

Key measures needed if the UK Government is to fulfil its main international responsibilities for biodiversity conservation in the UK's Overseas Territories

Main recommendations of the UK Overseas Territories Conservation Forum

The long-awaited UK Government White Paper on the UK Overseas Territories (UKOTs) was published in late June 2012, following a public consultation in late 2011. The White Paper recognises the importance of the environmental assets of the UKOTs: “The Territories are internationally recognised for their exceptionally rich and varied natural environments. They contain an estimated 90% of the biodiversity found within the UK and the Territories combined” (p 8, Executive Summary of the White Paper). It recognises also the UK's constitutional responsibility for the UKOTs: “The UK, the Overseas Territories and the Crown Dependencies form one undivided Realm, which is distinct from the other States [notably several Commonwealth ones] of which Her Majesty The Queen is monarch. Each Territory has its own Constitution and its own Government and has its own local laws. As a matter of constitutional law the UK Parliament has unlimited power to legislate for the Territories” (p 14).

For this reason, policy and practice of the UK Government in respect of the UKOTs are very important. Despite the very welcome recognition of the environmental importance of the UKOTs in this White Paper, the United Kingdom Overseas Territories Conservation Forum (UKOTCF) is concerned that many aspects of the White Paper represent set-backs from the 1999 White Paper on the UKOTs and its follow-up. One aspect of this is that the description of the *status quo* with respect to environmental conservation in the UKOTs is seriously flawed; if one is inaccurate with this, how can one plan sensibly future actions? The 2012 White Paper contains many fine aspirations for environmental management of the UKOTs, but virtually no mechanisms for achieving them. Indeed, it seems to be abandoning mechanisms previously established. UKOTCF has set out in detail the basis of its conclusions in “*Moving Backwards in UK Overseas Territories Conservation - Comments by the UK Overseas Territories Conservation Forum on the UK Government's June 2012 White Paper The Overseas Territories: Security, Success and Sustainability (Cm 8374)*” (available at www.ukotcf.org/pdf/Consultations/WP2012comments.pdf; a shorter version is in *Forum News* 40: 1-8.) Below, we make our main recommendations and explain the reasons for them.

It is important to note that, whilst the White Paper is a product of the present UK Coalition Government, the period of official activity reviewed embraces about a decade under the previous Administration and about two years under the present Government.

1. Environment Charters

Following the 1999 White Paper, the UK negotiated a set of mutual commitments with respect to management of the environment with each of its Overseas Territories: the Environment Charters. These form the heart of the strategy to conserve and manage sustainably the environmental assets of the UKOTs but they have been omitted completely from the 2012 White Paper. The Coalition Government's strategy set out in this White Paper is to “re-invigorate the United Kingdom's relationship with its 14 Overseas Territories” (p 11). Ministers stress that it “endorses and builds on” (p 11) the previous Labour Government's 1999 White Paper, but rather than building on the 1999 White Paper, it appears to abandon the key conservation mechanisms it established.

The failure to mention the Charters in the 2012 White Paper follows several years of the UKG backing away from its commitments under the Charters. In 2008, despite promising a House of Commons Select Committee that it would “carry out a review of the Environment Charters which have now been in place for five years” and referred to awaiting UKOTCF's analysis, the FCO told UKOTCF which was conducting (at FCO request) a review of progress in meeting Charter commitments that it did not have the resources to review its own performance, and, indeed, it has never carried out the review it promised in 2008.

As explained clearly in both the 1999 and 2012 White Papers, the UK Government has devolved environmental issues to the UKOT governments. The UK, however, is bound by Article 4 of the 1992 Convention on Biological Diversity (CBD) to account for the UKOTs in respect of treaty obligations. The 1999 White Paper acknowledged that there are environmental obligations that neither the UK nor the UKOTs had lived up to, and therefore the 1999 White Paper stipulated that the Environment Charters were to be negotiated to set out who is responsible for complying with which obligations. Accordingly, the Charters are the formal mechanism by which the UK complies with its international treaty obligations, and it continues to be bound by them, as do the UKOTs whose leaders signed them. This is laid out in detail in two Special Reports of the Bermuda Ombudsman, as part of her assessment of Bermuda's obligations to implement its Charter commitments specifically in relation to environmental impact assessments (see *Special Report June 18, 2012* and *Today's Choices – Tomorrow's Costs, February 10, 2012* www.ombudsman.bm). UKOTCF strongly endorses her position.

The 2012 White Paper lists compliance with relevant multilateral environmental agreements as one of its four goals for environmental management of the UKOTs (p 46). If the Charters do not constitute the mechanism by which the UK implements Article 4 of CBD, what is the mechanism for UK Government to meet its international obligations?

In this context, it is worrying that the phrase “of the uninhabited territories” qualifies one of the four environmental bullet points in the White Paper’s executive summary (p8): “The UK aims to be a world leader in the environmental management of its uninhabited territories”. Whilst UKOTCF welcomes the UK Government’s increased interest in the uninhabited UKOTs, why not be similarly ambitious for the inhabited territories? The UK’s international commitments, and the Environment Charters as the main route of implementing these, apply to both categories.

UKOTCF and many of its partners in UKOTs and Britain believe that the Environment Charters remain a central element of the relationship between HMG and the UKOTs, and that it would be a seriously backward step for HMG now simply to try to wish them away. They are legally binding documents and should be accepted as such.

i) UKOTCF calls on the UK Government to re-affirm its commitment to the Environment Charters which form the basis of UK and UKOTs fulfilling their international conservation obligations – for both the inhabited and uninhabited UK Overseas Territories.

2. Securing resources for environmental work in the UKOTs

a) UK Government Financial Support

The issue of funding for conservation work in the UKOTs is critically important because of the basic problem that NGOs and other bodies in the UKOTs are not eligible for most international funds because they are considered to be British. ***Sadly, the underlying assumption that Britain significantly funds conservation work in its own territories is simply not true. Britain's support for such work is negligible.***

In June 2008, The House of Commons Foreign Affairs Committee’s report on Overseas Territories concluded: “295. ... **We conclude that given the vulnerability of Overseas Territories’ species and ecosystems, this lack of action by the Government is highly negligent. The environmental funding currently being provided by the UK to the Overseas Territories appears grossly inadequate and we recommend that it should be increased.**”

In October 2008, the House of Commons Environmental Audit Committee concluded, in its report on *Halting Biodiversity Loss*: “47. **With leadership, and a relatively small sum of money, the incredible biodiversity found in our overseas territories can be safeguarded into the future. One of the most important contributions that the Government could make to slowing the catastrophic global biodiversity loss currently occurring would be to accept its responsibilities and to provide more support for the UK Overseas Territories in this area.**”

The UK Government's Commitment 8 under the 2001 Environment Charters is: "Use the existing Environment Fund for the Overseas Territories, and promote access to other sources of public funding, for projects of lasting benefit to the Territories' environment." Only a year after drafting and signing this Commitment, the FCO absent-mindedly terminated EFOT. After much effort by UKOTCF and UKOTs, an interim grant fund was put in place a year later, and subsequently this was combined with matching funding from DFID, to create the Overseas Territories Environment Programme (OTEP). However, OTEP was closed as a grant-fund allowing open process and application from users in 2011, despite a commitment in the UK Government's Overseas Territories Biodiversity Strategy to retain and enhance it, and despite the 2012 White Paper presenting it as one of the key mechanisms for conservation work in the UKOTs. *It is perhaps indicative of UK Government's delivery of its commitments that it has killed off the means of fulfilling this long-term commitment twice in a decade.*

The 2012 White Paper offers only two funding mechanisms for conservation work in the UKOTs: OTEP and the Darwin Initiative. As noted above, OTEP, the only funding stream dedicated to environmental conservation in the UKOTs, is no longer open to project bids from environmental NGOs, or indeed anyone under an open process. At most, it has been reduced to a programme whereby UK Government bodies tell UKOTs what they need. It certainly will not allow NGO bodies or UKOT government departments, both of which tend to have more local knowledge, to play an active role in helping determine how any available funds are spent.

The widening of the Darwin Initiative to include UKOT focus in 2009 is already threatened by 2012. DFID is now funding part of the Darwin Initiative, but has its own target to contribute 0.7% of GDP to poverty alleviation – thereby causing it to try to steer the Darwin Initiative funding away from UKOTs and towards foreign countries, because grants for UKOTs do not fall within this target. All of which means that the White Paper describes as 'supported activities' only two funding sources, both of which are rapidly becoming unavailable to the UKOTs and their supporting NGOs in any significant way.

Lack of even the modest financial support of OTEP is already depriving the UKOTs of contributions which civil society can make to good environmental management, especially of projects involving local communities in the inhabited territories.

ii) UKOTCF recommends that the UK Government increases the funding for UKOT biodiversity conservation, as already recommended by two Select Committees of the House of Commons, instead of its present practice of decreasing the availability of funding to conservation bodies working for the UKOTs, and ensures that UKOT NGOs and their umbrella body, UKOTCF, are again eligible for such funding.

UKOTCF notes that the White Paper's "The Seven Principles of Public Life" (see the box on p 51), includes "Openness: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their actions and restrict information only when the wider public interest clearly demands." Sadly, movement in HMG has been in the opposite direction. In administering the EFOT, the FCO worked jointly with UKOTCF to help UKOT bodies develop proposals to meet the joint UK/UKOT responsibilities for conservation. With the FCO's absent-minded cancellation of EFOT within a few years, OTEP (established after a gap) was influenced by DFID's more formulaic approach to a bid-based system. This did include a review panel, initially with strong non-governmental representation (although its recommendations were sometimes over-ruled without explanation by FCO & DFID). Progressively, the representation of UKOTCF and other NGOs was reduced (and their time no longer paid), and the recommendations of the NGOs for better procedures ignored. In 2011, without any consultations with NGOs, FCO and DFID cancelled the grants programme. FCO indicated that some funding is still available, but the process for applying for, and awarding of, funding – and even the subject of the funding – remain secret despite enquiries.

iii) UKOTCF recommend that FCO & DFID restore an open process and return to a system that involves fully the expertise of NGOs (and umbrella bodies like UKOTCF) working alongside officials to decide on grant funding.

2b Funding from the European Union

Working with its equivalent bodies for French and Dutch overseas territories, UKOTCF some years ago planted the idea of European Union support for conservation in the OTs (almost all of which are not eligible for most EU funds). The idea was taken up by a senior European Commission official, and then by European Parliamentarians from French territories. A pilot programme *Preparatory Action (Voluntary scheme for Biodiversity and Ecosystem Services in Territories of the EU Outermost Regions and Overseas Countries and Territories)* 'BEST', was established by an initiative of the European Parliament, in collaboration with Directorate-General Environment, utilising funds from Directorate-General Development Cooperation. There have been two tranches of €2 million, with grants from the latest one still to be decided.

It had been assumed that the plan was a permanent fund arising out of this preparatory action, with the current BEST results proving the need for it. Unfortunately, a senior official from Directorate-General Environment has now indicated that establishing such a budget-line would be impossible and, even if it were, DG ENV is not a funding agency. The policy now is to access existing EU budget-lines to fund environmental projects. This, however, causes major problems for the UKOTs since, aside from the possibility of access to the EU fund LIFE + for the UKOTs, there are virtually no European Union funds that are accessible to them. At present, it seems that even inclusion in LIFE+ may not be extended to OTs, but may be extended to non-EU countries in Asia! There is a need for considerable lobbying on the part of the UK Government to change this situation. On past experience, this seems unlikely, it being clear that lack of attendance at meetings by UK ministers and officials is one of the main reasons that UK (and UKOT) bodies fare poorly in EU funding for the environment. UKOTCF has previously indicated also the need for the UK Government to work with other states to press the European Commission to reduce the needless and disproportionate bureaucratic load on applications and other processes.

The only nod towards this complex problem in the 2012 White Paper is: "In the EU, the UK Government ***will try to ensure*** that UKOTs' environmental policy and funding needs are taken into account." (p 43) [emphasis added]. This gives the impression that the drafters either do not understand the problems or that they have little real interest in addressing them.

iv) UKOTCF recommends that UK Government engages more with the European Union institutions in order to ensure that UKOTs are not effectively excluded from EU funding for biodiversity conservation – and that, when funding is made available, procedures are simplified.

2 c) National Lottery Funding

The benefits of the National Lottery are not available to the UK Overseas Territories, unlike for example its Dutch equivalent for Dutch territories.

The Department for Culture, Media and Sport (*The Department for Culture, Media and Sport and the United Kingdom's Overseas Territories* <http://www.culture.gov.uk/images/publications/dcms-uk-overseas-territories.pdf>) states that "***Lottery funding can be made to organisations based in the UK for activities overseas, such as in the Overseas Territories***, provided the funding meets the purposes (legislation or charter) of the relevant distributor. There is no bar on Heritage Lottery Fund (HLF) making such grants ***but HLF's current policy is to treat any such applications as a low priority***. When making decisions on funding, HLF take into account their policy directions, which place an emphasis on funding the heritage of the UK for access by the people of the UK [emphasis added]." ***HLF seems unaware that the UKOTs are sovereign UK territory and their people UK citizens.***

Heritage Lottery funding was addressed on p 75 of the White Paper: “The UK National Lottery is the most cost efficient in Europe and has so far raised £27 billion for Good Causes. Some 28% of Lottery revenue is distributed to Good Causes through a number of distributing bodies which support sport, the arts, heritage and communities. The Lottery cannot currently be played in the Territories. However, distributing bodies, which make their funding decisions independently of Government, can make grants to support good causes in the Territories to organisations based in the UK and working in the Territories, where applications meet the relevant criteria and the distributors have the legal vires to do so.” The problem with this statement is the HLF's express policy is to treat such applications as low priority, so once again a funding source described in the White Paper is not actually available to the UKOTs.

UKOTCF agrees with The Hon Mr Henry Bellingham MP, Minister for Overseas Territories, who said during a visit Bermuda in late 2011 “It seems to me grossly unfair that the citizens of these Territories who have British passports, that they are keen to retain the link with Britain and it seems to me quite wrong and anomalous that they can’t enjoy the benefits of the Lottery.” It is not clear why Ministers have not given the Lottery bodies a Direction in line with the intentions expressed in the White Paper.

v) UKOTCF recommends that Ministers act on the importance they attach in the White Paper to the UKOTs and direct the National Lottery bodies to give at least equal priority in making grants to UKOTs as to metropolitan UK.

3. The role of Non Governmental Organisations (NGOs)

Another major step forward arising out of the 1999 White Paper was the strengthened collaborative working by the UK Government with the environmental NGOs (and some official bodies in the Territories) brought together in UKOTCF. The UK Government has long recognised the great importance of NGOs in environmental conservation, and the 2012 White Paper lists strengthening cooperation with NGOs as one of its four goals for the UKOTs.

However, over the last few years, this mutually productive partnership between the UK Government and UKOTCF member bodies has been gradually phased out by officials, without consultation. We are concerned that this is part of a general movement away from support of local NGOs (which have generally proved highly cost-effective) and moving towards conservation policy which is driven by UK officials, rather than being demand-led from the UKOTs.

For many years, the UK Government worked closely with local NGOs through the officers of UKOTCF, a body made up of 33 member organisations in the UKOTs and in Britain (as well as the Crown Dependencies). Over many years, UK officials and UKOTCF member organisations, together with UK representatives of UKOT governments, met regularly so that the UK officials could be made aware of issues of concern in the UKOTs, and the Forum (and thereby its member organisations) could be kept up to date on policies, programmes and proposals from the UK Government. These meetings have been dropped unilaterally by HMG, and officials belatedly indicated that support for the next UKOTCF-organised three-yearly conference bringing together NGOs and OT Governments to share information and resources will not be forthcoming (so that it has been cancelled). Support for UKOTCF-organised conferences has been the principal way in which HMG has been able to meet its commitment under the Environment Charters to “promote ...sharing of experience and expertise between ... other Overseas Territories and small island states and communities which face similar environmental problems.” So the decision to drop funding for these is another way that UK’s obligations of the Environment Charters are being abrogated.

In 2005, the FCO dropped virtually all its environmental posts, claiming that other government departments would pick up this role for the UKOTs, but in practice little of this happened effectively. One might imagine that, with reduced UK Governmental capacity, the government would seek to fill the gap by encouraging work by NGOs and their umbrella body, UKOTCF, which had worked in

partnership with government for two decades. However, the reverse was true from the middle of the first decade of the millennium. References to the ‘Big Society’ gave hope that the new Coalition Government would reverse this negative trend. In practice, however, the decline in UK Government’s interest in working with UKOTCF and its member bodies has continued and possibly accelerated. It may be that there is a mis-match between Ministers’ intentions and the actual actions of their Departments.

Locally-based NGOs serve vital functions in conservation. They educate local people and represent their concerns. They are aware of local issues and work at the grass-roots level to address them. They carry out vital environmental programmes, at very low cost to all concerned. And when it happens that a local government makes a decision which would have severe environmental consequences, they are the only force that can stand up for the environment. The change in approach by the UK Government overlooks also the high efficiencies and value-for-money of NGO contributions.

vi) UKOTCF recommends that UK Government Ministers instruct their officials and agencies to respond positively to the repeated invitations from UKOTCF, its member organisations and other NGOs to restore the productive communication and collaborative working that characterised conservation work for the UKOTs, until unilaterally reduced by officials over the past half-decade.

How UKOTCF plans to help

Over 25 years, UKOTCF and its members in both GB and the territories have invested a huge amount of voluntary resources into conservation in the UKOTs and Crown Dependencies, building up the largest body of expertise in this. UKOTCF wishes to build on this, and to overcome the reluctance, developed over the past half decade, by UK Government officials to collaborate – in contrast to earlier valuable collaborations.

UKOTCF will continue to raise public and parliamentary interest in these matters. In the short term, UKOTCF will, in early October, host in London, courtesy of a UKOT Government, a technical seminar to start examining how some of the many gaps in the White Paper can be addressed. This will build on the seminars on biodiversity strategies in the UKOTs and Crown Dependencies organised by UKOTCF in 2010 and 2011 (*Forum News* 37: 9-11; 38:4; www.ukotcf.org/pdf/fNews/BodivWorkshop1106.pdf). Later in the year, UKOTCF plans to take up the invitation of Parliamentarians to organise an event to explore issues with decision-makers and others. This will be important in the context of the forthcoming comprehensive spending review, the negotiations on EU funding, the taking forward of FCO, DEFRA and DFID strategies, and the triennial review of JNCC, amongst others.

NOTE: UK Overseas Territories Conservation Forum

The UK Overseas Territories Conservation Forum (UKOTCF or “the Forum”) was created in 1987 and formally constituted as a charitable company in 1996. UKOTCF brings together, as its Members and Associates, 26 conservation and science bodies in the UK Overseas Territories (UKOTs) & Crown Dependencies (CDs), seven supporting ones in Great Britain & Northern Ireland (GB), and a wider network of specialist volunteers. It advances and promotes the conservation of biodiversity, ecosystem services, and their contribution, together with other aspects of natural and human heritage, to the well-being and sustainability of the UK’s Overseas Territories.