and World Heritage sites, or in museums that meet accreditations standards. Others are not – for example 34% of buildings in Wales are over a hundred years old, but the majority of those have no formal protection.

In Wales, intangible cultural heritage is of particular importance. The Welsh language is a key to national identity and the focus of new standards and requirements to promote its use. The musical and poetic traditions of the Eisteddfod are a core part of national life, and Wales has a rich legacy of legends.

The strategic context for heritage in Wales

In 2014 Welsh Ministers published a Historic Environment Strategy for Wales which sets out 5 sector wide priorities for the sectors as a whole – these include heritage protection and sustainable development, skills and opportunities, public participation understanding and enjoyment, the economy and partnership and delivery.

In 2015/6, the Baroness Andrews report Culture and Poverty identified the contribution that heritage and culture can make to social inclusion and reducing

poverty. The recommendations in the report have been implemented by all of the organisations in this report, co-ordinated in partnership with Communities First through the Fusion programme.

In 2015 an expert review of Local museum provision in Wales made recommendations for better coordinating and sharing of museums services across Wales. There is also a strategy for archives in Wales.

In addition heritage has a role in other strategies including Partnership for Growth – the Strategy for Tourism.

More importantly a wider context for heritage provision – and indeed for Welsh public services as a whole – are provided by the new Well being of Future Generations (Wales) Act 2015. This sets 7 well-being goals:

- A globally responsible Wales
- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language.

Public sector bodies will need to address these goals in their work. Whilst heritage organisations can clearly contribute to the goal on culture, there is also the opportunity to demonstrate how caring for cultural heritage can contribute to prosperity, resilience, equality, cohesion and the other goals.

The value of heritage in Wales

As noted, the Future Generations (Wales) Act 2015, provides an opportunity to demonstrate the extent to which heritage can deliver wider benefits for people in Wales.

Heritage is important to people in many different ways. Places or buildings may be of importance to people for their architectural, historical, archaeological or scientific qualities. For example, many of the monuments in the care of Cadw are extraordinary architectural and historic achievements – the great castles not only of Edward 1 in Wales but also of the Welsh Princes, as well as abbeys, industrial sites, prehistoric monuments and the industrial heritage of places such as Blaenavon.

However, many heritage sites also have wider value, to local communities for example, for their social value. War memorials are valued as places of remembrance and commemoration; local landmarks and buildings confer identity and distinctiveness on local places. Places of worship have an important spiritual role in a community, but may also be valued for other reasons. The collections in local and

national museums contribute to the sense of Wales as a national and also to the identity of local places.

Caring for heritage, including opening heritage sites to the public, and caring for them also generates wider economic, social and environmental benefits for the people of Wales. For example:

- the heritage sector in Wales supports nearly 40,000 jobs (2.9 per cent of Welsh employment); up 24.6 per cent since 2010;
- heritage generates £749m (2.6 per cent of the Welsh economy) and is twice the size of the agricultural sector;
- money invested by WG in the heritage sector attracts high levels of additional private and public sector funding: £1m invested in historic buildings grants last year leveraged an additional £10m of private investment;
- last year saw an increase of 4.4 per cent in the number of visits to heritage sites in Wales (13.6m visits);
- school visits were up (675,000 learners) and 43 per cent of schools visiting Cadw properties came from deprived areas of Wales, thanks to targeted travel grants;
- paid-for membership of national heritage bodies in Wales now stands at 440,000; some 102,000 people are members of 700 local heritage societies in Wales; and
- major national events, including the Festival of Archaeology (July) and Open Doors (September) attracted a record number of visitors to special events hosted by heritage organisations, as did the annual Eisteddfod, Wales's own national festival of heritage, arts and culture.

The recent Heritage Tourism Project, coordinated by Cadw but involving heritage partners from across Wales generated significant economic benefits. This £19m project funded by WG and the European Union was delivered in conjunction with nearly 20 partners across Wales including local authorities, community groups and third sector bodies. An economic impact study showed that the economic impacts directly attributable to visitor spending included up to 19.3m GVA, and supported over 1000 FTE jobs. Capital spending on this project alone has supported around 270 jobs.

Heritage is also a valuable part of the tourism offer in Wales. Visit Wales estimate that the historic environment accounts for 20% of all visits to attractions in Wales and 12.5% of total spend. 61% of overseas visitors cite castles and monuments as their primary reason to visit. This is reflected elsewhere in the UK. It was found by Historic England that 48% of inbound visitors holidaying within the UK visit a castle or historic house during their stay. This also demonstrates the extent to which the tourism industry is founded upon the heritage sector. It should also be noted that the direct impact of the visitor economy is greater in Wales than in many other parts of Europe.

Heritage organisations in Wales

Whilst this report focuses on five key national heritage organisations, it is important to be aware that there are many organisations either based in Wales or with presence in Wales that play a role in caring for, promoting or providing access to heritage in Wales. These include:

- Local authorities which play a key role in the delivery of museums and archives services, and which also deliver conservation services;
- Organisations with a UK wide remit but a strong presence in Wales including the National Trust, the Canals and Rivers Trust;
- Funders such as the Heritage Lottery Fund that provide considerable support for heritage in Wales, as well as organisations such as the Architectural Heritage Fund, and private trusts and foundations that support heritage;
- Trusts and local organisations that hold or are responsible for heritage sites such as Addoldai Cymru/the Welsh Religious Buildings Trust, and the very many local organisations that care for individual sites, museums , buildings or collections;
- Voluntary organisations with an interest in culture or heritage including the Civic Trust as well as the 700 voluntary organisations identified by the Welsh Council for Voluntary Action (WCVA); and
- Organisations that provide heritage services, or advice.

There are also many other organisations who play a critical role in caring for heritage, even where this is not their primary purpose. Many public or private sector companies hold historic buildings or have significant archives or collections.

Each of these organisations shares Cadw's passion for the preservation and protection of the heritage of Wales and many are faced with similar challenges in terms of the need to operate more commercially in order to increase income generation to support their core functions.

This feasibility study therefore not only explores options for establishing a new organisation but also looks at the opportunities for either working or combining with the wider heritage sector in Wales. In compiling this report, we have interviewed and received information from a number of other heritage organisations and stakeholders in order to ensure that their views and experience are taken into account. These are listed in Appendix 2.

Organisations in scope

Given the time-limited nature of this study, our primary focus has been on the national heritage organisations for which WG provides the majority of the funding through grant in aid. These are referred to henceforth in this report as 'the national heritage organisations' and are described below.

Cadw – the Welsh Government's Historic Environment Service

The focus for this report is Cadw - the Welsh Government's historic environment service. Cadw is a division within the Welsh Government's Economy, Science and Transport Department, with two core functions:

- Providing advice to Ministers and support to owners and other on the care and protection of the historic environment across Wales, which include
 - o 3 World Heritage sites
 - o 30,300 listed buildings of special architectural or historic interest
 - o 4,100 scheduled ancient monuments
 - o 6 designated historic wrecks
 - o 382 registered (non-statutory) historic parks and gardens and 58 registered historic landscapes.
- Caring for and opening to the public 129 monuments and sites in the care of the State, 26 of which charge admission and are staffed. These staffed sites are visited by approximately 1.2 million visitors per year, with a further estimated 1.2 million visiting the remaining unstaffed sites.

Currently Cadw provides a single organisational structure for heritage in Wales that brings together both the management of properties in the care of Welsh Minister with wider Ministerial responsibilities in relation to heritage sites across Wales. Conservation and other expertise is shared across both areas of responsibility.

Its functions are delivered in accordance with the 2006 Government of Wales Act. The legislative framework for the protections of sites is provided through the 2016 Historic Environment (Wales) Bill, the 1990 Planning (Listed Buildings & Conservation Areas) Act and the 1979 Ancient Monuments & Archaeological Areas Act.

Cadw contributes to the wider programme for government indicators, including targets on the value of tourism spend, the number of visits to staffed monuments, the number of learning visits, as well as goals on skills and training, participating in community outreach programmes, the conditions of assets and targets on interpretation and learning. Cadw works for a well-protected and accessible historic environment. It aims to conserve Wales's heritage to the best possible standard, to help sustain the distinctive character of Wales's landscapes and towns and to help people understand and care about their place and history.

Historic Environment Functions	Property Management and Commercial Functions
Designation and protection of historic environment sites across Wales, including casework and support for owners	Offering world class visitor experiences by opening 26 staffed sites to the public
Strategic policy development and legislation for the wider historic environment including delivery and implement of a new Act	
Grant aid to owners to repair and conserve sites and monuments and	Conserving and maintaining 129 properties in the guardianship of the

advice to owners on conservation	State (including 5 sites that are designated as World Heritage sites)
Support for third sector and voluntary heritage organisations in Wales	Generating commercial income through retailing, venue hire, admissions and other activities
Public outreach and community engagement across heritage in Wales including Heritage Open Doors	Delivering public programmes, interpretation and education at monuments to generate income and improve visitor experiences
Delivery of wider WG priorities including Fusion programme, environmental, social , regeneration, education and economic outcomes	Contributing to wider WG priorities including the Fusion programme, tackling poverty and targets on environmental performance.
Raising awareness of wider heritage work in Wales through the Cadw membership programme	Offering a membership programme to enable people to enjoy properties

Income from commercial and other activities contributes directly to wider heritage functions, including caring for sites and supporting others. As such any commercial aspects of Cadw's operations are undertaken to support these priorities. Nothing in this report is designed to contradict that position. Cadw has 6 guiding principles:

- Custodianship
- People focus
- Leadership
- Creative spark
- Investing in each other
- Business Minded

The definition given of 'business minded' is: 'we are accountable to Welsh Ministers and the people of Wales for how we use resources, so we are committed to securing best value from those resources and to generate income through business activities to reduce the call upon the public purse'.

Further details of the commercial and property operations of Cadw are set out in the next section of this report.

The Royal Commission on the Historical and Ancient Monuments of Wales ('the Royal Commission')

The Royal Commission was established by Royal Warrant in 1908 and is the investigation body and national archive for the historic environment of Wales. It has the lead role in ensuring that Wales's archaeological, built and maritime heritage is authoritatively recorded, and seeks to promote the understanding and appreciation of this heritage nationally and internationally.

The Royal Commission is based in Aberystwyth, co-located with the National Library for Wales, and is sponsored by WG, with Cadw being its sponsoring division. Funding received in relation to 2015/16 totals £1,712,000, with other receipts totalling £65,000.

As part of its vision for the future, the Royal Commission intends to improve its capacity for income generation and attracting grant aid, which will include investigating the feasibility of widening its charitable status; identifying clearly those core activities where they can make best contribution to the sector as a whole; gaining accreditation for its archive and attaining Trusted Digital Repository status; and reinvigorating its skills base through training and enhancing links with partner bodies and the public alike.

The National Museum Wales (NMW)

Amgueddfa Cymru/the National Museum Wales is an independent chartered body, incorporated under Royal Charter in 1907, a registered charity and a WGSB.

The overarching aim of NMW is to inspire people through museums and collections to find a sense of wellbeing and identity, to discover, enjoy and learn bilingually, and to understand Wales' place in the wider world.

NMW operates seven sites across Wales as well as the National Collection Centre:

- National Museum Cardiff
- Big Pit National Coal Museum, Blaenavon
- National State Museum, Llanberis
- National Waterfront Museum, Swansea
- St Fagans National History Museum
- National Roman Legion Museum, Caerleon
- The National Wool Museum

The medium term strategy of NMW is presented through 10 core objectives across 4 perspectives: The People of Wales; Presenting Wales; Improving Performance and Financial Success.

Unlike Cadw, NMW is not able to charge for admission. Since 2001/2 admission to these sites has been free of charge, with visitor numbers totalling 1.68 million in 2014/15. In line with WG's strategic roadmap, the programme for government, the policy for free admission is to continue in order to maximise the impact of the Museum.

NMW has a non-charitable trading subsidiary, NMGW Enterprises Limited which includes retail sales, catering, car parking, licensing, corporate hire and filming rights. NMGW Enterprises Limited returns a profit from trading activities of approximately £0.5m per annum.

The annual remit letter from WG asks sponsored bodies to continue to identify and exploit a wider range of funding sources to supplement grant in aid received from

WG including new and innovative methods of income generation as well as looking to the wider public and private sectors.

The National Library of Wales (NLW)

The NLW is an independent chartered body, a registered charity and a WGSB.

The objective of the NLW, as set out in their Royal Charter is to collect, preserve and give access to all kinds and forms of recorded knowledge, especially relating to Wales and the Welsh and other Celtic peoples, for the benefit of the public, including those engaged in research and learning.

NLW has three main groups of user: researchers, learners and corporate customers. Researchers include both academic researchers and informal researchers, the latter of which is dominated by family and community historians. Learners once almost exclusively meant university students, given the proximity to Aberystwyth University, however this now also includes informal learners and school age learners. Finally corporate users, particularly media companies, will pay for material over which the NLW has intellectual ownership.

The NLW has sought to ensure that such rights have become better documented, better known and better exploited. The NLW also hopes to become a trusted space for other organisations to deposit and curate their digital information, again for a fee.

It also recognises that in recent years the NLW has been successful in attracting external money and support, from both public and charitable sources, and often in partnership with other organisations. It is recognised that these sources will be under pressure in the future, but will remain a target of the NLW. The NLW also notes that diversifying sources of income, and choosing the right partnerships to belong to in the future, will be even more important than now.

As with the NMW, access to the NLW is free of charge. However £572k in other income was generated in 2014/15. Of this £215k relates to café sales, £114k reprographics / digital images and £95k retail sales.

Support for national heritage organisations in Wales

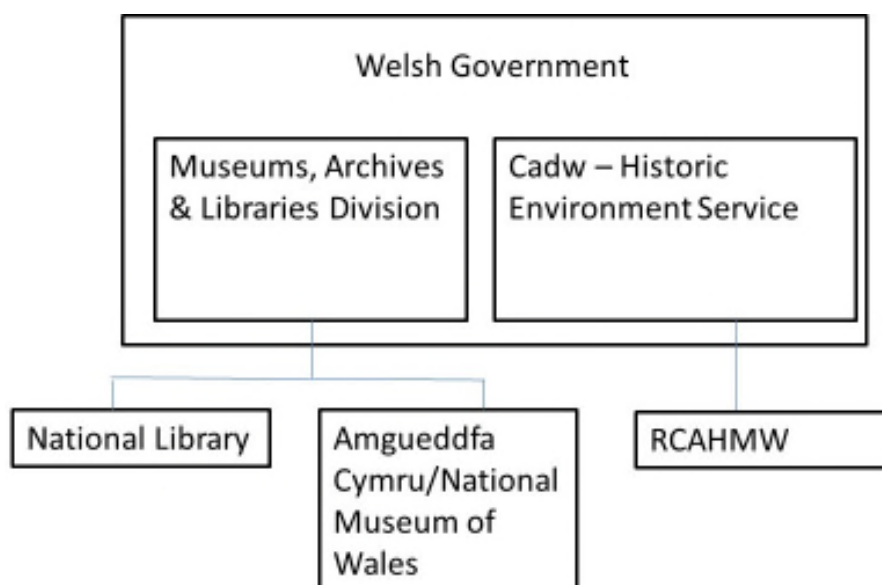
The four national heritage organisations in scope for this report receive the bulk of their funding from WG.

Cadw is part of WG and is therefore directly funded as part of the government allocation. The remaining three bodies are separate organisations with separate governance arrangements; they receive the bulk of their funding in the form of grant in aid from WG.

Within WG the sponsoring department for the Royal Commission is Cadw and the sponsoring department for the National Library and NMW is the Museums, Archives and Libraries Division (formerly Cymal and now known as MALD).

Each organisation has in place a Framework document drawn up by WG in consultation with the organisation. An annual Ministerial Remit Letter establishes the priorities, identifies the key deliverables and provides details of the budgetary

resources available to deliver activities. In response to the Remit Letter, organisations prepare an operational plan which set out the level of service to be achieved and the performance and output that will be used to measure progress.



Comparisons

The following table takes figures from the annual reports of the three independent organisations and the internal financial report of Cadw for the year ended 31 March 2015.

It highlights the differences between the organisations in terms of comparative scale, income generation from all sources and workforce.

Organisation	Total income £k	Core income £k	Commercial income £k	Pay expenditure £k	Non pay expenditure £k	Average FTEs
Cadw	19,154	8,860	5,278	7,461	6,555	170
NMW	35,291	27,627	2,923	20,063	14,717	552
Royal Commission	2,122	1,986	65	1,313	812	33
NLW	18,297	11,329	572	8,882	4,539*	255
Total	74,864	49,802	8,838	37,719	26,623	1,010
National Trust Wales region**	14,622	5,895	8,727	10,179	3,878	406

*Non-pay expenditure for NLW is stated after removing exceptional item of £2.1m. Of the £4,539k, £1.7m is depreciation.

** For further comparison with the other major heritage organisation operating in Wales

There are some important similarities between each of these organisations:

- all have the overriding objective of protecting and promoting different aspects of the heritage of Wales;
- all are looking to increase income to support their core activities;
- there is a history of working together to implement policy and other initiatives, for example the People's Collection for Wales; and
- Cadw, NMW and NLW all undertake retail, catering and marketing activities.

There are some further key differences:

- NMW and NLW are WGSBs and as such are answerable to Welsh Ministers. However, they are also registered charities. The trustees of each organisation must operate in the best interests of the charity and its beneficiaries. Cadw as part of WG does not have its own separate governance structure. The Royal Commission has a board of Commissioners;
- Cadw and Royal Commission staff are all employed as civil servants, under the accompanying terms and conditions and are eligible for the Civil Service Pension Scheme. NMW and NLW staff are on a range of different terms and conditions and both the NMW and the NLW have their own individual defined benefit pension schemes each set up under Trust and with a Crown Guarantee from the National Assembly;
- NMW and NLW fulfil the WG policy of free admission for all, whereas Cadw charges for admission to a number of its sites;
- NMW and NLW benefit from the recovery of VAT on costs under the terms of Section 33A, VAT Act 1994, whilst Cadw benefits from being able to recover VAT on certain contracted out services, in accordance with Section 41, VAT Act 1994. The normal VAT rules also apply to the various activities of the entities involved;
- Cadw as part of government has crown exemption from paying corporation tax, as does the Royal Commission, whereas NMW and NLW are exempt in their core activities because they are registered charities but need to plan their tax status to accommodate non-core trading income;
- NMW and NLW must file audited financial statements with the Charity Commission, whereas there is no such requirement for Cadw and the Royal Commission;
- NLW and the Royal Commission are based in Aberystwyth whereas Cadw is based in Nantgarw and NMW has its main offices in Cardiff;
- Cadw does not own all of the properties in its care. The majority are endowed to the Welsh Ministers under a Deed of Guardianship and Cadw has the responsibility to protect and preserve them for future generations. There are

different ownership models with differing degrees of freedom for Cadw to pursue commercial activities; and

- Cadw contains both the Strategy, Policy and Historic Environment responsibilities and also the Commercial and Property Operations. Cadw therefore has a regulatory function which the others do not have.

Joint working between national heritage bodies

As part of this study, we also collated examples of joint working between national heritage bodies in Wales.

Heritage Tourism Project

A recent study by Cardiff Business School found that the economic benefits to Wales of this Cadw-led project could be up to £19m a year through heritage tourism. This project in turn also supported more than 1,000 jobs. It also found that many attractions saw an impact in terms of increased visitor figures. Blaenavon Ironworks has seen a 14.2% increase in visitors since the majority of its Heritage Tourism Project (HTP) work was completed in September 2013 and Conwy Castle has seen an 8.3% increase in visitors since its HTP work was completed in July 2012. Llandudno Museum, Great Orme Country Park Visitor Centre and the Great Orme Ancient Mines which have also received funding for improvements through the Our Heritage Scheme within the HTP have also seen one of their busiest summers on record, pulling in more than 86,000 visitors collectively

The project was largely funded by the Welsh Government and from EU Convergence Funds and focussed on maximising the economic value of heritage by increasing the number, length and value of visits to Wales. The project is also helping open Wales's heritage to a wider audience by making it more enjoyable both for visitors and for people who live in Wales.

Cadw worked with Visit Wales, Natural Resources Wales and the Valleys Regional Park to develop a strategic coordinated approach to using funds available as part of the Convergence programmes. Cadw worked with communities, heritage partners and the tourism sector across Wales to improve the visitor experience and provide a more integrated range of heritage tourism activities by, for example, developing heritage tours, trails and events packages. The intention is to connect individual heritage sites with other heritage attractions and with the local community and the surrounding area, as well as to link to broader interpretive stories and themes.

People's Collection Wales

The national heritage organisations do work together on a regular basis and the response to the development of the People's Collection Wales (PCW) is a good example.

PCW is funded by the Welsh Government, and is a key commitment in the Welsh Government's Programme for Government 2011-2016 to "develop the potential of digital media to promote culture through Casgliad y Werin Cymru / People's Collection Wales and other on-line initiatives".

The PCW website is dedicated to the story of Wales and its people, and is free to use. Encouraging and enabling access, participation and engagement with Wales' culture and heritage is a key strategic principle for the PCW programme. The website and supporting programme of activities encourage and enable individuals and community groups to share their stories and material alongside items from cultural institutions.

PCW provides an example of this collaborative approach through its federated delivery model and involvement of wider partners and stakeholders. The programme is delivered under a federated management structure led by 3 the NMW, NLW and Royal Commission.

Each of the 3 delivery partners receives a revenue funding allocation from the Welsh Government (via the Museums, Archives and Libraries Division) to lead on specific work streams and activities which contribute to the overall programme:

- NMW leads on the Audience Development, Learning and Technology work streams;
- NLW leads on the Community Engagement; Content, Editorial & Moderation work streams; and
- The Royal Commission leads on the Innovation work stream.

NMW administers certain central programme activities and costs on behalf of the partnership, including programme management, technical development and contract management.

The lead delivery partners also contribute to the programme from their own resources, including staff time and expertise, and seek opportunities to work with a range of partners and stakeholders, and attract external funding, expertise and resources to further the work of the programme. All of the lead delivery partners also contribute digital content to the programme from their own collections.

Since 1 April 2011, this federated partnership has managed the delivery of the PCW programme as a sustainable service. The service has ensured that it aligns with the core delivery objectives for the lead delivery partners, working alongside a wide range of external partners, organisations and groups such as the BBC, Visit Wales, the British Council, Heritage Lottery Fund, the National Eisteddfod, Girlguiding Cymru, Dysgu Bro, Young Farmers Clubs. The programme also supports digital heritage activities as part of the Welsh Government's Fusion programme, and has established Digital Heritage Stations (providing access to essential equipment and support in collaboration with local community partners) in Pioneer Areas during 2015-16.

Cadw/NLW/ACNMW Commercial Partnerships

Partly in response to the Panel's recommendation, Cadw, NLW and ACNMW have formed a commercial partnership group which looks at how to work together to exploit commercial opportunities. Membership also includes the Royal Commission and the National Trust are also invited to collaborate and share skills.

It is clear from the notes of the two meetings of the partnership held to date in October and December 2015 that there are a large number of potential commercial opportunities identified by the national heritage organisations and where working together is beneficial. This highlights the difference that applying a commercial focus and working together can make.

The partnership has created sub groups focussed on events, marketing, food, retail and other areas where working together across organisations is seen to be beneficial. The partnership is also taking forward new initiatives such as 4D simulators and development of a game to be sold at museums and historic sites across Wales.

The partnership is in its early stages but progress with some actions from the first meeting in October 2015 has been slow and many new actions were introduced in the December 2015 meeting. There is no overall strategy for the partnership as to how the actions being undertaken fit into an overall aim of improving the visitor experience across heritage sites in Wales and how they will increase the dwell time of visitors. Without such a strategy being in place, underpinned by quality market intelligence, it is possible that some actions may be undertaken that produce minimal or no improvement. For example, the development of a joint themed calendar may or may not be worthwhile depending upon the market for it and whether other initiatives are improving the visitor experience.

A difficulty with this type of arrangement is that they are undertaken in addition to the day to day running of each organisation and progress can be hindered by a lack of focus on delivering the strategy of the partnership. Nevertheless, it is acknowledged that the initial meetings of the group will inevitably involve the establishment of relationships, working practices and the organisations understanding the commercial opportunities and synergies together.

There is an opportunity with the establishment of the partnership for the national heritage organisations to pursue opportunities jointly and work together to have more scale and to use resources more effectively. This arrangement could be placed on a more formal footing.

Current delivery of Cadw property and commercial operations

This section of the report provides further details in respect of Cadw property operations and commercial income generation.

Property management

Cadw currently manages 129 monuments in the care of the State on behalf of Welsh Ministers including:

- the Castles and Town Walls of Edward 1 in Wales (a World Heritage site);
- the Blaenavon industrial landscape World Heritage Site;
- 23 prehistoric monuments;
- 9 Roman sites;
- 44 Castles;
- 8 abbeys and 2 Bishop's palaces; and
- an industrial leadmine.

The majority of properties held by Cadw are not owned by Welsh Ministers but are in guardianship, which in effect means that they are maintained by WG but remain in their original ownership.

The concept of guardianship was first introduced by the 1882 Ancient Monuments Act and has been developed and refined by subsequent legislation. The Ancient Monuments and Archaeological Areas Act 1979 currently governs guardianship, with s12-s15 containing the main provisions.

When the property has been taken into guardianship, the guardian is under a statutory duty to maintain the property and has a very wide range of powers to exercise 'control and management' and to do everything necessary for its maintenance, including any archaeological investigation and the power to remove any part of the property/monument to another place to preserve it. The guardian also has a duty to provide public access and visitor facilities.

Guardianship is regarded as acting in perpetuity. The intention was to give assurance to the owner placing a monument in guardianship that the future of their property was secure. The 1979 AMAA introduced for the first time the possibility of rescinding guardianship in certain closely specified circumstances but this has never been done.

In addition, the Government of Wales Act 2006 gives WG the power to make acquisitions to benefit cultural heritage. Over time Cadw has also acquired freehold assets. These include parcels of land (eg dispersed parts of Caerwent Roman Town) that contribute to the coherence of properties, as well as freehold cottages which generate income. Other non-monument assets include the car park at Harlech, the playground at Grosmont, the St Helens Road works yard and prefabricated buildings at Neath Abbey.

As a result, there are four different ways in which Cadw holds property:

- **Freehold where WG owns the site** - Cadw exercises full management and control of the monument without reference to any other party, retaining all receipts and discharging guardianship duties.
- **Freehold** –where there is a joint management interest - At Carreg Cennen castle, Dolwyddelan castle and Weobley castle, the Freeholders operate the monument day to day – paying for all of the staffing, utilities, etc. Cadw receives a share of the admissions income generated in return for public access. Cadw continues to conserve, maintain and present these sites as guardianship monuments.
- **Management** – Crown Estate – Cadw has ‘acted’ as if it was the Freeholder of the monuments and is now pursuing full guardianship deeds for each of the properties.
- **Leasehold** - Leases where Cadw (on behalf of the Secretary of State) has taken occupation of a monument, e.g. Conwy castle and Town Walls, 99 years from 1953.

Cadw has an Asset management Plan that is aligned to the commercial strategy and an acquisitions policy. Assets are valued periodically in line with government policy. Cadw is able to dispose of non-monumental assets in line with the *Guide for the Disposal of Surplus Property* but in relation to monument assets the criteria for disposal are different.

Basis of Cadw's interest	Numbers
<i>Guardianship</i>	90
<i>Freehold – monument and non-monument</i>	20
<i>Management</i>	2
<i>Leasehold</i>	2
Multiple:	
- <i>Primarily guardianship</i>	10
- <i>Primarily freehold</i>	3
- <i>Primarily management</i>	2
Total	129

Visitor Operations

Of the 129 properties in the Cadw portfolio, 26 are staffed and charge admission to the public, and five are run in partnership. The remainder of the properties are maintained and managed by Cadw, but are not staffed.

Some properties are staffed all year round; a small number of properties are closed during winter or have shorter opening hours.

Properties are staffed by Custodians who play a key role in coordinating activities on site and maintaining high standards of customer service excellence. The Custodians undertake a wide range of duties including ensuring that visitors are safe and secure, dealing with admissions, selling Cadw memberships souvenirs and publications, providing guided tours, community liaison, and supporting commercial events and Cadw's public programmes.

Cadw Custodians are passionate about customer service, and Custodians were instrumental in developing the first set of Welsh Government Customer Service Standards. Custodians also play a key role in sale of memberships, in retail performance and in the quality of the visitor experience.

Conservation, maintenance and capital investment

Cadw devotes significant resources to the care, maintenance and development of the portfolio of 129 sites.

There is an in-house conservation team Cadwraeth – with specialist skills in maintenance and care of masonry structures who deliver a programme of conservation and consolidation across all Cadw properties.

Cadw staff project-manage a programme of major capital investment projects for the properties in care with funding from Welsh Government and from other sources including European funding. Recent projects have included new visitor accommodation, a new bridge and visitor services at Harlech castle - this £6m project was supported through the £19m Heritage Tourism project. Other recent capital investments include 6 new shops and retailing facilities, as well as award winning new major interpretation projects.

Maintenance backlog

In common with all organisations that hold historic properties, including the new English Heritage, Cadw has a maintenance backlog, identified as essential work needed to keep properties in good condition. In 2013-14 following high level periodic inspections of all sites, it was estimated that the backlog of repairs was of the order of £16m to 2020. It is anticipated that those costs will increase. Cadw is now undertaking full quinquennial inspections of properties and has completed 11 this financial year. As a result, it is estimated that the expenditure to deal with the backlog at Caernarfon Castle – in relatively good condition – is of the order of £200,000 per annum.

2014 Cadw also prepared a business case to underpin capital investment of £32m which included addressing the then estimated backlog, and additional investment in visitor facilities.

Education and outreach

Cadw offer a range of activities and public programmes associated with the properties as part of its core mission to provide access to heritage sites. These include:

- **Learning** - in 2014-15 there were around 66,500 learning visits to sites. Many school visits are supported through transport subsidies. There were two key types of programmes - informal education visits, where schools are able to access Cadw properties for free to undertake their own guided activities, and facilitated learning. These are paid-for activities developed at sites which teach curriculum based areas such as numeracy and literacy through heritage.
- **Volunteers** - around 50 volunteers contribute over 3000 hours to supporting activities at properties. The majority are at Plas Mawr, but other sites are looking to grow their volunteering base.
- **Public Programmes** - Cadw delivers a varied programme of public events at staffed properties, unstaffed properties and across other important heritage sites in Wales. These programmes range from family activities such as Easter egg hunts, through to wider public engagement through the Festival of Archaeology or the annual Heritage Open Doors programmes. Public programmes play a critical role in increasing repeat visitation to sites and by association commercial income, as well as reaching wider audiences and addressing government priorities around wider community engagement.

Commercial income

The commercial income generated by Cadw helps to support these other activities. Cadw was set a 25% income generation target for 2015/16 in order to offset operating costs. This equates to approximately £5m. Commercial income is generated through the following activities:

Charging for admission

Admissions income makes up 58% of total commercial income. Cadw charges for admission to staffed properties, with prices ranging from £3.50 to £7.95. This increased by 13% from 2013/14, primarily due to pricing increases at the 6 most visited sites at the beginning of the 2014/15 season, but also as a result of a strong events programme and the efforts of custodians at properties. There are a range of targeted passes including the 3 or 7 day Explorer pass.

In total, 82% of admission income is generated from the top 7 sites, with 41% of income coming from Caernarfon and Conwy Castles. Entry to these sites costs £6.75 per adult.

Members of Cadw, English Heritage and Historic Scotland also gain free entry under reciprocal arrangements, and there are schemes to encourage free entry for groups such as foster children and the families who care for them and veterans. During 2014/15 there were 381k free visits. This includes educational visits, special events, foster families and local residents (with a local residents pass).

Retail sales

Cadw sites are well established visitor attractions and there is an expectation by visitors that there will be a retail offer available at the site. This can be challenging where the footfall does not necessarily justify a full retail offer. Cadw also needs to give consideration to the local economy and the duplication of trade, so seeks to source products that are easily differentiated from immediate competitors. In 2014/15 Cadw generated £1.513m from retail – around 29% of total income.

The shops sell a range of gifts souvenirs and publications that complement the visit or are linked to the attraction, its history and local area. Cadw have recently refurbished a number of shops, and introduced local purchasing – empowering custodians to have more control over the stock selection and engage with local suppliers. Where possible products are sourced local. Custodians are given training in stock presentation and merchandising, and customer service. Cadw also undertakes benchmarking against other attractions.

Cadw works closely with internal WG procurement teams and as a result has achieved some commercial flexibility in procurement through a formal Retail Procurement Strategy.

Memberships

Cadw has around 14,000 memberships, representing around 30,000 people. Membership generates around 7.5% of income. Members receive free entry to sites, discounts and shops and discounts or later free entry to English Heritage and Historic Scotland sites. Membership has grown significantly with a 20% increase between March 2014 and 2015 in part through significant drive by Custodians.

Income from membership has also increased by 10%. The increase in income is lower than the percentage increase in the number of members due to reaching wider audiences, and providing incentives for people to join. A full review and audit of membership was undertaken in 2013. Amongst other things it identified that the most important reasons for joining Cadw were to make a contribution to the conservation of Wales' built heritage (92%) and to save money when visiting sites (89%). Cadw has been researching options to improve the analysis of member visiting patterns and data, one of which is to participate in a joint system with other organisations in Wales.

Commercial events

Cadw generates income through the following types of commercial events:

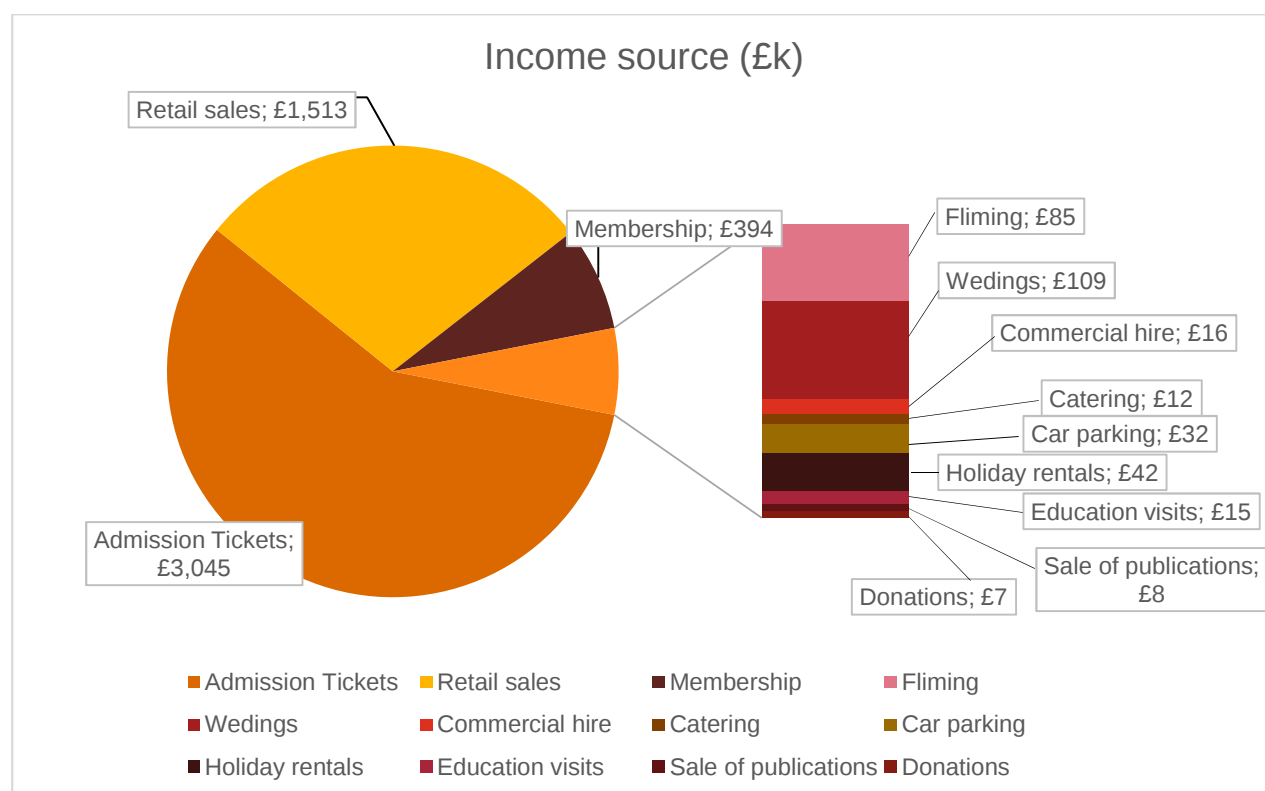
- **Weddings** – Caerphilly, Castell Coch, Plas Mawr and Tretower are licensed for civil ceremonies. Around 2% of commercial income is generated through weddings. Religious wedding ceremonies technically cannot be held at any Cadw properties because they are scheduled ancient monuments which cannot accommodate regular ecclesiastical services. However, a site may be hired for a wedding blessing or for photographs. Most of these functions take place in the open air. Bookings for blessings at sites licensed for civil ceremonies are charged at the same hire fee as a civil ceremony. For wedding photos there is a standard charge of £35 per session. There is

limited proactive marketing for weddings apart from the Cadw website, due to resource and financial constraints.

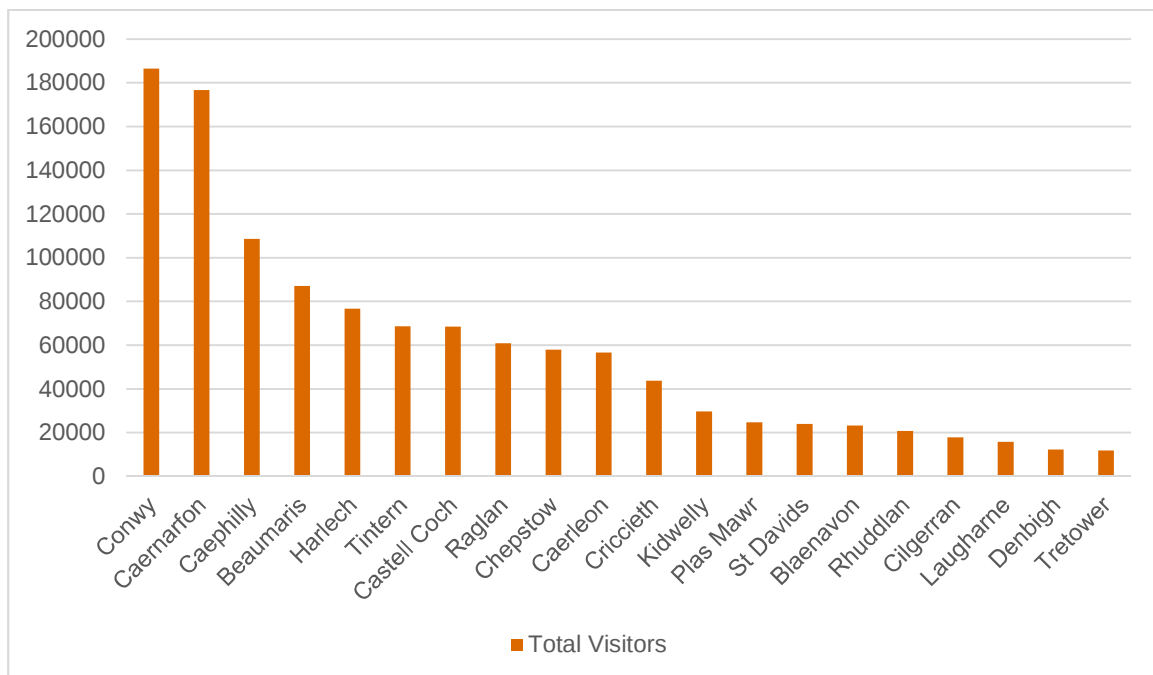
- **Filming and photography** – around 1.5% income is generated through filming and photography. All sites are available to use although there conservation and other considerations to deal with in relation to filming. There is a sliding scale of charging for filming that depends on the duration of the event and the scale of the operation. There is no charge for filming or photography in relation to educational work. There is close working with Wales Screen inside government but relatively little marketing of filming opportunities.
- **Site hire** – many of the sites are available for hire but the four wedding venues are the most appropriate for indoor events such as banquets. Less than 1% of commercial income was generated through commercial hire, even though the majority of monuments in care are available. Some of the barriers to increased commercial hire include the availability of power, water and drainage on sites, and the impact on neighbours. Other activities that generate an income include some catering and car parking charges.

Further income is derived from car parking, holiday and long-term rentals, on-site catering, publications and donations. Each of these income streams individually contribute <1% to the total income.

The commercial income received by Cadw in 2014/15 has been split by income source as shown below:

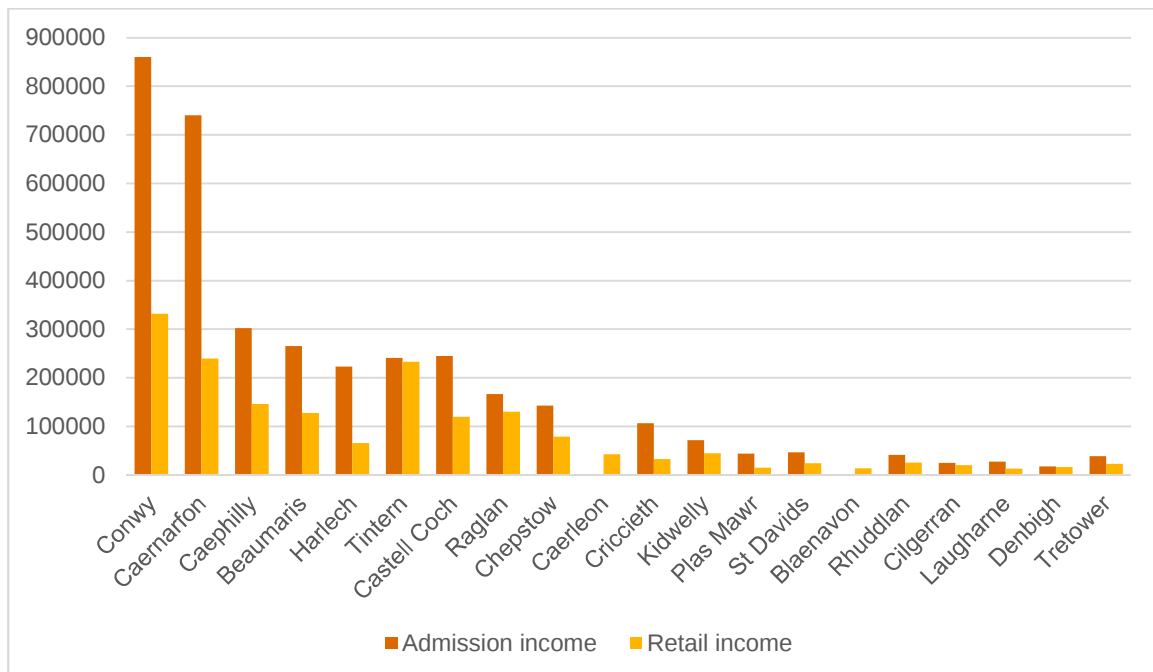


Visitor numbers across staffed sites, for those attracting over 10,000 visitors, is as follows:



By way of comparison, Cardiff Castle attracts approximately 267,000 visitors per annum and Powis Castle 113,000.

An analysis of admission and retail income for these sites is shown below:



Drivers for change

There are a range of drivers for change in relation to commercial income within heritage sites. These include changes in other countries, the findings of the Panel, changes in relation to government support, and other issues arising from interviews with stakeholders.

Cadw commercial review

One of the main findings of the Panel supports the overwhelming view of the stakeholders we interviewed, including the national heritage organisations:

'At the heart of driving the development of revenues has to be creating and delivering exceptional visitor experiences. It is not possible to grow income without addressing the wider culture of welcome, story-telling and engagement the public. There has to be a reason to visit. There has to be more things to do, more reasons to visit, more reasons to make return visits, greater dwell times at sites and higher levels of visitor satisfaction will result in increased levels of spend by visitors.'

Cadw recognises that it can learn from other organisations in how they focus on the visitor experience as the basis for commercial success and increasing the dwell time at properties. The underlying premise is that the longer visitors stay at a property the more they are likely to spend. The focus for Cadw and the other organisations in scope therefore has to be on improving standards and the visitor experience overall.

The Panel also recommended the creation of a dedicated organisation for managing the visitor attractions at arm's length from government, with Cadw remaining the regulatory body and championing the heritage of Wales.

The Panel reported that Cadw's biggest handicap is the constraint imposed by its structure. This has been re-enforced through our interviews with Cadw staff. The Panel found, and this is also borne out from our stakeholder meetings, that commercial expertise is the key to success and where this has been brought in to other heritage organisations, such as HES and Shannon Heritage and also other organisations such as the Canal and River Trust there has been a step change in culture and the ability of those organisations to realise the commercial opportunities that their asset bases present.

Following the report of the Panel in July 2015, Cadw have developed an action plan for the implementation of the recommendations of the Panel's report. There is a clear commitment in the Commercial and Property Operations Team to drive improvement in commercial performance and this momentum needs to be maintained whichever option is taken forward and progress is being made.

The need to generate more income

Heritage organisations have traditionally relied on government support to meet the majority of the costs associated with managing historic sites and providing services. The level of core government support to each of the national organisations in this

study has been reduced in recent years, and each has sought to make savings and also to increase self-generated income.

Joint working

One of the drivers for change is the recognition that the organisations in this study do share some common functions and that there could be greater benefits to closer joint working.

There are a number of initiatives already in place in relation to joint working in and around the Peoples Collection Wales, the partnership around the First World War commemorations, and the recent Commercial Partnership established with core membership of Cadw, NLW, NMW, the Royal Commission with the National Trust invited to collaborate and share skills. This partnership is in its early stages, having met twice to date, but provides evidence of further momentum as the national heritage organisations look to work together to use their resources more effectively.

Recent changes in England and Wales

The context for this report has been the creation of new heritage organisations in England and Wales - Historic Environment Scotland is an NDPB with greater independence from government, which manages properties and also undertakes wider historic environment functions, and English Heritage is the newly-formed charity, which manages properties separately from the wider historic environment functions undertaken by Historic England. Further details of those changes are set out in Appendix 1.

Both the new English Heritage and the property side of Historic Environment Scotland manage properties in the guardianship of the State, with similar issues relating to public access, conservation, maintenance and income generation. However, both are much larger organisations than terms of scale and staffing.

Both also have slightly different property-operating models. In Scotland, the Scottish Government retains ownership of the properties and has a Service Level Agreement with HES to conserve and operate the properties. In England, the license for the properties transferred to the EH Foundation (renamed to English Heritage) which became the operator of the properties. In some ways the EH model is more applicable to this study because it separates the property and commercial function from the regulatory and policy function.

All of the heritage organisations have a conservation backlog. Again HES and HE take different approaches to this. HES is responsible through the scheme of delegation for the maintenance of its properties and generates income to invest and support this responsibility. HE was established with a dowry of £80m in order to meet the conservation requirements of the HE portfolio and invest in projects to enhance visitor experiences. The business model for HE is based upon this initial payment from Government and annual financial support being reduced so that by 2022/23 no Government financial support is required.

In relation to scale and visitor income, it is clear that EH benefits from the attractiveness to visitors of Stonehenge and a small number of other highly visited

sites and, similarly, HES generates a significant proportion of its commercial income from three high profile castles (Edinburgh, Sterling and Urquhart).

There is a correlation with Cadw having a small number of commercially successful properties (most notably Conwy and Caernarfon) which provide the majority of commercial income that can be used to contribute to the preservation of the remaining sites. Whilst there are differences in scale, the general premise that a small number of larger successful sites support the wider portfolio both in terms of commercial contribution and also in terms of setting the standard for visitor experience holds for all three organisations.

Other drivers for change

Stakeholders highlighted a number of limitations within the current organisational structure which are consistent with the findings of the Panel and in particular its findings regarding Cadw's commercial ability being hampered by its status in government. Some of these limitations, most notably the need for investment, commercial expertise and commercial freedom also apply to other national heritage organisations.

Investment

We were presented with numerous examples by stakeholders of commercial plans which are already developed which need funding to progress them. There is a frustration in the national heritage organisations that surpluses generated by commercial success cannot in the main be retained in the current organisational structure.

Commercial expertise

Our interviews with other heritage organisations highlighted a strong theme of strong commercial expertise combined with a business-like outlook being at the core of commercial success. HES, the National Trust and EH all recognise the need to operate as businesses whilst maintaining their core charitable functions at the heart of their organisations. A cultural shift has begun within the Commercial and Property Team within Cadw to move to focussing on the visitor experience and there is a recognition that there needs to be a change at the sites themselves in how staff interact with visitors.

Commercial freedom

One of the main benefits extolled by EH and other organisations such as the National Trust and the Canal and River Trust of operating outside of government is the level of commercial freedom they have. Currently the national heritage organisations are limited in their ability to retain profits to re-invest in further income generating activities. This can act as a disincentive to pursuing commercial success which is not present in other non-governmental organisations.

Business planning and investment appraisal

Other heritage organisations have developed sophisticated business planning and investment appraisal processes which enable them to look at individual properties and sites to identify where investment is needed. Planning is based upon the number of expected visitors and their expectations, the location, the interaction with other attractions and local businesses, availability of funding, staffing requirements and

other criteria. The most important criteria being compliance with the overall objective of preserving the property or site for future generations.

The current EPoS system does not accommodate sophisticated analysis of Cadw members visiting the site – and can only record numbers. Being able to track members' visiting patterns would allow Cadw to undertake targeted marketing, save costs on re-issuing membership cards on an annual basis and increase retention rates as custodians would be able to notify and encourage members to renew on site.

Non-commercial income

There are also limitations on access to income streams, such as certain grants, donations and legacies which other heritage bodies receive. Whilst Cadw and the other national heritage organisations have the ability to receive grants, donations and legacies, Cadw has been traditionally less successful than the other national heritage organisations in attracting donations and legacies in particular.

Procurement

Government procurement is also seen by stakeholders as a limiting factor to further progress and we heard anecdotal examples of opportunities that were lost as a result of following bureaucratic procurement processes. All of the national heritage organisations and HES are expected to follow public procurement procedures.

However, there are different views to how limiting this is and there is a correlation between the commercial outlook of the organisation with the extent to which it feels encumbered by public procurement. Cadw is currently looking at opportunities to procure more effectively and we recommend that this is explored more fully before the Commercial and Property Team in Cadw can conclude that public procurement is a major barrier to success.

Staff flexibility

Non-governmental heritage organisations, such as the National Trust and the Canal and River Trust have flexibility to set their own employment terms which vary according to the requirements of the role to provide the visitor experience or other objectives. There are limits to the level of flexibility available to Cadw as employees are employed as civil servants. Cadw and the other national heritage organisations are committed to paying the national living wage.

Scale

The final main driver for change is the recognition that the national heritage organisations individually do not have the scale to make the most of the considerable potential in their assets and are not currently operating together as a joint heritage offering which would enable them to be ambitious for Wales.

Options Appraisal

The section sets out our appraisal of four main options for new heritage structures in Wales. It begins with a core vision of what such a structure might achieve, and then evaluates the options in the light of criteria agreed by the stakeholder panel.

Vision

In order to assess whether it is feasible to set up a new organisation responsible for commercial functions, or even to achieve the same ends in other ways, is necessary to establish what the guiding principles of any new structure might be and the functions that it carries out.

The following potential mission statement is taken from the recommendation of the Panel:

The new body would... initially lease and manage the Cadw sites open to the public, exploiting them to the full as great visitor experiences; engendering a sense of identity, history and place; a stimulus for domestic and international tourism, an attraction to new business and enterprise, inspiring our creative industries and adding value to the national brand.'

On the basis of our interviews with stakeholders, we also identified some fundamental principles:

- 1. Improving commercial performance should not take place in isolation from the fundamental purpose of Cadw which is to conserve the national heritage, to provide access to it and make it available for current and future generations.**

Adopting an increasingly commercial approach is a means to support the vital work that needs to be done to maintain and protect the heritage of Wales when public finances are under pressure.

- 2. That income from the main income generating properties be shared across the whole portfolio**

In each organisation, larger properties with higher visitation rates generate income in order to support the preservation of the entire portfolio. In Scotland, Edinburgh Castle and Stirling Castle make a significant contribution to the operation of the rest of the portfolio, whilst in England Stonehenge makes the largest net contribution. We have therefore made a further assumption that all properties will remain in the care of the same organisation.

- 3. Investment is needed to build performance**

It is also important that any change is accompanied by investment to build on the short-term wins identified by the Panel. This will be required whichever option is taken forward.

- 4. In any new structure core responsibility for the properties would remain with Welsh Ministers**

Due to the nature of the properties in Cadw's care and the fact that only a small proportion of them are owned by Cadw we have assumed that the

properties will remain within WG and there will be a similar delegation to the HES model which meets the requirement of the guardian to exercise control and management through the arrangement.

Evaluation criteria

In order to evaluate the relative merits of each of the shortlisted options, in addition to identifying the legal, financial and HR matters to be considered, we considered what the important characteristics of a new organisation would be at this early stage. The following were agreed with Cadw and the stakeholder group:

- **Protects and preserves heritage for future generations**
Whether or not the option will support the ability of the organisation to create the resources, skills and opportunities to repair and maintain properties and their collections for future generations
- **Creates a stronger, unified identity for the Welsh heritage sector**
How the option will facilitate better joint working across heritage organisations in Wales, and improve the ability to market and present Welsh heritage to wider audiences both in the UK and abroad
- **Improves the commercial performance of heritage sites and the contribution of the wider heritage sector to the Welsh economy;**
Whether the option will reduce barriers to income generation or provide opportunities to share costs effectively
- **Realises synergies in key areas**
The extent to which the options will assist organisations to work together better to generate commercial income
- **Has appropriate accountability and governance arrangements**
The extent to which each option will provide a transparent and accountable structure for income generation that does not compromise the delivery of other core objectives including professional standards and legal requirements
- **Ease of implementation**
The temporal and operational issues that would need to be resolved in order to implement a new structure.

Option 1 – Improve commercial skills and joint working of national heritage organisations

Overview

This option explores the possibilities within the current organisational structures of Cadw, NMW, the NLW and the Commission.

Stakeholders were in general agreement that much more can be made of the heritage of Wales and there is a great deal of untapped potential to improve commercial performance and the visitor experience. The general view is that Wales is in a similar position to that which England and Scotland were in some years ago. A great deal can be gained by working more closely with EH and HES to learn from their experience whilst recognising the differences that apply in Wales.

This is not a standstill option, rather it looks at the possibilities for the improvement of commercial performance within the current structures.

This option looks at the opportunities:

- to strengthen and formalise the current commercial partnership;
- to increase commercial skills within Cadw and other national heritage organisations;
- to explore options for a unifying 'Welsh Heritage' brand created and promoted by heritage organisations working together more formally;
- to explore the potential of a commercial or contractual joint venture, partnership and other federated models of working together; and
- to explore opportunities for working within a federated model with private sector partners.

The background to Option 1 was that through our interviews and research we found evidence of commercial progress within existing organisations structures, including working within or close to government. We also found that there was further scope to explore how some of the perceived barriers to increasing commercial income – eg procurement could be overcome.

Commercial income within the current structure

There is evidence from our study that other organisations have increased earned and commercial income within public sector structures. EH increased its commercial income generated via growth in membership and visitor numbers, and associated retail and catering income over a period of 10 years prior to it becoming a charity.

This was driven by a targeted programme of capital investment in major properties. The former Historic Scotland demonstrated similar success as an Executive Agency.

The Panel found the 1.2m visitors to Cadw properties generated £5.5m of revenues: with admission fees generating £3.05 per person and retail £1.26 per person. The Panel compared these figures with Historic Scotland which attracts over 3.6m visitors each year generating £38m with an average spend per capita of £7.69 on admissions and £2.07 per person on retail. Direct comparison between Cadw and HES and other heritage bodies should be undertaken with caution because each organisation's portfolio of properties is very different. Nevertheless, the spend per visitor figures are indicative of a gap which exists between Cadw and the more commercially experienced HES.

Progress within the current structure

There is clear evidence that within each of the national heritage organisations, there has been a move in recent years towards increasing commercial and earned income and seeking to develop new commercial skills and approaches. For example:

- NMW currently has its first paid exhibition for 15 years. The success of *Treasures* is yet to be seen but early indications are that it is proving popular and contributing to an enhanced visitor experience;
- the dragon at Caerphilly Castle and the screening of the RBS 6 nations rugby on 12 March 2016 has captured the imagination of many and tickets for the rugby sold out quickly providing evidence that larger events at prime Cadw locations can be very successful;
- the Cwrwfest beer festival at Chepstow Castle over the Easter weekend is expected to be popular and bring a new cohort of visitors to the Cadw site; and
- the release of archive images to celebrate the 125th anniversary of Castell Coch by Cadw in partnership with the Royal Commission.

The promotional material for these events, in particular the Cadw events, showcases the heritage sites and gives an opportunity to utilise the traditional media and social media to promote the sites and Cadw itself and with careful planning and financial appraisal processes could be successful in the future.

This has been the case for the Royal Parks, which manages London's eight Royal Parks. It has pursued a strategy for a small number of large scale events which enabled a balance to be struck between general accessibility during the majority of the year and significant income generation in limited periods. Whilst Royal Parks and Cadw sites are not directly comparable and there should be great care taken to look at the return on investment of events, there are opportunities for carefully planned events to increase the profile of Cadw sites with a view to both making a commercial return and increasing return visitor numbers.

Examples of joint working within the current organisational structure

During this study we identified examples of progress being made in relation to joint working between national heritage organisations. These have included:

The People's Collection Wales

As noted above, the Library, NMW and the Royal Commission work together to develop the ability of digital media to deliver culture in Wales. Each of the 3 delivery partners receives a revenue funding allocation from the Welsh Government (via the Museums, Archives and Libraries Division) to lead on specific work streams and activities which contribute to the overall programme:

- NMW leads on the Audience Development, Learning and Technology work streams;
- NLW leads on the Community Engagement; Content, Editorial & Moderation work streams; and
- The Royal Commission leads on the Innovation work stream.

The Fusion programme

This programme implements the Culture and Poverty report. Each of the organisations works together under a common framework of Pioneer Areas in partnership with Communities First, to target activities in areas of greatest need.

Cadw/NLW/ACNMW Commercial partnership

As noted above this initiative brings the organisations together to look for commercial opportunities. Progress is in its early stages but without an overall strategy or business plan it has been difficult to focus activities.

NMGW Enterprises Ltd

Another example of increasing commercial income and skills within the current operating structures has been NMGW Enterprises limited. NMW has a profit making subsidiary, NMGW Enterprises Limited (NMGWE). Non-charitable trading undertaken by NMGWE includes sales at shops, contract and in-house catering, car parking, image licensing, corporate hire, lettings and filming rights. Average profit before gift aid for last three financial years in the company's audited financial statements is £494k.

Business planning has been undertaken by NMW and business cases for the generation of a further £500k profit have been prepared. In order for the further £500k to be realised investment is required and NMW are in the process of pursuing that investment mainly through Invest to Save bids to WG.

NMGWE could be considered as an existing vehicle that could be developed further with agreements in place to pursue commercial opportunities on behalf of the national heritage organisations or the ownership could be changed, subject to further legal and financial advice, in order to provide a jointly controlled trading company that the national heritage organisations could run together to ensure that there is a

unified approach to commercial operations and the development of a more consistent visitor experience.

Scope for improvement within the current structure

There may be scope for improvement within the current structure and our stakeholder interviews identified areas where this may be possible against the potential barriers previously identified.

Potential barrier	Potential scope for improvement
Investment	Both within the current structure, and indeed in any of the options considered in this report, investment will be required in order to implement commercial schemes. There is a concern amongst the national heritage organisations that the pace of reduction in core funding is such that commercial schemes to generate profit cannot be put in place in time to offset the impact of the core funding reductions. If this option is taken forward consideration needs to be given to the availability of investment funding to enable commercial schemes to be implemented. For example, the NMW has bid for Invest to Save funding to support projects which it anticipates will generate an additional £500k profit over a 7 year period. It is not clear that the Invest to Save scheme is the appropriate vehicle to obtain government support for commercial schemes and alternative methods may need to be put in place to provide the investment required within the current structure for the national heritage organisations to pursue commercial activities, particularly projects of significant scale.
Commercial expertise	It was clear from our discussions with HES and EH that they have been operating in a more commercial way for many years and anecdotally there was a view that Cadw is in a similar position to that which EH was in 10 years ago. However, much of the commercial success that these organisations enjoyed took place whilst they were close to government and operating within many of the perceived constraints that Cadw does. The common theme from these organisations and others we interviewed such as the National Trust was that a focus on commercial performance by leaders with a commercial outlook and appropriate expertise was instrumental in achieving that commercial success. The Commercial and Property Team in Cadw is beginning to gain commercial momentum as a result of the drive of the Deputy Director – Commercial and Property Operations and his application of a more commercial mind-set to the opportunities that Cadw's sites present. This could be continued and supported further and combined with

	increased commercial drive in NMW also both through the Cadw/NLW/NMW Commercial Partnerships and through more informal joint working.
Commercial freedom	It is unlikely that greater commercial freedom will be achievable within the existing structure without changes to the governance processes in place. For example, the trading subsidiary owned by the NMW may appear to have more commercial freedom but it is expected that its trading surpluses are gift aided to the NMW and form part therefore of the annual budget considerations for NMW.
Business planning and investment appraisal	Business planning and investment appraisal processes could be developed further albeit in addition to those already in place for funding and accountability purposes. There may therefore be a degree of additional burden in developing such processes but it is possible to learn from the experience of HE and HES.
Procurement	Public procurement procedures would still need to be followed. However, there may be scope to improve the way that the Commercial and Property Team procure goods and services and a procurement advisor has recently been enlisted to assist with this. Departmental approval limits that are applicable across the department may not be appropriate for the Commercial and Property Team and there has been revision of these in order to afford more flexibility to meet the requirements of Cadw sites.
Staff flexibility	Commercial and Property Team employees would remain civil servants and the terms and conditions of the NMW and NLW would also remain in place. There may be scope within the current grade structures to be more flexible and provide for the commercial expertise referred to above. Also, training and support for custodians within the current structure could be provided and it may be necessary to evaluate the role in light of an increased commercial focus at staffed properties. Each of the national heritage organisations has a strong volunteer base and good models for citizen engagement (eg the People's Collection Wales). The development of a model for more volunteer input could also be explored and there is willingness between the national heritage organisations to work more closely together to develop volunteering further. However, volunteers cannot replace core staff, and do require substantial investment to ensure that there is an appropriate structure and support for them. There is a general view from stakeholders that there are limitations in the ability to attract volunteers to assist governmental organisations, particularly when compared with charitable organisations. This is looked at further in Option 2 in more detail.

It is also likely that whilst improvements in these areas could be made they will require leadership and drive to realise the commercial potential for the national heritage organisations as well as clarity regarding roles and responsibilities. It is therefore likely that more formal governance arrangements will need to be put in place in order to ensure that opportunities are pursued and that there is clarity regarding roles and responsibilities of the national heritage organisations.

This could be achieved through the development of NMGWE or the Cadw/NLW/ACNMW Commercial partnership as noted above or through further delivery options.

Further delivery options

There are a number of arrangements that are available to facilitate the delivery of commercial objectives which could be used to support the existing structure. The public sector faces a number of options in term of how it improves commercial activity. Options range from an in-house solution at one end of the spectrum to a full outsource model at the other. The options fall into 3 main categories:

- in-house via a commercial subsidiary;
- joint venture arrangement (contractual or legal) or partnership; and
- outsourcing arrangement.

We comment on each of these below.

Commercial subsidiary

Increasingly, we are seeing an increasing number of public sector organisations, particularly local authorities and Health Bodies are opting to form wholly owned trading subsidiaries to support increased commercial activities. Indeed, NMW has an existing trading subsidiary which generates £0.5m per year profit which is gift aided to NMW. The rationale behind the formation of trading subsidiaries includes:

- increased commercial freedom and "simpler" governance structures;
- ability to introduce a "commercial" culture/approach to the organisation;
- more flexibility around staff recruitment and remuneration;
- access to alternative sources of funding;
- potential to "ring fence" activity in a separate entity and thus potentially some protection in event of default;
- clear route to realise upside through disposal if venture successful;
- access to new skills and expertise; and
- if charitable, potential to gift aid "surpluses" to "parent" and thus minimise tax exposure

Whilst there are potential benefits to creating a commercial subsidiary, there are potential issues. The key issues include:

- access to investment - creating a commercial subsidiary will require investment and often the only source of funding is the public sector parent entity;
- increased governance costs;
- transferring staff to a new entity is not enough to change behaviour - this also requires leadership;
- pension and TUPE issues relating to staff transfer; and
- taxation issues.

We are aware of a number of local authorities and NHS Trusts that have established successful trading subsidiaries. For example, Guys & St Thomas Hospital has established a trading subsidiary to provide facilities management services to other NHS organisations or more locally the Wales Millennium Centre has established a commercial subsidiary for its shows, ticket and promotion activities.

Commercial subsidiaries are explored further in Option 2 – creation of a new charity. However, the existing trading subsidiary of NMW could be developed further within Option 1 or consideration could be given to the establishment of a new commercial subsidiary within the current structure.

Joint venture and partnership

As an alternative to establishing their own stand-alone commercial entity, in order to gain access to new skills and resources, other public sector organisations are entering into joint venture or partnership arrangements with third party partners be they private sector or voluntary sector organisations. A joint venture arrangement, particularly if involving a revenue risk share, allows the public sector to share in the upside from improved commercial performance but at the same time access to private sector expertise and resources. Formal partnerships require risk to be shared between partners in accordance with a partnership agreement.

In the instance of Cadw, a joint venture arrangement could be structured around a particular activity or service area eg web presence or catering or asset category. A joint venture arrangement can offer significant flexibility in terms of its structure, scope of activity and commercial arrangements. In terms of structure it can range from a Special Purpose Vehicle (SPV) at one extreme to a "loose" commercial understanding at the other. The degree of risk share can vary from full revenue risk to pre-defined contributions.

Outsourcing arrangement

At the other end of the spectrum from a commercial subsidiary is an outsourcing arrangement. The principle advantages of an outsourcing arrangement is it transfers risk to the partner organisations, provides a clear financial envelope for the delivery of the service and introduces proven expertise it does result in a loss of control over

the area of activity in question and can, if not properly structured and procured, diminish value for money and service quality.

The national heritage organisations currently have a number of outsourcing arrangements covering areas such as marketing and catering. They have traditionally been entered into by individual organisations but there is scope for the national heritage organisations to enter into joint agreements or for one organisation to lead on the outsourcing of common services to provide increased purchasing power and value from issuing larger contracts.

There are further examples of heritage organisations working with others on a locality basis in order to protect particular sites and improve the visitor experiences at them in a more effective way than could be delivered by a single organisation. It is important to continue to consider each site and its locality and the synergies and opportunities that are available by working together with community organisations, other public bodies and the private sector.

Financial considerations

There are no immediate financial considerations associated with the national heritage organisations continuing to work together and to expand this further within the current organisational structures. The existing accounting and budgeting requirements would remain in place for each organisation. Cadw and the Royal Commission are within the WG financial regime and are not required to produce audited financial statements whereas NMW and NLW must produce them for filing with the Charity Commission and with WG.

All four national heritage organisations will continue to be reliant upon government funding for both revenue and capital. The main financial consideration is the reduction in funding for the national heritage organisations and the extent to which this is expected to continue in the future.

A key financial consideration is whether there will be a continued expectation that improved revenue generation from commercial activity will be balanced by a reduction in core grant in aid funding. If this is the case and the national heritage organisations are more commercially successful, in some cases their status as governmental or sponsored bodies may come into doubt as the ONS may consider that they should not be government or sponsored bodies and should be public corporations if their self-generated income exceeds 50% of total income.

This is not likely to be a risk in the short term but should remain a consideration in the medium and long-term. The Royal Parks and HES have had such considerations to take into account recently in deciding what legal form to take in the future.

If consideration is given to more formal joint venture or partnership arrangements, the cost/benefit implications will need to be considered also. It is often the case that one organisation takes the lead in providing the finance, governance and other administration services for a joint working arrangement or manage an outsourcing arrangement on behalf of others with service level agreements in place to set out the expectations on partners. This can also be used to set out the agreement as to where costs fall and how they are to be shared.

Legal considerations

Procurement

The most significant legal issue in considering joint venture or partnership arrangements is likely to be whether the organisations participating in the joint venture will need to procure in accordance with the public procurement regime. Public procurement rules govern the purchase of goods, works or services by public sector bodies. The legal framework is intended to ensure that contracts are awarded fairly, transparently and without discrimination on the grounds of nationality, and that all potential bidders are treated equally. The rules set out a requirement to advertise contract opportunities and use specified types of contract award procedures when conducting competitive tendering.

Teckal exemption

Cadw could collaborate with other organisations to establish joint control over a selling entity, so as to benefit from the in-house Teckal exception. Care would be required to ensure the corporate structure means that each authority has sufficient control over the activities and general conduct of the captive entity.

Where there is multi-party involvement in an entity that benefits from the Teckal exception, there may be a greater interest in the entity also providing services to third parties (in the public or private sector). Note that if an entity were to do so, it would no longer meet the first criteria for the Teckal exception, namely that the entity must carry out the principal part of its activities with the relevant authority or authorities.

The extent to which the procurement framework imposes requirements on the way an arrangement is set up and structured will depend on the specific nature of the services and the degree to which there is a reliance on third parties to deliver services. There are likely to be different requirements depending on the type of structure adopted.

Other legal considerations

Data protection and data sharing arrangements will require further legal consideration, to ensure requisite powers to share data with other organisations are in place and those arrangements are compliant with the Data Protection Act 1998 and the Human Rights Act 1998. It is also recommended to undertake a privacy impact assessment (PIA) consistent with the PIA toolkit issued by the Information Commissioners Office (ICO) prior to authorising any data sharing to ensure all impacts are properly considered and a proportionate approach taken to managing any privacy risk.

The structure of a joint arrangement will determine the extent to which public authorities will need to take account of this public access to information legislation (Freedom of Information Act 2000 and the Environmental Information Regulations 2004). It may be necessary to put in place an inter-organisation protocol addressing who will deal with information requests, and how.

Where a third party service provider is employed to deliver part of the shared service, the service agreement should provide sufficient rights in software and other relevant intellectual property rights to enable all recipients of the service to make full and proper use without risk of infringement action. This should be supported by appropriate indemnities.

When a shared services project involves a joint venture with a partner from the private or third sector, there may be a risk that any investment in the project by the public sector organisation could be deemed to constitute state aid. Further legal advice will be required to determine whether or not state aid exists in this scenario, and if so further legal advice to ensure full compliance with the state aid regime.

The identification and application of the relevant WG and any applicable powers will be required to satisfy all participating parties that they have the statutory powers to engage in the activities involved in operating the proposed joint venture or partnership and/or to facilitate the discharge of statutory obligations. Further legal advice will be required if the various structures under this Option 1 are developed further.

Additional corporate joint venture considerations

Cadw and its proposed partners, will need to consider further legal and commercial issues when entering into a corporate joint venture in addition to the issues surrounding the type of entity chosen for the joint venture company and how to go about establishing it.

Considerations include the shareholders agreement, which is likely to impose a significant ongoing commitment from all parties to behave in a manner that provides and supports the interests of the joint venture company. For a public sector shareholder, there may be occasions where these obligations present a conflict with the wider (non-commercial) duties that the authority has or pressures faced by ministers or elected members. These tensions will need careful management, and further legal advice can be sought to include effective provisions in the inter-party agreements.

To protect its reputation, the public sector body should consider whether there may be potential for the joint venture to make decisions that will be contrary to the public interest, for example, security or wider policy objectives. More generally, the public body should consider how the commercial success of the joint venture will impact on its reputation (that is, it does not want to be associated with a financially unsuccessful venture that fails to deliver high profile services).

How control is managed within the joint venture will impact on whether the entity is classified as owned as a public or private entity. Determining the classification of a joint venture is a complex area and will require detailed legal advice at an early stage of project planning.

Participants in a joint venture company will also want to confirm details of the proposed duration of the joint venture and exit arrangements for all parties, so that transition of responsibility for provision of services can be managed smoothly when the joint venture comes to an end, including for example how assets (whether people, contracts, physical assets or intangibles such as intellectual property rights) will be managed when the joint venture comes to an end.

If a joint venture company is created it is governed by company law. Management within the joint venture company should be fully aware of their legal rights and responsibilities in managing the company and dealing with shareholders.

HR considerations

There is little potential HR impact of continuing with this organisational structure. Whilst there are three sets of employment terms & conditions across the four bodies, there would be no change to an employee's terms & conditions. This is a fundamental consideration particularly in a public sector, trade unionised environment.

The HR benefits derived from this option however are nominal. If there is a common ethos of increased commerciality, the primary benefit could be around a joint approach to staff commercial development which may be cost effective through leveraging scale. A second benefit could be a more structured approach to secondments between the bodies, enabling development opportunities.

In proposed structures involving staff transfers, e.g. to a joint venture company, there are likely to be particular issues in relation to the employment terms, pensions rights etc., which will require careful management with employees and union representatives, in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006.

This model can be developed to suit the particular project, for example, three partner organisations could each host a different function on behalf of the others, with the appropriate staff secondments put in place transferring staff between organisations. This model can often be politically appealing as no one organisation is seen as too dominant. However, pay scales between the national heritage organisations are different and equality issues may arise if a member of staff is seconded to an organisation which pays equivalent staff a different rate of pay.

Pensions considerations

All four bodies provide staff with access to defined benefit provision with tiered member contributions.

Benefit designs

There are different benefit designs across the bodies with different accrual rates of pension and provision of automatic lump sums on retirement. Cadw and the Commission are both in the unfunded Principal Civil Service Pension Scheme (PCSPS) recently reformed to Career Average for service from April 2015 although new entrants can elect to be in a non-contributory Defined Contribution section (known as "Partnership") if they wish. Secondly the NMW and the NLW are in funded Trust schemes which are in the process of reform. We understand that the NMW plans to introduce Career Average from April 2016 with a lower accrual rate for new hires compared to existing staff.

Another difference is that only NMW and NLW staff may have access in future to pensions salary sacrifice which is designed to produce National Insurance savings to both staff and employer.

Funding, accounting and guarantee arrangements

There are different pension funding and accounting requirements for Cadw and the Commission compared to the NMW and the NLW. The latter two show pension

deficits on their balance sheets and we would expect their employer contribution rates to be more volatile. The latter also incur specific advisor costs e.g. Scheme actuary fees and require management time e.g. to liaise on actuarial valuation outcomes with the Scheme Trustees. Current employer funding contribution rates are:

- 20% or 20.9% in the PCSPS CARE sections (the next quadrennial valuation to set rates has an effective date of April 2016 and is likely to produce higher rates from April 2019 given a Budget 2016 announcement on the methodology to be used)
- 8% to 14.75% in the PCSPS Defined Contribution Section
- 21.3% in the NMW Scheme (next triennial valuation has an effective date of April 2015, so new rates could be set soon)
- 26.6% in the NLW Scheme (next triennial valuation has an effective date of April 2016)

All bodies effectively benefit from a government guarantee but taking different forms. The Civil Service Pensions Scheme has an ongoing UK government guarantee whereas the NMW and NLW each have a National Assembly Crown Guarantee to ensure liabilities are met.

Increased collaboration

In terms of further collaboration of existing bodies under Option 1, it would seem possible for secondments between the bodies to be arranged provided the different levels of employer contribution were understood and there was agreement of which body would be responsible for them during the secondment.

Formation of trading subsidiary

If a commercial subsidiary were formed then any existing staff transferred to it would have to be given continued PCSPS membership subject to legal advice. See further comments on the PCSPS application under Option 2 where a standalone charity could be established. New recruits may have to be offered alternative pension provision and this might be benchmarked against an industry norm for marketing and other private sector professionals specifically recruited to the new company. This is also described further under Option 2

Taxation considerations

Direct Tax

There will be no change to each individual organisation's tax status. The tax treatment of transactions between the organisations will be determined as follows:

- Charities – as to whether the trading is primary or non-primary purpose (with the latter offering an option to earn profits in a trading subsidiary and then to make a gift aid donation).
- The Royal Commission - we understand that that any profits will be non-taxable however we cannot be certain of this without clearance from HMRC.

- Cadw - all profits will be within the Crown Exemption and no tax liability can arise

Value Added Tax (VAT)

Given the range of different arrangements that can be agreed when entering into a joint venture, the specific VAT implications will have to be considered before any contracts are entered into, as the specific details can alter the VAT implications. For instance, if staff are seconded to another party this could represent a supply which attracts VAT, but if the staff are controlled by that other party, which also takes over the responsibility for paying them and meeting all tax and NI obligations, then these payments will be free of VAT.

Cadw

For VAT purposes, the operation of those heritage sites that generate an income from admissions, retail sales and other activities such as functions and filming rights, is a business activity and as such the normal VAT rules apply. VAT is declared on admissions and other sales, as appropriate, and some VAT reliefs are applied so that some zero rated supplies (e.g. books) and exempt supplies (e.g. rentals) are also made. VAT incurred on costs is recovered as deductible input tax, to the extent the costs relate to the making of taxable supplies (i.e. supplies that attract VAT at the standard, reduced or zero rate).

Arguably, some of the heritage sites could be defined as museums within the context of the VAT exemption for cultural services defined within Group 13, Schedule 9, VAT Act 1994. Item 1 in this group makes the exemption available to Government departments but one of the conditions attached to this Item, which is set out in Note 3 to the Group, is likely to prevent Cadw from qualifying for the exemption as it prevents the use of the exemption in circumstances where it is likely to result in a distortion of competition to the disadvantage of a commercial enterprise.

Other activities, notably the upkeep of historic monuments that are not used to generate any income, are non-business in nature. Under the normal VAT rules it is not possible to recover VAT on costs relating to non-business activities. However, as Cadw is part of WG it falls within the list of bodies identified at Section 41 (6), VAT Act 1994 as being Government departments and as a consequence is able to claim refunds of VAT on certain contracted out services.

NMW

The operation of the museums is a non-business activity for VAT purposes on the basis that they are free to enter. However, the VAT on related costs is recoverable under the terms of Section 33A, VAT Act 1994 because NMW and its museums are specifically identified within the Value Added Tax (Refund of Tax to Museums and Galleries) Order 2001.

As a trading subsidiary, we understand NMGW Enterprises Limited to be mostly taxable for VAT purposes as it will be making sales that are mostly taxable at the standard or zero rate. It is therefore entitled to recover VAT on costs, subject to the normal rules.

Royal Commission

This is not currently registered for VAT so recovers no VAT on costs and declares no VAT on its income.

NLW

Like NMW, NLW also undertakes non-business activities and benefits from the recovery of VAT on costs under the terms of Section 33A, VAT Act 1994 because it and its library is specifically identified within the Value Added Tax (Refund of Tax to Museums and Galleries) Order 2001.

The taxation implications of joint ventures or other joint working arrangements require individual consideration when it is clear what costs, income and activities will apply to the arrangement in question.

Option 1 conclusions

The following table sets out a summary of the consideration of Option 1, together with an indicative assessment of whether each criterion is a) fully met by this option ● b) could be met with further development ● or c) whether there are potentially significant issues ●.

Preserves and protects the heritage of Wales for future generations	● Established structure with general agreement among stakeholders that it protects the heritage for future generations ● Effective protection of heritage sites but risks from reductions in funding ● Current structure enables access to support for both capital and revenue funding to care for monuments
Creates a stronger, unified identity for the Welsh Heritage Sector	● Separate organisations have not pursued a unified identity for the Welsh Heritage Sector in the past but there are opportunities to do more ● Lead organisation(s) could develop a unified brand and some of this is already in progress ● There may be a tendency of individual organisations to focus on their main business at the expense of progress in working together
Improves the commercial performance of heritage sites and the contribution of the wider heritage sector to the Welsh economy	● There is scope to do more within the current structure, as identified by the Panel ● More could be made of the commercial partnerships and other joint working arrangements

Realises synergies in key areas	● There is scope to realise greater synergies between the national heritage organisations and with others in the sector with lead organisations leading on particular areas of focus
Governance and accountability	● Established governance arrangements provide a great deal of accountability to Ministers ● Being either within government or WGSB has some limitations on ability to pursue commercial opportunities ● New governance arrangements would need to be agreed in formal joint working arrangements
Financial	● Existing regime would continue supported by joint working arrangements ● Service level agreements would need to be in place with profit sharing arrangements in formal joint working arrangements ● Consideration needs to be given to the impact of commercial success on balance between government and non-government funding
Legal	● Ownership and guardianship of properties remains unchanged ● Minimal legal impact of continuing with current organisational structure ● Shared services or joint venture arrangements require consideration of Public Procurement Regulations, Teckal and State aid
HR	● Staff would remain on existing terms and conditions ● Cultural change in looking to develop commercial expertise likely to be more difficult within existing structure ● Closer working could provide opportunities for limited collaborative staffing solutions, for example, development of staff through secondment programmes both across bodies and with private sector partners
Pensions	● Current provision would continue including follow through of forthcoming changes to NMW and NLW scheme benefits
Taxation (CT, VAT and SDLT)	● There will be no change to the individual organisation's tax status. ● The tax treatment of transactions between the

	organisations will be determined as follows: - o Charities – as to whether the trading is primary or non-primary purpose (with the latter offering an option to earn profits in a trading subsidiary and then to make a gift aid donation) - o The Commission - we understand that any profits will be non-taxable however we cannot be certain of this without clearance from HMRC - o Cadw - all profits are within the Crown Exemption and no tax liability can arise - o Cadw is able to recover VAT on certain contracted out services that relate to its non-business activities (including the upkeep of its heritage sites and monuments that generate no income). This benefit will be lost if the activities are carried out by a body outside Government
Ease of implementation	● • This option has the most ease of implementation but will require effective leadership to feed through to effective improvements and at the pace required

Based upon the analysis above, there is scope to continue with developments that have already taken place following the Panel's report and for them to be taken further with the national heritage organisations. The momentum built up to date should be maintained and there is scope in time to introduce more clarity and formality in to the governance processes in joint working arrangements in order to ensure that the objectives of such arrangements are met and that the costs and income generation are shared appropriately.

Option 2 – Creation of a new charity

Overview

This option explores the feasibility of the creation of a new charitable body at arms length from Government with heritage charitable objects but with the ability to operate commercially (directly or with a trading subsidiary passing profits under gift aid) in order to increase income from heritage sites to support their preservation and promotion. This option has been developed from the understanding of existing heritage charities, e.g. the National Trust and EH Groups.

This option would involve dividing the current functions of Cadw into two separate organisations – one organisation that might remain within Government, and a separate new charitable organisation to manage the properties. This new organisation might be a new charitable body with heritage charitable objects but with the ability to operate commercially (directly or with a trading subsidiary passing profits under gift aid) in order to increase income from heritage sites to support their preservation and promotion.

Unless otherwise stated in this section the opportunities for improvement described in our analysis of Option 1 also apply to this option, ie they are equally possible within a new charity as they are in the existing structure.

Structure

Governance

A new charity may be a WGSB or an independent charity depending upon how continued support for the monuments were provided. Were a new organisation to receive an endowment to support the conservation backlog, and a commitment to a level of possibly tapering support, the organisation might be set up as a separate charity with a formal agreement. However if there was a significant level of continued government support, the body would need to be a WGSB on a similar model to the current NMW and NLW.

As a charity, a new organisation would be governed by a Board, which would set the strategic direction, with operational management delegated to a Chief Executive. As a WGSB, the board might have non-executives on the Board appointed by a Minister or the National Assembly for Wales.

Functions

In common with the approach developed in England, a new structure would involve splitting the core functions of Cadw into two. The core functions of a new body would mirror the current functions of the Commercial and Property Team within Cadw. These include:

- offering world class visitor experiences by opening 26 staffed sites to the public continuing to open properties to the public;
- conserving and maintaining 129 properties in the guardianship of the State (including 5 sites that are designated as World Heritage sites);

- generating commercial income through retailing, venue hire, admissions and other activities;
- delivering public programmes, interpretation and education at monuments to generate income and improve visitor experiences;
- contributing to wider WG priorities including the Fusion programme, tackling poverty and targets on environmental performance; and
- offering a membership programme to enable people to enjoy properties.

The functions that would remain with the 'Parent' body are:

- designation and protection of historic environment sites across Wales, including casework and support for owners;
- strategic policy development and legislation for the wider historic environment including delivery and implement of a new Act;
- grant aid to owners to repair and conserve sites and monuments and advice to owners on conservation;
- support for third sector and voluntary heritage organisations in Wales;
- public outreach and community engagement across heritage in Wales including Heritage Open Doors;
- delivery of wider WG priorities including Fusion programme, environmental, social , regeneration, education and economic outcomes;
- raising awareness of wider heritage work in Wales through the Cadw membership programme; and
- sponsorship of the Royal Commission (and possibly a new body).

A number of functions that are currently provided jointly across the two areas of work would need to be divided. These would include:

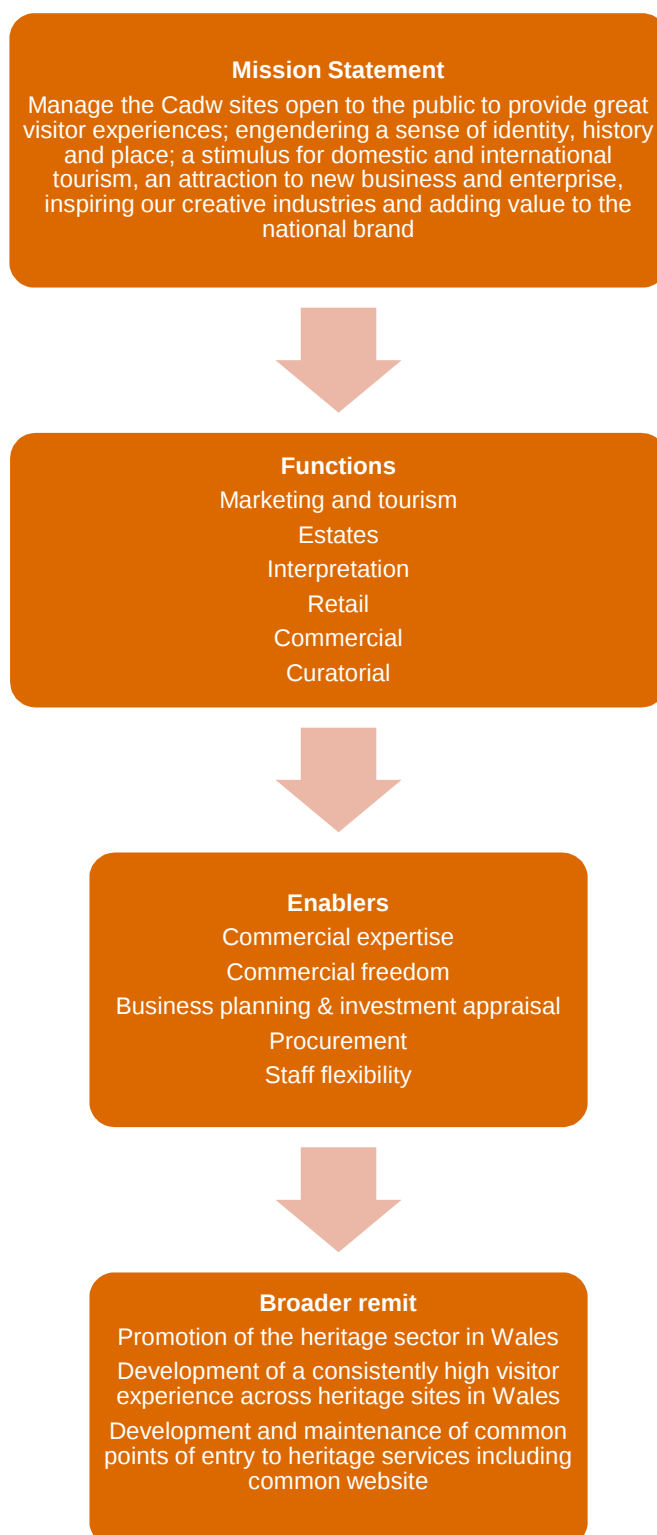
- business planning, financial management and procurement;
- the membership programme, whereby members benefit and access both the wider historic environment work and the property based work;
- the marketing programme, which currently addresses wider historic environment work as well as property-based work; and
- curatorial expertise – expertise in relation to areas such as technical conservation, historic environment management, and compliance with legislation and policy related to heritage which is currently shared across both areas.

Structural diagram

The diagram below sets out how a new charity might operate. It is assumed for the purpose of the diagram that the staff currently employed within the Commercial and Property Team would mostly transfer to a body.

The next part of the diagram builds upon the need to overcome the potential barriers to further success and views them as what a new organisation should have as enablers to success, ie a new organisation should have robust business planning and investment appraisal processes.

The final part of the diagram shows, based on stakeholder views, what the wider remit of a new organisation could be in order to serve the wider heritage sector in Wales.



This should not be read as a substitute for detailed business planning and the application of the Office of General Commerce (OGC) 5 case business model but gives an indication of the expectations for a new organisation that form the basis of the analysis of the shortlisted options that follows.

Potential benefits of the commercial and property function of Cadw becoming a charity

There is significant precedent for national heritage bodies operating as charities. EH, HES and the National Trust are all registered charities and whilst the business model of Cadw's commercial and property function may not be comparable with any of these charities there is a body of evidence which points towards the potential benefits of creating a new charity responsible for heritage functions. However, it should be noted that the EH and HES charities are in the early stages of their existence and as such evidence for this is based upon business planning rather than a track record of sustainable delivery in practice.

The summary business plan for the creation of the EH charity sets out a number of anticipated benefits as a result of the creation of a new charity. The table below assessed whether it is likely that those benefits would be realised if the commercial and property function of Cadw were to move into a new charity in a similar way.

Anticipated EH benefits	Likely to be realised in the Welsh context
The decline in the condition of the National Heritage Collection will be reversed. The additional Government money will eliminate the priority defects and the charity's increased income will ensure that after eight years the Charity will have the financial ability to maintain the Collection properly. Without the additional investment, the level of conservation defects would continue to rise and some properties would deteriorate beyond repair.	Not unless the charity is established with funding
Clearer separation from the responsibilities of Historic England and greater independence from Government will make it easier for the Charity to access sources of funding from third parties.	This could be a realisable benefit
Visitor and member figures will grow substantially, attracted by the new exhibitions and an improved basic offer, enabling more people to engage with the history of England.	Contingent on investment
Greater autonomy from Government means the Charity will be able to plan more effectively for the longer term as it will not be as constrained by Government spending controls and cycles. Greater freedom will enable the Charity to pursue a more flexible and strategic approach to managing the properties and generating income.	This could be a realisable benefit

Anticipated EH benefits	Likely to be realised in the Welsh context
Both the increased investment in the Collection and the enhanced attractiveness to domestic and foreign tourists will contribute to economic growth.	Contingent on investment
An enhanced opportunity for volunteering which will enhance the visitor experience.	Stakeholder evidence suggests that this would be a realisable benefit
Historic England will have a clear focus and purpose. The split will provide an opportunity to reassess priorities and to look at ways of improving how these vital heritage services are managed and delivered.	This could be a realisable benefit
Historic England will aim to make the heritage protection system work better for owners, developers and infrastructure providers, reducing unnecessary bureaucracy without reducing protection for heritage. It will develop its constructive approach to conservation demonstrating that heritage supports sustainable economic growth and job creation. The organisation will help to sustain our national quality of life and secure economic benefits, offering advice that remains expert and impartial.	This could be a realisable benefit
The resources and expertise of Historic England will be more visible and accessible to the public.	This could be a realisable benefit
Heritage at risk will continue to be brought back into economic re-use.	Contingent on investment
Once the Charity becomes financially independent, it will no longer have a call on the financial resources of Historic England.	Long term ambition but in the short term WG support is likely to be needed

Other benefits of charitable status

Charitable status has the following additional benefits:

- improved ability to obtain volunteering and local support;
- ability to leverage additional income;
- tax advantages (see below); and
- registered charities are entitled to claim Charity Rates Relief on business rates they pay for non-domestic properties used wholly or mainly for charitable purposes.

There is general agreement amongst stakeholders that access to more volunteer time is a significant benefit of charitable status. Individuals are generally considered to be more willing to offer their time to a charitable cause than to a governmental organisation. Charitable organisations such as the Canal & River Trust successfully attract volunteers on locality basis to support projects and activities. It is important to be clear that volunteering models can be used effectively to provide additional support and to enhance the visitor experience, they should not be used as a method of replacing paid staff.

Charities tend to be able to attract additional income streams when compared with government organisations. Stakeholders were of the view that a charity is more likely to be able to attract charitable donations and legacies than a government body and grant funding in certain circumstances is also generally more likely to be provided to charitable projects than those run by government, ie Heritage Lottery Fund grants.

Charitable status also brings with it an additional layer of scrutiny by an independent regulator (the Charity Commission) and restricts what the body can be asked to do and how it operates. This brings advantages around the protection it affords to the activities of the body. As a charity, the organisation would be required to complete annual reports in addition to those created to meet any public body requirements that may apply.

The Charities Act lists 13 descriptions of charitable purposes. Whilst the potential functions of a new charity are yet to be fully defined, it is likely that the following charitable purposes would be met which are consistent with other charitable heritage organisations:

- the advancement of the arts, heritage, culture or sciences;
- the advancement of education; and
- the advancement of environmental protection or improvement.

Another purpose is the prevention or relief of poverty and as such a new charity may consider taking into account the findings of Baroness Andrews report on Culture and Poverty, Harnessing the power of arts, culture and heritage to promote social justice in Wales.

Welsh Government Sponsored Body (WGSB) status

A body with charitable status can also be a WGSB. Both NMW and NLW are WGSBs as is Natural Resources Wales which is another organisation that generates commercial income from its activities.

A new charitable body is likely to need to be in receipt of government funding, either through the English Heritage model of a substantial endowment and ongoing support, or in the form of regular grant in aid. It is therefore likely that it would remain as a WGSB. In this case the 'Parent' body would presumably act as the 'Sponsor' for a new charity in the same way that Cadw currently acts as sponsor for the Royal Commission and MALD currently acts as sponsor for NMW and NLW. An annual Remit Letter would set out annual funding, and the expected outcomes for a new body.

While WGSBs operate at a distance from Welsh Ministers and have a greater degree of independence than other public bodies, Welsh Ministers remain ultimately accountable for their activities and they are subject to ministerial direction. Their constitution, activity and existence can be amended through legislation if government policy and Welsh Ministers consider it appropriate. This remains true of a WGSB with charitable status, but Ministers would need to accept that the body should also be subject to the Charities Act and therefore respect the Trustees duty to the charity as well as their duty to Welsh Ministers.

A WGSB would be governed by a Board, which would set the strategic direction, with operational management delegated to a Chief Executive. All WGSBs currently have non-executives on the Board appointed by a Minister or the National Assembly for Wales. WGSBs do not need day to day Ministerial oversight but deliver a long-term role set out at their foundation. They are self-determining to a great extent in fulfilling this role but act in response to changing government priorities set out in annual remit letters from their WGSBs.

In both England and Scotland, national heritage services are now being delivered through NDPBs.

Scotland

Historic Scotland set up as an Executive Agency in 1991 with similar responsibilities to those of Cadw including caring for the 325 monuments in state care and providing protection for the wider historic environment. The Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS) established in 1908 as a sister body to the Welsh Royal Commission with responsibility to survey and record the historic environment.

In 2011 the Scottish Government commissioned an appraisal of the long term future of the RCAHMS. Two options were considered - merger with Historic Scotland or the formal establishment of the organisation in legislation (as opposed to under Royal Warrant). The preferred option was merger to create a national cultural institution relating to the historic environment that would celebrate Scotland's heritage, provided informed and enabling leadership, build knowledge and have financial resilience and sustainability.

Legislation for the new body received Royal Assent in November 2014 and the new corporate body was established in April 2015. The new body is a NDPB which now has charitable status. It was felt that this should:

- give it a greater degree of independence than executive agencies and make it better placed to provide leadership and act as a champion within the sector;
- bring it closer in line with sector partners who were also NDPBs including the National Library, galleries and Museums of Scotland, Creative Scotland and Scottish Natural Heritage; and
- allow more formalised governance arrangements with a board and functions set out in law, and a properly defined relationship with Ministers.

The new body continues to receive core funding from Scottish Government. In 2014/15 Historic Scotland received £45.3m from Scottish Government and a further £ 36.3m in earned income. The new body achieved charitable status under Scottish Charity law, although it is important to be aware that this involved specific legal provision similar to that previously established for national collections in museums in the context of the Public Service Reform Act of 2010.

England

In England, heritage was managed by the former English Heritage – a NDPB set up in 1984 which had merged within the Royal Commission on Historic Monuments (England) in the 1990s.

In December 2013 DCMS issued a consultation document on a new model for managing the National Heritage Collection – the properties in guardianship in England. The intention was to create a new charity that would retain the name English Heritage, supported by an £80m investment and tapering investment from government. The aim was that within eight years, the charity would be self-financing.

The new charity is called 'English Heritage'. It manages the properties in care whilst responsibility for preserving the wider historic environment remains with Historic England (the name for the Historic Buildings and Monuments Commission), the parent body.

Properties are managed under a license from the Historic Buildings and Monuments Commission (the Commission) which initially lasts for eight years. The license includes obligations to carry out condition surveys, maintenance, conservation and capital development. There are also obligations to open to the public on set days, offer free educational visits and ensure adequate standards for health and safety and security. There are provisions for regular monitoring of the charity's performance. The Commission retains the right to terminate the license if obligations are not met.

The license is coterminous with a funding agreement. The charity will continue to receive grant in aid from the government on a declining basis to the end of 2022/23 when the grant in aid will cease. The business plan assumes year on year growth in admissions of 5%.

The charity is based on the English Heritage Foundation - an independent charitable foundation dedicated to raising money for the sites in the National Collection set up on 2011. It is understood that this body became the framework for the new English Heritage charity, and as a result no new legislation was required.

Because English Heritage was already an NDPB no new legislation was required. Staff directly working on the National Heritage Collection have transferred under the TUPE legislation to the charity on the same terms and conditions. Staff in corporate services functions such as HR, IT and finance have remained employees of Historic England but provide services to the charity under a shared service agreement. The charity is charged by the Commissioners for those services.

The other critical factor in establishing HES has been the issue of charitable status. It is important to note that charity law in Scotland is different to England and Wales and it was possible to dis-apply an element of Scottish charity law which enabled Scottish

Ministers to exercise control over the charitable entity. This is not possible under charity law in England and Wales and is an important consideration which requires further specialist legal advice.

Trading subsidiary

HES, HE, NMW and the National Trust all have trading subsidiaries through which commercial activity is conducted in order to ensure that this non-core charitable activity is separate from the charitable parent organisation. This has the overall benefit of ensuring that the charitable purpose of the parent organisation is pursued and there is separation and transparency of commercial operations which can be seen by the regulator, the Charity Commission. This is a well-established model for charities and NDPBs.

A registered charity with a trading subsidiary has the benefits of attracting tax and relief from business rates on any non-domestic properties it uses wholly or mainly for charitable purposes. A wholly owned trading subsidiary will pay corporation tax on its profits but it can claim tax relief on any charitable donations it makes (in this case to the parent charity). It is likely that the establishment of a trading subsidiary would be beneficial, subject to detailed business planning, if a new charity were to be created. There is also the option of creating further additional subsidiaries (which could include a charitable foundation to retain funds for a particular purpose) for specific activities as progress is made and new opportunities arise.

Financial considerations

For a new organisation it is important that there is clear planning of the reporting requirements before financial systems are set up. Considerations will include splitting out key activities and property results, identification of restricted funds and how any endowment funds will be recorded. Also, if a WGSB, it will be vital to be able to separately identify income solely from third parties and related spend as this spend will be outside the budget cover restrictions of Departmental Expenditure Limit (DEL). A WGSB would also be required to submit Whole of Government Accounts returns.

The accounts format of a registered charity is governed by the Charities Statement of Recommended Practice and accounts are required to be filed with the Charity Commission.

Funding requirements for a new charity

There are a number of references in the table above regarding the requirement for funding. This is considered here but improvements will require funding whichever option is taken forward.

There are inevitably costs of establishing a new organisation. EH was established with £80m special funding for capital investment and conservation and an initial public revenue subsidy in the first year of £16.3m in year one of operation reducing to nil after seven years. The HES business case details shows income from Scottish Government in year one of £47.6m reducing to £39.7m over a 12 year period. Initial costs were estimated at £1.1m over the first four years which were planned to be recovered through savings in later years.

It is assumed for the purpose of this high level analysis that the staff of the Commercial and Property Operations function of Cadw would transfer to the a new organisation.

The 2015/16 budget for the function is:

	Current Budget
COMMERCIAL AND PROPERTY OPERATIONS (Cadw)	£'000
Revenue- Programme	3,825
Revenue- Staff	4,800
	8,625
Total Revenue Budget	
Non Cash	1,500
Capital	2,591
Total DEL	12,716

Against this £5,300k commercial income is budgeted for leaving a WG cash funding requirement of £5,916k to cover the current cost base based upon 2015/16 figures. In addition the capital budget for conservation, estates, public engagement and visitor services is £2.1m.

In addition, there are a range of costs that are required to be met in respect of the one-off cost of establishing a new organisation and additional running costs, such as IT, property costs, governance and finance. At this stage it is only possible to set out possible ranges of costs to provide an indication based upon benchmarking information from similar sized organisations and with reference to the Cadw/Royal Commission Merger Project Board (the Project Board) paper that explored the corporate services, costs and income associated with the merger of Cadw and the Royal Commission into an Executive Agency, a WGSB or within government.

The range of additional costs can vary greatly depending upon the following factors:

- recruitment of new staff for commercial expertise or other reasons;
- investment in IT systems; and
- office accommodation requirements.

The Cadw/Royal Commission Merger Project Board produced a paper that explored the corporate services, costs and income associated with the merger of Cadw and the Royal Commission into an Executive Agency, a WGSB or within government. The following incremental costs were identified as being required under the two options. These estimates follow the general principle that, whichever option is chosen, the organisational set up will need to be lean, particularly given the pressure on government finances which we consider to be an appropriate assumption.

	WGSB £k	Executive Agency £k
Governance	226	21
Finance	84	84
Audit	55	50
Procurement	26	26
HR	37	37
IT	264	0
Legal services	20	20
Total additional annual operating costs	712	238
Finance system	75	40
IT	1,255	375
Total set up costs	1,330	415

These costs are based upon the merger of the Royal Commission and the entity of Cadw and are therefore only broadly indicative of the incremental costs that would need to be met if the Commercial and Property Operations function transferred to a new body. We have benchmarked these costs with other small WGSBs and note the following:

- the analysis does not include premises costs on the basis that the analysis does not attempt to quantify the benefits of setting up a merged body compared with the status quo. We have assumed under both options that new premises will be required;
- the estimate for corporate support costs (governance, finance etc.) is within the range we would expect for an organisation of this size and a reasonable estimate for the additional corporate costs of establishing a new organisation with its own board and governance arrangements;
- governance costs include the cost of £29k - £43k for an Independent Advisory Panel which may or may not be required and £150k sponsorship and policy costs for the WGSB which is based upon the policy role of the combined organisation which would not apply in this case. However if a WGSB there are likely to be some sponsorship costs;
- audit costs are likely to be lower for a charity if it is free to go to market for audit services whereas external audit will be provided by the Auditor General for Wales if it is a WGSB or Executive Agency;
- additional IT running costs for the Executive Agency option were estimated at zero on the basis of no change. For the WGSB option total IT running costs were estimated at £804k but it was assumed that the existing IT support service would continue to be provided by WG thus reducing the incremental cost by £540k to £264k which related primarily to new infrastructure such as WAN/Internet feeds and telephony/mobile contracts; and
- the IT set up costs of £1,255k are by far the largest additional cost for the WGSB and include the requirement for new infrastructure, consultancy for set

up and hardware. The IT set up requirements of a new organisation require careful consideration and experience from other heritage organisations such as the National Trust, HES and HE should be utilised to arrive at an appropriate membership and customer relationship system and website for the organisation. It is assumed for the purpose of this high level analysis that one-off investment in IT will be required under both options.

At a very high level, therefore the potential range of additional costs associated with the charity and Executive Agency options are:

	Charity £k	Executive Agency £k
Governance	150-250	20-50
Finance	60-80	60-80
Audit	40-60	40-60
Procurement	30-40	30-40
HR	35-45	35-45
IT	250-500	0-500
Legal services	20-40	20-40
Rent, repairs in new office	200-450	200-450
Utilities in new office	300-400	300-400
Total additional annual operating costs	1,085-1,865	705-1,665
Sponsorship if WGSB	50-100	-
Finance system	70-90	30-40
IT	1,255-3,000	1,255-3,000
Total set up costs	1,325-3,090	1,285-3,040

The Charity Rates Relief available and taxation advantages of charitable status and VAT changes should have a net positive financial impact to off-set against these costs. HES calculated an annual net income gain after taking into account VAT changes, Charity Rates Relief and gift aid of £1.1m. However, the benefit for a new charity in this instance would not be expected to be as significant.

The Cadw/Royal Commission Merger Project Board estimated the potential impact of charitable status and concluded that a net gain of £194k per annum could be achieved. The vast majority of this gain is in respect of Cadw and therefore we consider it a reasonable basis for further analysis.

We have reviewed this calculation and updated it for 2014/15 actual income figures. We concluded the following:

- Gift aid could be claimed on admissions (£3,045k for 2014/15), membership (£394k for 2014/15) and donations (£7k for 2014/15). This would provide estimated additional income of between £26k and £53k depending upon the percentage of visitors that would pay an additional 10% donation on admission. The range of £26k - £53k is based upon 10% - 20% of visitors doing so.

- For membership, we have maintained the assumption of the Project Board that gift aid could be secured on 70% of membership fees. This provides estimated additional income of £69k.
- For donations, gift aid on £7k donations would provide additional income of £2k.

Therefore the additional income from gift aid could be in the range £97k - £124k.

The Project Board also estimated charity business rates relief could reduce costs by approximately £107k. Against this, the VAT benefit lost from moving outside of government was estimated by the Project Board to be at least £90k. Therefore, the potential financial benefits of charitable status could be in the region of £114k - £141k.

If this option is taken forward, consideration needs to be given to the scale of a new charity and the breadth of its operations. EH, HES and the National Trust enjoy a degree of scale due to both their asset bases and also the extent of their operations being broader than commercial activity. In developing this option further consideration should be given to whether a new charity should include other functions in order to give it greater scale.

Funding backlog maintenance

A further major consideration for a new charity will be the level of backlog maintenance for the properties in Cadw's care and the level of grant funding that may be available to meet the backlog. As mentioned previously, both EH and HES receive government funding for maintenance and capital investment either in the form of a dowry or ongoing funding.

It may be possible for a new charity to attract Heritage Lottery Funding, or other sources of funds for specific projects but this should not be assumed in establishing the funding for backlog maintenance

The 'parent' body

The parent body (the historic environment function of Cadw) would still need to be able to undertake wider functions relating to the historic Environment in Wales. Some common functions are based within the Commercial and Properties element of Cadw. The income from commercial operations is currently spread across both areas of work.

If staff from a new body moved out of government there would be a saving to government, off-set by the income from commercial operations. However, in order to continue to deliver wider historic environment services certain costs would remain within government. There is likely to be a requirement for a recharging arrangement for certain services that will need to be provided by the parent if a new charity were created (Historic England recharge EH for a range of professional services at £1.1m). This will require careful consideration as part of a detailed business planning process.

Legal considerations

The most important legal consideration is whether legislation would be required in the establishment of a new charity. If a new charity is established which is to manage the properties in Cadw's care and which are ultimately in the care of Ministers under Deed of Guardianship, the legal implications need to be carefully considered.

Furthermore, if functions are transferred out of government it is likely that legislation will be required to effect this and legal advice should be sought in this respect.

To be recognised as a charity in law, an organisation must be established for exclusively charitable purposes and be subject to the control of the High Court. If a new entity is created with charitable status, the governing document must contain a clear statement of the charitable purpose(s) that a new organisation is pursuing, which is generally referred to as the object(s) of the charity e.g. 'to preserve Welsh heritage sites for future generations'. The stated objects must also satisfy the public benefit requirement which, given the nature of Cadw's work and the experience of other UK heritage conservation bodies, would be easily satisfied.

Any assets which are transferred to a new charitable entity must only be used in furtherance of the objects of the charity. The appointed board of trustees must not allow the assets of the charity to be applied for non-charitable purposes or purposes that fall outside the objects of the charity. Although protected monuments are under Cadw's *guardianship* as opposed to *ownership* (as defined in the *Ancient Monuments and Archaeological Areas Act 1979*), the rule applies to any common assets which may be transferred to a new entity in the ordinary course of business.

A well drafted governing document with broadly defined objects should guard against any claims that a new entity's assets are being used for anything other than for charitable purposes. However, the issue of the delegation of responsibility for management of properties under Guardianship deeds is a specialised and complex area of law and will require further investigation and it is possible that this will require new legislation and therefore more detailed legal advice will be required in this area.

Similarly, any profits generated by the charity must be reinvested and used to fulfil its objects. A new charity successor may set up a wholly-owned subsidiary to carry out trading activities. For example, a new entity could open up a company to operate gift stores or cafes near popular tourist attractions in Wales, or to make areas of castles available for hire (as is the case with NMGW Enterprises Ltd). The subsidiary could then enter into a gift arrangement with the parent charity agreeing to pay to an amount equivalent to some or all of its taxable profits. Such payments are not regarded as a distribution of profit by HMRC but as a qualifying charitable donation under the Gift Aid rules.

HR considerations

Moving to a charitable status would provide the organisation with the opportunity to develop its own bespoke HR strategy based on business requirements. It is expected that the staff from the Commercial and Property Team in Cadw would transfer their employment across to the charity. This would be governed by TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006" as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014"). This would be a sensitive, complex and time consuming process.

Employees would carry with them their continuous service from the outgoing employer, and should continue to enjoy the same terms and conditions of employment with the incoming employer. There would be three different sets of

terms & conditions within the charity. Typically employers are conscious of the employee relations impact of employees on different terms & conditions working alongside each other and wish to harmonise/ change terms & conditions. A single of terms & conditions is a useful basis for recruiting any new, external employees on to.

If the charity develops its own terms & conditions, our experience is that discretion and autonomy with regard to working practices and subsequent terms & conditions increase with the distance an organisation is from central government. Our experience of public sector harmonisation exercises suggests that this tends to gravitate to a higher common denominator.

Pensions considerations

The pensions issues need to be considered separately for existing commercial and property staff transferring from Cadw and for specialist new hires recruited for their marketing knowledge.

Existing Cadw staff

Existing staff transferring to a charity will have an expectation of continued membership of the PCSPS. Subject to legal advice, the charity would be obliged under New Fair Deal principles to provide this type of benefit provision for service after employment is transferred.

If the charity is sponsored by WG then WG would need to oversee an application to the PCSPS division of the Cabinet Office for its approval for the charity to become a Scheduled employer to the PCSPS, and an explicit amendment made to the 1972 Superannuation Act which lists scheduled PCSPS employers would be made. WG would also retain responsibility for pensions administration and reporting aspects of the PCSPS participation.

If the charity is standalone from WG (i.e. there is no sponsoring department) we understand that the application route would differ. Participation may have to be via a “participation agreement” used by entities which are independent of government e.g. in outsourcing staff transfers. This would be signed by the charity and would not generally permit new hires to join the PCSPS. It will therefore be important to consult the Cabinet Office as early as possible about the intended governance and status of the charity and the appropriate route for admission to the PCSPS.

New specialist recruits

If marketing or other professionals are to be recruited to a charity from the private sector they may not have an expectation of access to a generous public service style pension. (The PCSPS currently offers staff a choice between CARE or Defined Contribution which has contributions of between 8% and 14.75% depending on age and which are somewhat higher than the Defined Contribution average for Private employers.) It may be appropriate to consider the balance between pay and pension such that pay offered is competitive for the marketing industry. Potentially a special pension design could be made available for these recruits (assuming the charity can vary terms and conditions between staff groups) which is benchmarked against the industry norm.

Other issues

The implementation plan for a new entity would also need planning for a new entity having its own auto enrolment cycle and responsibilities. This may include the duty to enrol any staff not previously in a pension scheme into a scheme on the first day of employment with a new entity subject to legal confirmation. This could increase pension costs if they remain in the scheme.

Taxation considerations

Direct tax

Charities are subject to the following tax regimes:

- Direct tax: corporation tax on taxable profits;
- VAT on provision (Output VAT) or receipt (Input VAT) of supplies and services; and
- Stamp duty land tax (SDLT) save in circumstances specified in schedule 8 Finance Act 2003 where the charity acts as purchaser.

Charities also benefit from the following direct tax exemptions:

- a) Trading profits arising from its primary purpose or ancillary trading
- b) Rental income from furnished and unfurnished lettings
- c) Investment income and gift aid
- d) Chargeable gains

Gift aid considerations

Under UK tax law, a gift aid claim can be made by charities recognised by HMRC. One of the advantages of being a recognised charity for UK tax purposes is that a charity may be able to claim gift aid; on individual donations, admission fees and membership income. Cadw is currently unable to do so.

Gift aid is a way for charities to increase the value of monetary gifts from UK taxpayers by claiming back the equivalent of the basic rate tax paid by the donor on the donation. The donor must be an individual, a sole trader or a partnership and have paid an amount of direct tax at least equivalent to the amount which the charity can reclaim.

For a charity to make a gift aid claim, it must ensure that the necessary paperwork has been completed. In addition, as gift aid can only be claimed on voluntary donations, any benefit received by the donor in return for making their gift, must be below HMRC prescribed limits.

Charity Commission's Guidance states that:

*“Where trading (other than trading in pursuit of its charitable objects) involves **significant risk** to a charity's assets, it must be undertaken by a trading subsidiary. But even where it is not essential for the trading to be undertaken by a trading subsidiary, the use of trading subsidiaries may produce benefits, for example in*

reducing tax liabilities. In particular, trading subsidiaries may make donations to their parent charity as 'Gift Aid', so reducing or eliminating the profits of the subsidiary which are liable to tax"

If a charity incurs a loss from its non-primary purpose trading, the loss in connection with the trading *can* be regarded as 'non-charitable expenditure'. This could result in a restriction of the charity's tax exemptions on other income and/or gains. The Commission's view is that incurring such a loss would only amount to a breach of trust if the loss had been incurred irresponsibly.

There would, in the Commission's view, be no breach of trust, if:

- there was a rational expectation that the trading would be successful;
- it was reasonable for the charity to have carried on the trading itself, rather than use a trading subsidiary; and
- the expenditure which gave rise to the loss was within the powers available to the trustees.

Whether or not the risk of non-primary purpose trading is 'significant' depends on a number of factors, including:

- the size of the charity;
- the nature of the business;
- the expected outgoings;
- turnover projections; and
- the sensitivity of business profitability to the ups and downs of the market.

It is therefore necessary to analyse a charity's non-primary purpose trading from the following perspective:

- a) If it is profitable, would a trading subsidiary offer tax benefits to the charity?
- b) Does it pose a 'significant risk' to the charity's assets?
- c) If a and b are in the negative, are there any other benefits to a trading subsidiary, arising from the creation of a separate administrative unit which would offset the extra resources and costs required in running a subsidiary?

Value Added Tax (VAT)

We would not expect the transfer of the assets to a charity to attract VAT on the basis that the transfer of those that relate to business activities should meet the conditions to be treated as the transfer of a business as a going concern for VAT purposes, which is deemed not to be a supply for VAT purposes in accordance with Article 5, Value Added Tax (Special Provisions) Order 1995. As positive action is often needed to secure such treatment, the specific VAT implications of any proposed transactions should be considered prior to finalising any legal agreements. The transfer of assets relating to non-business activities should also be outside the scope of VAT.

The normal VAT rules would continue to apply in respect of activities undertaken by way of business. However, consideration would have to be given to whether the conditions of the cultural exemption are satisfied as the VAT liability of the admissions to the Heritage sites would now have to be considered under the terms of Item 2, Group 13, Schedule 9, VAT Act 1994, rather than Item 1. Under Item 2 it is no longer necessary to consider the likelihood of a distortion to competition, rather the test is whether the charity would fall within the definition of an eligible body in this context.

Whilst the question regarding whether the conditions for exemption apply is addressed by considering the facts, if this option is considered the potential impact of exemption should be considered at an early stage and the conditions considered in the course of setting up the charity.

The VAT rules for Government departments will no longer be relevant under this option and the activities that were undertaken by Cadw that transfer to the charity will not be able to benefit from the recovery of VAT on costs under the contracted out services rules. Consideration should therefore be given to what costs currently benefit from this VAT recovery and what the financial implications will be following the change.

Charities benefit from some specific VAT reliefs that are not available to Government departments, for instance advertisements for staff will qualify for zero rating.

If central services, such as marketing, is undertaken for others, then VAT will have to be charged and this will increase Cadw's taxable supplies which might increase its VAT recovery.

Extensive VAT planning was required in the establishment of EH and HES and we would expect this to be required in this instance also.

Option 2 conclusions

The following table sets out a summary of the consideration of Option 1, together with an indicative assessment of whether each criterion is a) fully met by this option ● b) could be met with further development ● or c) whether there are potentially significant issues ●.

Preserves and protects the heritage of Wales for future generations	● A charity could be established with preservation and protection of heritage as a core purpose but this will need to be approved by the Charity Commission ● Initially a new charity could focus on the management of Cadw properties with ongoing focus on working more and more closely with other heritage organisations, building upon the work being currently undertaken ● A new charity with responsibility for managing properties and commercial activities may not have the economies of scale in relation to conservation activities that the current structure has
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Creates a stronger, unified identity for the Welsh Heritage Sector	● As part of a charitable purpose of preservation and protection a charity could also have a wider remit to promote the identity of the Welsh Heritage sector ● A charity may find it more straightforward to enter into joint working arrangements with other charitable bodies in the sector to promote the Welsh heritage sector
Improves the commercial performance of heritage sites and the contribution of the wider heritage sector to the Welsh economy	● A charity could enjoy more commercial freedom to improve the commercial performance of the properties in its care compared with operating within government ● Access to more volunteer time may be a benefit of charitable status which could improve commercial performance
Realises synergies in key areas	● A charity has greater freedom to enter into agreements and working arrangements with other heritage organisations and pool resources than operating within government
Governance and accountability	● Charities, and their trustees, must act only in the interests of the charity and its beneficiaries ● Greater clarity of governance and the added scrutiny and challenge of a board of trustees ● Trustees can provide industry and broader guidance and expertise to management ● Clear definition in law (if WGSB) of the relationship with Ministers, including those areas of decision making where there should be independence
Financial	● Need to have separately audited accounts and file with Charity Commission ● No limit on commercial success provided main activity continues to be deemed charitable in nature ● Ability to access additional sources of income ● Business rate relief available ● Ability to plan in the longer term and invest surpluses in future projects ● Clarity over funding for backlog maintenance will be required
Legal	● Legislation may be required regarding management of properties by a new organisation not in government ● Separate legal entity – registered charity possibly with subsidiary charities or trading companies which undertake specific roles

HR	● Detailed advice will be required on the legal position regarding delegation of responsibility for managing properties under Guardianship deeds ● Charity Commission must be satisfied that a new charity is established for wholly charitable purposes ● Charity must only undertake activities that are within their objects and powers ● Charity must be independent of government and other funders
	● Potential for greater autonomy and the development of bespoke working practices and terms & conditions ● Existing staff would transfer under TUPE regulations
	● Expectation that staff transferred would continue in PCSPS ● Different membership application routes if standalone charity or WGSB ● Access to PCSPS for new hires may not be permitted (if standalone charity not a WGSB)
	● If Cadw is converted to a charity and tax exemption is granted by HMRC the tax treatment of each transaction will be determined by whether it is primary or non-primary purpose (with the latter offering an option to pass profits through a trading subsidiary and then to make a gift aid donation to eliminate the CT liability – reserves permitting) ● Cadw is able to recover VAT on certain contracted out services that relate to its non-business activities (including the upkeep of its heritage sites and monuments that generate no income). This benefit will be lost if the activities are carried out by a body outside Government. Detailed VAT planning will be required ● Cadw charges VAT on its admissions and does not apply the cultural exemption. A number of conditions must be satisfied for the exemption to apply and, whilst public bodies must evidence that applying the exemption would not distort competition, other non-profit making bodies do not have to meet this condition. If the activities are to be undertaken by a charity the conditions for exemption should be explored to confirm whether they apply

Ease of implementation	● Some specific VAT reliefs are available to charities that are not currently available to Cadw ● We would not expect the transfer of assets to a charity to attract VAT
	● Detailed business planning required to establish charitable purpose, governing documents, trustees and Charity Commission registration and whether legislation is required for the transfer of any functions currently within government and for the management of properties by a new organisation.

Based upon the analysis above, in addition to continuing with developments that have already taken place following the Panel's report and for them to be taken further with the national heritage organisations, there are potentially additional benefits of creating a new charity. Most notably there are taxation benefits and the ability to access more funding streams and volunteer time make the charity model attractive and is well established in the sector.

More detailed business planning and advice will be required prior to the establishment of a new charity and in particular VAT advice is likely to be required along with further consideration of the financial implication of the establishment of a new body and the WG funding that may be available to it.

Finally, if this option is to be taken forward the business planning process should include further consideration as to whether a new charity should have functions in order to provide it with greater scale should it be required.

Option 3 – Creation of a new Executive Agency

Overview

This option explores the feasibility of the creation of a new Executive Agency. The option has been developed from the understanding of the recent changes in Scotland resulting in the creation of HES where full consideration was given to whether HES should take the form of an Executive Agency or a NDPB.

Prior to the creation of HES the predecessor body Historic Scotland was an Executive Agency of the Scottish Government with its functions and accountability defined in the Historic Scotland Framework Document 2012. Historic Scotland merged with the Royal Commission on the Ancient and Historical Monuments of Scotland to form HES which took up its full statutory role from 1 October 2015. In developing the outline business case for the merger consideration was given to whether HES should be an Executive Agency or a Non-departmental Public Body (NDPB). It was concluded that both organisational options were viable. The decision was taken to create a new NDPB with charitable status.

The drivers behind the merger were different to the considerations for the Property and Commercial Team in Cadw and the responsibilities of a new organisation are broader and include the regulatory and policy side of the historic environment service. However, the following benefits of the Executive Agency option identified can be applied in this instance:

- greater flexibility of governance with the ability to update and amend framework documents;
- a closer relationship to Ministers, which provides greater opportunity at a political and policy development level to promote the historic environment;
- the opportunity to define relationships with Ministers in less formal ways, without providing for independent decision-making;
- some potential to develop charitable income via an independent charitable foundation; and
- greater ability to provide leadership on behalf of government, if the heritage policy function continues to be part of the organisation.

If wider remit considerations of the promotion of the heritage sector in Wales, development of a consistently high visitor experience across the heritage sites in Wales and the development and maintenance of common points of entry to heritage services including a common website, the degree of direction available to Ministers in the Executive Agency model may have benefits.

There is also reference to the potential to establish an independent charitable foundation. This is equally possible in Wales and could be considered further if the Executive Agency option is to be taken forward.

Sub-options for the creation of an Executive Agency

There are a number of different sub-options for the creation of an Executive Agency which are explored below:

- 3a) an Executive Agency responsible for the commercial and property activity previously in Cadw;
- 3b) an Executive Agency responsible for the commercial and property function previously in Cadw and also the commercial services to support the other national heritage organisations; or
- 3c) an Executive Agency which is formed from the de-merger of Cadw (both the commercial and property and the strategy, policy and historic environment functions).

The appropriateness of these options again depends upon the remit that a new organisation is expected to have.

Option 3a) Executive Agency responsible for the commercial and property activity previously in Cadw

This sub-option is the equivalent of Option 2 but with the creation of a new Executive Agency rather than a charity. This option could involve increasing the remit from the management and commercial activity of the Cadw properties to also include wider activities with the other national heritage organisations and other partners through agreements or other working arrangements.

When compared with Option 2 it is likely that this option provides less commercial freedom, less access to additional income streams and other perceived barriers from operating within government would continue. This is balanced with greater Ministerial control and continuity in staff terms and conditions, pension arrangements and other advantages of continuity of operating within government. There is also the opportunity to bring in greater expertise at Board level through the appointment of Non-executive directors with experience in commercial, retail or other areas.

Option 3b) Executive Agency responsible for the commercial and property function previously in Cadw and also the commercial services to support the other national heritage organisations

This sub-option includes the possibility of the marketing, retail and other commercial operations of the national heritage organisations coming together in a single Executive Agency to provide a combined commercial service to the national heritage organisations and perhaps beyond.

This sub-option has the advantage of providing more unification for the sector and the ability to bring the combined commercial resources of the national heritage organisations together to promote the heritage of Wales and to operate across all of the sites of the national heritage organisations to provide a consistent visitor experience and to develop a 'product' which visitors would come to expect which is a major strength of the National Trust, for example.

Option 3c) an Executive Agency which is formed from the de-merger of Cadw (both the commercial and property and the strategy, policy and historic environment functions).

Whilst our remit excludes the options for the Strategy, Policy and Historic Environment function in Cadw the stakeholder group agree that there should be consideration of this sub-option due to the considerations of scale associated with the creation of a new charity or Executive Agency including only the Commercial and Property Function.

This sub-option would have the advantage of retaining the staff and operating environment of Cadw and could involve the retention of support serviced either within the Executive Agency or through agreements with WG to continue to provide central support. This could provide initial stability whilst implementing a revised business model for a new Executive Agency.

There may be a perceived or actual conflict of interest if a new Executive Agency is tasked with operating Cadw properties on a more commercial basis and it also contains the regulatory role for other heritage sites held by other organisations which may be considered to be in competition with Cadw properties. In stakeholder interviews we did not receive feedback that there is currently a significant issue with this currently and this was also supported by the current experience of HES. However, this would need to be borne in mind if this sub-option were to be explored further.

Financial considerations

A comparison of potential costs associated with the creation of a new Executive Agency are included in Option 2 where they are compared with the costs of establishing a new charity. It should be noted that there are a number of permutations between and within the sub-options which limit the value of financial modelling at this stage and therefore the potential costs should be noted as a possible range at this stage but cannot be ascertained with accuracy without detailed business planning.

Each year HM Treasury issues Accounts Directions which provide most government departments and pension schemes, agencies and trading funds the Treasury's statutory directions for the format and content of their resource accounts (as part of annual report and accounts), other accounts and trust statements for 2015-16. The accounts directions are annexed and the organisations to which they apply are listed in appendices to the Accounts Directions. The 2015/16 Accounts Direction confirms that executive agencies shall prepare accounts for the year ended 31 March 2016 in compliance with the accounting principles and disclosure requirements of the edition of the Government Financial Reporting Manual (FReM) which is in force for 2015-16.

For central government organisations the requirements of HM Treasury are codified in the FReM. Reporting entities that comply with the FReM also prepare budgets on a resource (accruals) basis and are subject to control by the relevant authorities through various arrangements. Accounting policies are generally common to both accounting and budgeting. As such, we would expect the budgetary considerations of the various options for WG to follow the accounting considerations.

Also, the Executive Agency would require consolidation into the accounts of WG, as is currently the case with a number of executive agencies and would require the

Executive Agency to be included in Whole of Government Accounts. It is also likely that the Executive Agency would be added to the Designated Bodies at HM Treasury.

Executive agencies resource consumption and capital expenditure score in the department's resource and capital Departmental Expenditure Limit in the same way as the department's own spending. Budgets include expenditure that Executive agencies finance themselves from income that is not negative DEL, use of reserves or borrowing (where, exceptionally, permitted).

Grants and grant in aid paid by the department and any other financing facilities made available by the department are outside the department's budget. This treatment will align with the accounting which treats all grants from a department to its Executive agency as financing and as such they are excluded from the ALB's Statement of Comprehensive Net Expenditure and from the consolidated departmental accounts.

Following the 2010 Spending Review, Executive agencies were set Administration Budgets; these should be scored in the same way as the department's own Administration budgets.

Normally, Executive agencies are not allowed to borrow. Where exceptionally they are allowed to borrow the spending financed by borrowing scores gross in budgets. This applies whatever the source of borrowing (department, market, European Investment Bank). The cash raised by borrowing does not score as negative DEL.

One of the drivers for the creation of HES as a NGPB was the consideration that a new organisation would operate within a trading and financial regime that is more suitable for commercial activities of the body and better able to support long term sustainability and resilience. This is echoed in the example of the Royal Parks which is working to bring together the Royal Parks Agency (Executive Agency) and the Royal Parks Foundation (charity) into a single new public corporation which will apply for charitable status from the Charity Commission.

The Royal Parks is moving towards becoming a public corporation largely as a result to the impressive commercial success it has enjoyed over recent years. The Royal Parks were fully funded by Government grant in aid some ten years ago which has reduced to 60% as a result of increases in commercial income and this trend is expected to continue such that this will be increasingly self-sustaining and the level of grant in aid funding is expected to reduce to approximately 20% in the future. Therefore it is important that the considerations for potential commercial success and cost base of a potential new organisation are modelled in the detailed business planning process in order to establish whether over time the Executive Agency model is sustainable.

Legal considerations

An Executive Agency is part of a government department, which is managed as a separate unit. It is not a separate legal entity, but has its own identity in practical and presentational terms. Despite the name, an Executive Agency is not a special instance of either agency or delegation as a matter of law and, indeed, has no constitutional or other legal significance. The rules about the use of civil servants apply in the normal way, and although the desired element of functional independence may be achieved by a particularly broad delegation of power to the Chief Executive, the Minister remains

responsible as principal. This factor combined with a lack of legal personality means that an Executive Agency would have less independence from the sponsoring department than a charity.

If an Executive Agency is established, it could earn revenue in return for their services and gain some financial independence by being established as a trading fund under the Trading Funds Act. This would enable it to use its own revenue to fund its spending, which is how the Crown Commercial Service operates. However, this is a matter of government accounting rules and does not indicate any separate personality. For example, Companies House, the DVLA and the Medicines and Healthcare Products Regulatory Agency (an agency of the Department of Health) are agencies that are also trading funds.

A Framework Document would be required setting out the key elements of the policy and resources framework, and a Corporate and Business Plan. If a new Executive Agency is established, its ability to deliver services to new customers on a commercial basis should be highlighted in the Framework Document (further procedural guidance can be provided if required).

HR considerations

It is likely central government pay, working practices and terms & conditions would be adopted, subject to any agreed variations, by an Executive Agency. It would be expected practice for the grading structure to be derived using Job Evaluation for Senior Posts (JESP), together with JEGS (Job Evaluation and Grading Support). These are the two principal job evaluation schemes used in the civil service arena. JESP is used to measure job weights of Senior Civil Service (SCS) roles or similar, whilst JEGS is used to evaluate roles at all grades below SCS including administrative, technical and professional or specialist roles.

It is important to note that there is no absolute requirement for an Executive Agency to adopt the same pay and working practices and terms & conditions as the central body (WG). In practice however unless there is an operational or cultural reason for doing this is the practice normally adopted. Most bodies recognise the benefits of centrally administered pay and terms & conditions.

An example of an operational reason for not adopting harmonising working practice with the central body would be where the staff in the Executive Agency were undertaking discreet roles requiring a unique set of skills, qualifications and competencies that would not be covered under the centre Job Evaluation Schemes. In turn other examples are that core hours of working for the Executive Agency are outside the normal window covered by central terms & conditions or that there is the ongoing requirement to recruit specialist knowledge, skills and experience at a premium market rate. Adopting this approach would provide an established uniform platform for working practices, although the working practices would not be tailored to the requirements of the organisation.

Pensions considerations

The pensions issues need to be considered separately for existing commercial and property staff transferring from Cadw and for new hires recruited for their marketing knowledge. There is some similarity between the considerations under this Option and those for Option 2.

Existing Cadw staff

Existing staff transferring to the Executive Agency will have an expectation of continued membership of the PCSPS. Subject to legal advice the Agency would be obliged to provide this type of benefit provision for service after employment is transferred.

If the staff are classed as civil servants in the Executive Agency then qualification of the Agency for PCSPS participation would be automatic.

If the staff are not classified as civil servants then WG, as sponsor to the Agency, would need to oversee an application to the PCSPS division of the Cabinet Office for the Agency to become a Scheduled employer to the PCSPS and an explicit amendment made to the 1972 Superannuation Act which lists scheduled PCSPS employers. WG would then also retain responsibility for pensions administration and reporting aspects of the PCSPS participation. It will be important to consult the Cabinet Office as early as possible about the intended founding legislation for the Agency ahead of its admission to the PCSPS.

New specialist recruits

If marketing or other professionals are to be recruited to the Agency from the private sector they may not have an expectation of access to a generous public service style pension. (The PCSPS currently offers staff a choice between CARE or Defined Contribution which has higher contributions of between 8% and 14.75% depending on age and which are somewhat higher than the Defined Contribution average for Private employers.)

It may be appropriate to consider the balance between pay and pension such that pay offered is competitive for the marketing industry.

A special pension design could be made available for these recruits which is benchmarked against the industry norm. This suggests access only to defined contribution provision with lower contributions than required under the PCSPS and providing greater stability of cost than under the PCSPS.

However this is based on assumption that terms and conditions can be varied across staff groups which may be more difficult to achieve than under Option 2 (Charity status), depending on how the Agency is established and its powers.

Other issues

The implementation plan for a new entity would need to include appropriate staff communications on pension provision, which would should be straightforward if PCSPS membership continues. It would also need planning for a new entity having its own auto enrolment cycle and responsibilities. This may include the duty to enrol any staff not previously in a pension scheme into a scheme on the first day of employment with a new entity subject to legal confirmation. This could increase pension costs if they remain in the scheme.

Taxation considerations

Direct tax

All profits will be within the Crown Exemption that applies to executive agencies of Government. No tax liability will be due on profits that arise.

Value Added Tax (VAT)

The VAT implications will remain as summarised under Option 1 above. As in Option 2, the transfer of assets should not attract VAT and if central services are supplied to others, then VAT will have to be charged and this will increase Cadw's taxable supplies which might increase its VAT recovery.

Option 3 conclusions

The following table sets out a summary of the consideration of Option 1, together with an indicative assessment of whether each criterion is a) fully met by this option ● b) could be met with further development ● or c) whether there are potentially significant issues ●.

Preserves and protects the heritage of Wales for future generations	●	Greater ability to provide leadership on behalf of WG and to set the agenda for the heritage sector in Wales
Creates a stronger, unified identity for the Welsh Heritage Sector	●	A closer relationship to Ministers than the charity option, which provides greater opportunity at a political and policy development level to promote the historic environment
Improves the commercial performance of heritage sites and the contribution of the wider heritage sector to the Welsh economy	●	Less commercial freedom than the charity option
	●	Greater ability to direct and issue policy for the wider heritage sector to work together more effectively
	●	Trading fund may be required which would add complexity and cost but could provide more flexibility
Realises synergies in key areas	●	Limitations of Cadw being part of Government would generally continue
	●	Could continue to use many of WGs support functions and access to wider expertise in WG
	●	If common functions of the national heritage organisations were brought together synergies would be realised
Governance and accountability	●	Establishing document sets out the functions of the Executive Agency and its relationship with Ministers, the role of the Chief Executive and Non Executive Directors
	●	Non Executive Directors can provide industry and broader guidance and expertise to management
	●	The organisation would be directly accountable to Ministers but has autonomy in the way that it delivers its functions

Financial	• The organisation will be required to publish separate corporate plans, annual reports and accounts • Accounts will form part of WG accounts • Annual budget would apply and surpluses/deficits would need to be managed on an annual basis within government accounting requirements • Less access to additional funding streams that would be available to a charity • Future capital expenditure would be included in WG limits • If commercially successful an Executive Agency may have limited life
Legal	• No separate legal identity • Legislation sets out functions and relationship with Ministers • Ministers may delegate responsibility for management of properties to the organisation
HR	• Staff likely to remain as civil servants in the employment of Welsh Ministers and existing staff transfer to new organisation • There is no absolute requirement for an Executive Agency to adopt the same pay and working practices and terms & conditions as WG.
Pensions	• Expectation of continued membership of PCSPS • Automatic continued participation in PCSPS if staff are classed as civil servants
Taxation (CT, VAT and SDLT)	• All profits will be within the Crown Exemption that applies to EAs of Government. No tax liability will be due on profits that arise • VAT implications remain as summarised in Option 1
Ease of implementation	• Dependant upon which sub-option may be pursued

Based upon the analysis above, the Executive Agency option is interesting because it does provide some advantages over the other options and the sub-options have different strengths.

However, if a new organisation is to be created with a commercial focus and it is expected that this results in the balance between commercial income and grant in aid moving in favour of the former, serious consideration should be given to whether this option is sustainable in the long-term.

Option 4 – Merger of the national heritage organisations

Overview

This option explores the scope to merge the national heritage organisations where there is common purpose and duplication of activity.

This option is somewhat unique as it considers the merger of the four national heritage organisations into a single body. This section does not prescribe what legal form that body should take and the considerations in the previous sections on charity, WGSB and Executive Agency status should be read to apply to this option.

This option looks at full merger of the four national heritage organisations and does not explore the opportunities for one-to-one synergies between organisations. For example, NMW and NLW share many common functions around collections, display, conservation, digitisation, and research. Likewise, NMW and Cadw are the two national heritage organisations with the closest synergies around sites and visitor management, and tourism development.

There has been previous consideration of merger of the Royal Commission and Cadw in a similar context to the merger which resulted in the creation of HES. Some parallels can be drawn with those mergers but this option is more complex and does not involve the Strategy, Policy and Historic Environment function of Cadw. Our stakeholder interviews identified that there may be benefits from looking again at the future of the Royal Commission and whether some or all of its functions should be merged with those of Cadw or the NLW to ensure their sustainability.

Earlier in this report we identified a number of differences between the national heritage organisations. Whilst this option may be potentially favourable in respect of creating a stronger more unified identity for the heritage sector and synergies in support areas, these potential benefits should be very carefully considered against the strategic case for bringing together four organisations that have different objectives, responsibilities, cultures, terms and conditions, pension arrangements and scale of operations.

A great deal of detailed planning and due diligence will be required to establish whether this is a viable option. If it is found to be it should probably be considered as a longer term aim as synergies and the development of a more unified identity are pursued initially through the other options.

Financial considerations

It is not possible to evaluate the potential financial implications of such a merger without detailed legal and financial due diligence. The outline business case for the creation of HES is consistent with other mergers in our experience because it demonstrates an initial investment requirement to meet the costs of merger following by a period of realisation of value for money savings which in time may be expected to repay the merger costs.

The costs associated with a merger of the four organisations are likely to fall into the following categories:

- Professional and legal fees
- Staff redundancy or early retirement costs
- Harmonisation of staff terms and conditions
- Consultancy fees
- Taxation changes

The accounting and budgeting framework for a new organisation will follow the legal form as set out in the previous sections.

Legal considerations

The NLW and the NMW are bodies which have been incorporated by Royal Charter and also charities registered with the Charity Commission. The Royal Commission and Cadw are neither incorporated by Royal Charter nor registered with the Charities Commission but that the Royal Commission has been established by Royal Warrant and Cadw is part of WG. The following are the high level issues which need to be considered when deciding whether this option is suitable:

- *Structure of the Merger* - while there are a number of structuring options, in short, a merger of the activities of the four existing heritage organisations can be effected in one of the two following ways:
 1. one organisation takes over all the activities, assets and obligations of the other three organisations (and the other three organisations are 'dissolved' or carry out limited functions, not including the functions which have been transferred); or
 2. a new organisation is formed to take over the activities, assets and obligations of all four organisations involved (and all four organisations are dissolved or continue but carry out limited functions, not including the functions which have been transferred).

In the case of 1 (above), the most suitable organisation to act as the acquiring vehicle will need to be identified through due diligence and in the case of 2 (above), the form and structure of a new organisation to take the place of the existing four organisations will need to be considered (see Option 2 (creation of a new charity).
- *Power to merge* - the governing documents (Articles of Association, Trust Deeds, Constitutions and/or Royal Charter) of all the existing heritage organisations must be reviewed to ensure that they have the power to transfer the relevant assets and operations to the acquiring vehicle (whether expressly or by operation of law). If the power to merge is restricted by their governing documents or in law, then these restrictions will need to be considered and relevant action will need to be taken (whether by amending the relevant documents or by seeking approval from third parties (see below)) to allow such merger.
- *Objects of the existing organisations and approval from third parties* - the 'objects' of a newly merged or newly created organisation will need to be tailored to the work to be carried out by a new heritage organisation. Such amendments will be subject to external consents, which may delay the process.

A change to the constitutional documents of NLW and NMW is likely to be considered a regulated change and the Charity Commission's prior consent will be required to give effect to any amendment. Once this is obtained, the members of the charity will also need to resolve to make the alteration. Such change will have to be registered with both the Charity Commission and the Registrar of Companies. In addition, if any changes are to be made to the Royal Charter, early consultation with the Privy Council Office will be required as its approval will be needed. The Privy Council Office will then also consult those Government Departments with a policy interest and the Charity Commission.

- *Detailed due diligence* – detailed due diligence will need to be performed to ascertain the exact assets and liabilities of each organisation that would need to be transferred either to a new organisation or an existing one. This information will all eventually be included in a transfer instrument. The due diligence exercise will also bring to light any third party consents which may be required. For example, as the NMW is in a joint venture with National Waterfront Museum Swansea Ltd, the document governing this partnership would need to be reviewed to confirm whether or not the merger would be allowed and to clarify whether any partner consents will be required.
- *Abolition of remaining organisations* - other than the surviving entity, the remaining organisations will need to be abolished/dissolved after the merger. Again, the process by which each of these organisations are to be dissolved will depend on the way in which they are structured.
- *Governance* - the governance structure of a newly merged or created entity will need to be considered. In particular it will be important to decide how the four existing organisations and their governance bodies will be represented at Board/Trustee level of a newly merged entity going forward.

In addition, changes to the status of NMW, NLW and the Royal Commission are likely to require Privy Council approval which will require detailed preparation to both prepare the case to be approved and to meet the Privy Council timetable which may result in the merger option being one which should be considered for implementation over a 5 – 10 year period.

HR considerations

This option has major HR ramifications. As per Option 2, all staff would TUPE across to a new merged organisation and a harmonisation of terms & conditions would be likely. The benefits and disadvantages of this are set out in Option 2.

However a merger will require a new operating model for the organisation, new roles and a requirement to place employees into these roles in a transparent and equitable manner. Typically organisations would undertake a job evaluation exercise using an analytical job evaluation scheme. This would provide the foundation of a harmonised grading structure, pay structure and terms & conditions.

It would also form the basis of deployment into new roles in the short term and strategic workforce planning over the medium term. If there is currently duplication of

activity this would be identified; it is possible there may not be a suitable role for employee in the organisation and a redundancy situation may occur.

In turn merging four organisations together typically has significant cultural impact in terms of ways of working, behaviours, engagement and performance levels. It may require a period of three to five years to embed the operating model, culture and performance management system, Whilst a new operating model with a more commercial ethos is aligned with stakeholder requirements, our experience is that attrition levels are high in the first and second years of a merger (not necessarily immediately) and a lot of experience & skill can be lost.

Pensions considerations

The impact of the merger i.e. Option 4 would depend to some degree on the nature of a new entity.

New entity is a Charity

Subject to legal review continuation of the existing pension provision for each staff group i.e. PCSPS for Cadw and the Commission and the Museum and Library's own defined benefit schemes under Trust ought to be possible.

There would however need to be a fresh application for PCSPS participation as described under Option 2, where we note that the process would be more difficult if there isn't an identified government sponsor. Legal advice would be required to enable a change the participating employer to the Museum and Library Schemes and their Trustees' consent for the appointment of a new charity is likely to be required.

Further longer term options could be to merge the Museum and Library schemes or to wind the Schemes up either by being subsumed into the PCSPS or insurance company buyout (see comments below suggesting that wind up debt could fall on the National Assembly should wind up occur).

If wind up were followed there may be an opportunity for all staff to be offered the same pension provision going forward subject to the PCSPS application covering new hires which is discussed under Option 2.

New entity is a government department

Subject to legal review continuation of the existing pension provision for each staff group i.e. PCSPS for Cadw and the Commission and the NMW and NLW's own defined benefit schemes under Trust may not be fully possible. Firstly the PCSPS participation should be automatic as for any other government department with the dissolved Commission being removed from the list of scheduled bodies.

However since in this case a new entity would be deemed a civil service organisation, we understand this may prevent participation in the NMW and NLW Schemes. A brief inspection of the Trust Deed and Rules of both suggests that in the absence of there being a replacement to the existing participating employer to which the Trustees can agree, the wind ups of both Schemes would be triggered which has a potentially significant financial impact for the National Assembly.

The two main methods of wind up discharge would be being subsumed i.e. transfer into the PCSPS or insurance company buyout (see further comments below).

There would be an opportunity for all staff to be offered the same pension provision going forward i.e. via PCSPS.

Merging the Museum and Library Schemes

An option which may open up under full or partial merger of the four bodies is to merge the NMW and NLW Schemes assuming that they continue and there is no automatic wind up trigger (which is expected to be the case under full merger into a government department: see above but subject to legal confirmation).

The main rationale for this would be to reduce third party advisor costs eg. Scheme actuary, administration and management time e.g. reviewing valuation results. However prior to implementing such a merger the longer term strategy for these Schemes would need to be considered (see below) and potentially substantial problems would need to be dealt with in respect of the size of the deficit, the sponsoring charity's ability to pay contributions, different rates of pay and different terms and conditions.

Winding-up the Museum and Library Schemes and guarantee triggers

There would be limited value from the merger (see above) if the short to medium term intention was to wind up the Schemes either by being subsumed i.e. transfer the Schemes' liabilities into the PCSPS or by purchasing annuities with an insurance company.

We understand that under such a voluntary wind up or under an automatically triggered wind up (see above where the merger entity is a department), any shortfall of the Schemes' assets which the Trustees require to discharge the liabilities could then be sought from the National Assembly by invoking its crown guarantees to the Schemes. These guarantees appear to provide for all pensions earned up to the wind up date to be fully covered. It would be clearly be essential to take legal advice on this issue before proceeding with Option 4.

Although we do not have specific information on the assumptions which would be used to calculate the cash required to facilitate the transfer to PCSPS under Government Actuary's Department guidance, we do expect that this would be a cheaper route to achieve wind up compared to insurance company annuity buyout.

Other issues

If the merger involved staff redundancies these could trigger certain lump sum entitlements or pension enhancements (for older members) which may require immediate cash funding. This may be mitigated by the outcome of a current UK government consultation on caps to public sector exit packages. Its applicability to the staff in the four bodies would need to be considered.

A new entity may have its own auto enrolment cycle and duties if it is separate from any government department. Any staff transferring to it not currently in a pension scheme are likely to have to be enrolled into a scheme on day one after the merger subject to legal confirmation. This could increase pension costs if they remain in the scheme.

Taxation considerations

Direct tax

There will be no change to the individual organisation's tax status. The tax treatment of transactions between the organisations will be determined as follows:

- Charities – as to whether the trading is primary or non-primary purpose (with the latter offering an option to earn profits in a trading subsidiary and then to make a gift aid donation).
- The Commission - we do not have a known tax status but the assumption is that any profits will be non-taxable however we cannot be certain of this without clearance from HMRC.
- Cadw - all profits will be within the Crown Exemption and no tax liability can arise

Value Added Tax (VAT)

Cadw

The implications for the activities currently undertaken by Cadw will be as noted under Options 2 and 3. However, any services supplied to others will be said to be outside the scope of VAT if the activities in effect become divisions of the same legal entity.

Activities that were undertaken by NMW and NLW

In the same way as explained in the context of Cadw under Option 2, we would not expect the transfer of assets to be subject to VAT, but the specific VAT implications of any proposed transfers should be considered before entering into any legal agreements.

The recovery of VAT on costs available under S33A is very important to these activities and therefore needs to be preserved. In principle this should not be problematic as the legislation specifically mentions the facilities that are being operated. However, as it also states the entities that operate them early engagement with HMRC and, if necessary, Treasury is needed to ensure that the right to recover VAT is not lost.

Royal Commission

Again the transfer of assets into a new entity should not attract VAT, as explained above.

As soon as this activity is transferred into an entity with the other activities referred to above, it will be part of a VAT registered entity and its activities will be subject to the normal VAT rules.

Option 4 conclusions

The following table sets out a summary of the consideration of Option 1, together with an indicative assessment of whether each criterion is a) fully met by this option ● b) could be met with further development ● or c) whether there are potentially significant issues ●.

Preserves and protects the heritage of Wales for future generations	● Larger merged organisation could create a stronger core of heritage expertise across different disciplines and be more sustainable
Creates a stronger, unified identity for the Welsh Heritage Sector	● A single organisation would find it easier to present a unified identity and with the benefit of scale this could be expanded to the wider sector ● Cultural differences and different responsibilities and legal status could be complex to resolve and require careful consideration
Improves the commercial performance of heritage sites and the contribution of the wider heritage sector to the Welsh economy	● A single organisation with custody of all of the collections of the predecessor bodies has more opportunity to improve the commercial performance from them
Realises synergies in key areas	● Synergies are likely to be realised in bringing together organisations with common support functions into single retail, commercial, marketing functions as well as finance, governance and other 'back office' functions ● Similarly, duplication of management functions could be minimised ● Different requirements on the different organisations may, however, limit scope for realising synergies further, ie NLW has a much higher requirement to meet statutory Welsh language provision as directed by the Welsh Language Commissioner than the other bodies
Governance and accountability	● Governance of a newly merged organisation will depend upon its legal form. ● The main governance issue with merging the organisations is dealing with the individual governance processes within each organisation in the run up to merger ● The different objectives and responsibilities of the individual organisations will need to be brought together and may result in complex governance structures on a departmental basis
Financial	● Not possible to determine costs associated with merger without detailed due diligence ● Savings in time from rationalising shared functions could release funds for investment

Legal	• NMW and NLW are registered charities and therefore would need to be voluntary agreement to merger because of trustees responsibilities to the charities • Charity Commission consent will be required for NMW and NLW • Potential restrictions on power to merge in governing documents • Third party consents for merger may be required • Privy Council approval likely to be required
HR	• There are variations in a range of different terms and conditions within and between the national heritage organisations that will need to be harmonised with regard to working practices • Cultural differences may be difficult to work through post-merger
Pensions	• Specialist legal advice likely to be required into possibility of trigger of crown guarantee likely to be required which could have significant financial implications • Potential staff redundancies would trigger lump sum or early pension entitlements requiring cash funding
Taxation (CT, VAT and SDLT)	• The tax treatment of profits will depend on whether the merged entity is a charity (likely to be a mix of exempt primary and taxable non-primary purpose trading with the gift aid option), an Executive Agency (fully exempt), a non-trading body like the Commission (tax status to be agreed with HMRC) or a taxable entity (liable to CT on profits with gift aid as an option. If the merged entity is not “wholly charity owned” than any gift aid donations must be paid within the relevant tax period. • NMGW and NLW are able to recovery VAT on costs relating to their non-business activities by virtue of being listed in the Value Added Tax (Refund of Tax to Museums and Galleries) Order 2001 together with the facilities they operate. If any of the merger options result in a change in the entity responsible for any of the facilities it could compromise the right to recover VAT. It would therefore be necessary to approach Treasury/HMRC to request that the right is retained by the issue of an appropriate statutory instrument. • The Royal Commission is not registered for VAT as it operates just below the turnover limit for

Ease of implementation	compulsory VAT registration. If these activities are merged with others, then VAT would become accountable on those sales not eligible for any relief and VAT on costs relating to taxable supplies would become recoverable.
	• This is the option with the least ease of implementation and may be seen as a longer term possibility following a period of the national heritage organisations working more closely together

Merger of the national heritage organisations should be considered as a longer term option with the least ease of implementation and in a much wider context. Detailed legal and financial due diligence will be required and the legal aspects of merger are complex and they will take time to work through. For example, in addition to the maintenance backlog faced by Cadw, NMW and NLW also face major backlog maintenance issues which would be costed and a financial plan for how the combined backlog is to be addressed would need to be developed.

It is also unlikely that merger would be a strong strategic fit for all of the activities of all of the national heritage organisations. The stakeholder group were of the view that a culture strategy is likely to be important, in particular to the NLW, to establish what the direction is for the cultural sector which is distinct from the heritage sector and there are cross-overs in a number of areas. There may be opportunities for merger of activities with other organisations, such as education or arts organisations for example which may also be considered.

Next steps

Our work has been focussed on the options for a new commercial organisation based on the information made available to us. It must be recognised that our work is a feasibility study at the beginning of the process for the development of a new organisation.

This report should not be taken as a substitute for robust business planning processes and the development of the desired operating model for a new organisation. The operating model should be driven by Corporate Strategy which needs to be developed further in order to identify the optimum operating model.

Typical activity profile for a new organisation

The table below shows the typical activity profile for a new organisation. This report is at the 'Vision' stage and should be used to inform the 'Design' stage following decisions as to which option(s) are to be taken forward.

Stage	Vision	Design	Implement	Launch
Duration (months)	1 - 2	2 - 4	5 - 12	1 - 2
Key activities	• Proposition • Outline Business Case • Programme • Stakeholders • Structures	• Business model and plan • Target Operating Model • Governance • Employees • Commercial • Draft Business Case	• Business set up • Negotiate contracts • Appointments • Secure finance • Full Business Case • Approvals	• Signing • Launch • 100 Day plan

The duration of each stage will vary depending upon which option is taken forward. Option 1 can be implemented the most quickly, option 2 could be launched within 12-18 months but could be significantly longer if it required legislation to be enacted. Option 3 could be implemented more quickly than Option 2 because it is less likely that legislation would be required. Option 4 would take significantly longer due to the legislative, governance and consultation processes that it would need to go through together with the detailed legal and financial due diligence required.

Recommended next steps

Implementation of Option 1

The progress being made in the implementation of the recommendations of the Panel and other improvements in joint working between the national heritage organisations should be continued with a view to implementing Option 1 with immediate effect.

Further investigation of Option 2 or 3

Option 2 or 3 should be investigated further. It is critical that this further investigation focusses on the split of functions between a new organisation and the 'parent' organisation and how the backlog maintenance on the Cadw properties is to be funded.

This further investigation should apply the OGC Five Case Business Model. This is the approach for developing business cases recommended by HM Treasury, the Welsh Government and the UK Office of Government Commerce. It has been widely used across central government departments and public sector organisations over the last 10 years.

This will require more detailed consideration of the strategic, economic, commercial, financial and management cases for the creation of a new charity.

Consider Option 4 as a potential longer term option

Option 4 could be a realistic long term option to ensure the sustainability of national heritage services but needs to be very carefully considered

Achieving option 4 would require significant time and resources which need to be balanced against a full consideration of the potential benefits for the cultural and heritage sectors.

In addition a broader look at mergers within the sector may be of value, particularly in light of the view of stakeholders that merger of the Royal Commission and Cadw/NLW could be reconsidered.

Appendix 1 – Heritage organisations in Scotland and England

Scotland

Until recently there were two publicly funded organisations with responsibility for the Historic Environment in Scotland - Historic Scotland set up as an Executive Agency in 1991 with similar responsibilities to those of Cadw including caring for the 325 monuments in state care and providing protection for the wider historic environment, and the Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS) established in 1908 as a sister body to the Welsh Royal Commission with responsibility to survey and record the historic environment.

In 2011 the Scottish Government commissioned an appraisal of the long term future of the RCAHMS. Two options were considered - merger with Historic Scotland or the formal establishment of the organisation in legislation (as opposed to under Royal Warrant). The preferred option was merger to create a national cultural institution relating to the historic environment that would celebrate Scotland's heritage, provided informed and enabling leadership, build knowledge and have financial resilience and sustainability.

Legislation for the new body received Royal Assent in November 2014 and the new corporate body was established in April 2015. The new body is a Non-Departmental Public Body (NDPB) which now has charitable status. It was felt that this should:

- give it a greater degree of independence than executive agencies and make it better placed to provide leadership and act as a champion within the sector;
- bring it closer in line with sector partners who were also NDPBs including the National Library, galleries and Museums of Scotland, Creative Scotland and Scottish Natural Heritage; and
- allow more formalised governance arrangements with a board and functions set out in law, and a properly defined relationship with Ministers.

The new body continues to receive core funding from Scottish Government. In 2014/15 Historic Scotland received £45.3m from Scottish Government and a further £36.3m in earned income. The new body achieved charitable status under Scottish Charity law, although it is important to be aware that this involved specific legal provision similar to that previously established for national collections in museums in the context of the Public Service Reform Act of 2010.

England

In England a new structure for managing heritage sites has recently been put into place. English Heritage formerly managed both historic sites in guardianship and provided wider historic environment services. In December 2013 DCMS issued a consultation document on the new model for English Heritage based on an eight year vision to 2023 to create a new model for managing the National Heritage Collection - the name given to the collection of

over four hundred properties in state care in England. The intention was to create a new charity that would retain the name English Heritage, supported by an £80m investment. Within eight years, the charity would be self-financing.

The new charity is called 'English Heritage'. It manages the properties in care whilst responsibility for preserving the wider historic environment remains with Historic England (the name for the Historic Buildings and Monuments Commission), the parent body. The benefits of the model were seen as

- enabling English Heritage to address a significant conservation backlog
- the ability to plan capital investment over longer periods
- greater clarity on the role of the organisations
- an opportunity to better connect with members, volunteers and visitors
- greater stability for the collection

Properties are managed under a license from the Historic Buildings and Monuments Commission (the Commission) which initially lasts for eight years. The license includes obligations to carry out condition surveys, maintenance, conservation and capital development. There are also obligations to open to the public on set days, offer free educational visits and ensure adequate standards for health and safety and security. There are provisions for regular monitoring of the charity's performance. The Commission retains the right to terminate the license if obligations are not met.

The license is coterminous with a funding agreement. The charity will continue to receive grant in aid from the government on a declining basis to the end of 2022/23 when the grant in aid will cease. The business plan assumes year on year growth in admissions of 5%.

The charity is based on the English Heritage Foundation - an independent charitable foundation dedicated to raising money for the sites in the National Collection set up on 2011. It is understood that this body became the framework for the new English Heritage charity, and as a result no new legislation was required.

The new charity has a Board of Trustees who are legally responsible for directing the affairs of the charity, and who appoint management, set policy and strategy and approve business plans. Trustees are appointed by the Commission, and a minority of Trustees are also commissioners. At the end of eight years it is likely that trustees will be appointed by the charity itself. The Chief Executive of Historic England as chief officer of the Commission is also the accounting officer to Parliament for both Historic England and for the charity in respect of the m investment and the grant in aid received from Government.

English Heritage staff directly working on the National Heritage Collection have transferred under the TUPE legislation to the charity on the same terms and conditions. Staff in corporate services functions such as HR, IT and finance have remained employees of Historic England but provide services to the charity under a shared service agreement. The charity is charged by the Commissioners for those services.

Appendix 2 – Stakeholders interviewed

This study was informed by interviews and discussions with the following stakeholders.

Stakeholder group

- Baroness Randerson – Chair
- Manon Antoniazzi - Director Tourism, Heritage and Sport
- Kate Clark - Deputy Director - Strategy, Policy & Historic Environment, Historic Environment Service (Cadw)
- Jason Thomas, Deputy Director - Commercial & Property Operations, Historic Environment Service (Cadw)
- David Anderson - National Museum Wales
- Christopher Catling - Royal Commission on the Ancient and Historical Monuments of Wales
- Linda Tomos - National Library Wales
- Katie Antippas - Trade Union Side Chair
- Justin Albert & Richard Williams - National Trust

Other stakeholders

- Claire Pilman – Department of Culture, Media and Sport
- Steve Cushen – WLGA
- Kari Coghill – Historic Environment Scotland
- Martin Fairley – Historic Environment Scotland
- Tracey Reed – English Heritage
- Fraser Morris – English Heritage
- Neil Wicks – NMW
- Pedr ap Llwyd – NLW
- Mererid Jones - NLW
- Peter Gomer – Expert panel for Review of Local Museum Provision in Wales
- Andrew Stumpf – Canal & River Trust
- Heather Clarke – Canal & River Trust
- Anna Lermom – Civic Trust Cymru
- Ken Poole – City of Cardiff Council
- Cadw officers