Thank you for your letter of 20 May with additional questions on the Bill and the Strategy. The Annex to this letter offers responses to those questions. I am also taking this opportunity to provide the additional information I offered on 20th May and to amplify a few points which were discussed.

**Staff deployment between functions (Official report: 4176)**

I promised information on the current deployment of staff between various of the functions currently conducted by Historic Scotland, which will be taken over by the new body. Historic Scotland has supplied the figures in the table below, which are correct as at 22 May 2014.

<table>
<thead>
<tr>
<th>Directorate / Group</th>
<th>Full Time Equivalent Posts</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial &amp; Tourism</td>
<td>521.86</td>
<td>Includes 43.21 Visitor Experience, 293.8 Visitor Operations</td>
</tr>
<tr>
<td>Conservation</td>
<td>405.33</td>
<td></td>
</tr>
<tr>
<td>Heritage management</td>
<td>78.09</td>
<td></td>
</tr>
<tr>
<td>Finance</td>
<td>40.03</td>
<td>Includes 9.34 Investments Team</td>
</tr>
<tr>
<td>Human Resources</td>
<td>49.41</td>
<td></td>
</tr>
<tr>
<td>Communications</td>
<td>18.51</td>
<td></td>
</tr>
<tr>
<td>Chief Executive and office</td>
<td>8.41</td>
<td>Includes 2.60 Archaeology Team</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1121.64</strong></td>
<td></td>
</tr>
</tbody>
</table>

There are three "operational" directorates in Historic Scotland, plus central services. The operational directorates are as follows:
Heritage management (designations and regulation via consents and input to the broader planning system, pre-application and informal advice to owners)

Conservation (including a wide range of activities and also the production of technical advice and publications, skills and climate change work, plus technical input to grants cases)

Commercial and tourism (which as well as income-generating work includes the whole of the agency’s visitor facing activities, such as site staff who welcome visitors (“Visitor Operations” above), interpretation, education and outreach work (Visitor Experience” above. This directorate also operates the Historic Scotland membership scheme.

Section 3(3) Order (Official Report: 4162)

I would like to clarify that there are two distinct areas where we will be bringing forward secondary legislation immediately after the end of Stage 1. This swift action is necessary to ensure that we put in place sound arrangements for governance and transfer of staff and responsibilities, conforming to Audit Scotland recommendations.

Action under Section 3(3) of the Public Appointments and Public Bodies (Scotland) Act 2003 will be taken to add the name of HES to the list of bodies regulated by the Commissioner for Ethical Standards in Public Life. This will allow us to access the advice and expertise of the Commissioner and staff in the process of seeking and appointing board members to HES. I am sure the Committee will share my wish that this task is carried out to highest standard.

I also referred to staff pensions. We have made the commitment that the staff of HES will continue as members of the Principal Civil Service Pension Scheme. That scheme is a reserved matter, so this will require action under Section 104 of the Scotland Act. I have written to UK Government (Scotland Office and Cabinet Office) to seek support in principle, and already have a positive response from the former.

Although I do not regard this as a controversial matter, it is an important matter for staff. It will also take a considerable period of time to progress such orders through the Westminster Parliamentary timetable, hence the need for prompt action.

Ministerial role in relation to governance of Historic Environment Scotland and of the Strategy (Official Report: 4179)

I wanted to follow up on my exchange with Liz Smith on the governance of Historic Environment Scotland and of the Strategy. This began with Liz’s question “On the body’s functions, if the board were to have a difference of opinion on the strategy’s overall direction....”

My subsequent answers were given in that context. I clearly could not direct members of the forum overseeing the all-Scotland Strategy, nor would I seek to do so. The point I was making was that, in the unlikely event that the appointed board of HES was not, in my view, playing a sufficiently strong role in addressing matters of concern to the wider sector, as captured through the medium of the Strategy, then I would if necessary direct the board of HES to consider their duty in the Bill to work in partnership and engage more effectively.

It is important to note that the Strategy will only work as a voluntary collaboration, and if there are points on which key players cannot find agreement or accommodation, then we will need to work around these or approach issues from fresh perspectives. Although I will chair

1 Audit Scotland Learning the Lessons of Public Body Mergers June 2012 http://www.audit-scotland.gov.uk/docs/central/2012/hr_120614_public_body_mergers.pdf
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the Strategy's top-level forum, my task there will be to promote and support consensus amongst the participants and to ensure that the Scottish Government and the new body play their full role in supporting the delivery of the Strategy. That group will report regularly on its progress, and I undertake to report to Parliament at suitable intervals, thereby ensuring appropriate transparency.

I expect to be able to announce the remit and members of the top-level forum which will steer the Strategy in the next few days, as soon as confirmation has been received from all whom I have invited to participate, and I will arrange for this information to be forwarded to the Committee as soon as it is finalised.

Finally, I will shortly be writing to the Delegated Powers and Law Reform Committee, to thank them for the helpful comments and recommendations made in their report of 29 April, which I will take under consideration. I will copy this letter to you when it issues.

I look forward to seeing the Committee’s Stage One report. If there are any other points on which clarification would help, please contact my officials direct and they will endeavour to assist as rapidly as possible.

FIONA HYSLOP
RESPONSE TO COMMITTEE'S LETTER

(Numbering as in Annex to Committee’s letter of 20 May)

1. Specific reference in the Bill to Scotland’s World Heritage sites?

Historic Scotland currently performs a very valuable role, supporting Ministers and protecting, enhancing and managing World Heritage Sites, both at its own hand and by supporting others who work for the good of these Sites. I will look to HES to continue that role, but I do not consider that it is necessary to name World Heritage Sites, important as they are, in the Bill.

World Heritage Sites receive their protection through existing designations and through the wider planning process, and the Bill already sets out how HES will participate in all relevant areas. HES will be expected to exercise its statutory and advisory functions in an appropriate and proportionate manner and in collaboration with all others who have legitimate interests.

In dealing with UNESCO, the role of state party is presently performed by UK Government. It will remain the task (not always an easy one) of Scottish Government Ministers and officials to work with UK Government to ensure that our national interests are taken fully into account, and we will look to the expertise of HES to support us in this.

2. Prominence of the private sector in the Strategy

The Strategy is for the whole historic environment, and explicitly acknowledges that the vast majority is in private ownership and is cared for outwith the public sector. It is thereby a powerful driver for economic growth and the Strategy both emphasises and seeks to further develop this. Repair and maintenance of existing buildings, for example, makes up roughly 40% of the entire construction sector’s activity. While this work does not all relate to listed buildings or even to buildings in conservation areas, the skills and methods used are of wider support to Scotland’s traditional built heritage.

In the discussions which led to the development of the Strategy, it became apparent that the commercial sector was not always fully represented and I am keen to ensure a holistic approach to the protection and management of the historic environment so have looked to ensure the different interests are well represented. To that end I have invited colleagues from the commercial sector, initially through a private developer and the Scottish Council for Development and Industry, to participate in the forum I am establishing to oversee the Strategy. We are also ensuring that other professional interests, for example the commercial archaeology sector or the architectural profession are likewise represented, both in the forum and more widely as the Strategy is implemented more widely.

3. Clarification of role of HES in Strategic Environmental Assessment

I am happy to offer clarification on this important matter. At present Historic Scotland plays a role in Strategic Environmental Assessment (SEA), but does so acting as Scottish Ministers. My intention is that HES will undertake this role in future, as it will carry the appropriate expertise.

Because HES, unlike Historic Scotland, will have a separate legal existence from Ministers, this will require HES to be added to the list of consultation authorities in section 3 of the

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Environmental Assessment (Scotland) Act 2005. I confirm we will address this via secondary legislation.

4. Public authority duty to have regard to the historic environment

A very similar issue was raised and considered during the passage of the Historic Environment (Scotland)(Amendment) Act 2011. I am well aware of the long-standing desire of some stakeholders to see additional duties imposed on public authorities, and in particular local authorities.

The purpose of the Bill is to set up the new national lead body, to make the changes this requires to existing legislation and to offer a degree of simplification of process where this can be delivered simply and without controversy. I do not see the Bill as the place to impose new duties upon other bodies.

In any case, I am not convinced that imposition of a requirement of this nature is the best way of achieving more effective action. Rather, I would expect public authorities to participate in the collaborative approach of Our Place in Time, whose working groups already include one looking at the topic of how public authorities can most effectively address the needs, and develop the potential, of the historic environment assets under their stewardship.

5. Definition of “collections” to include digital material

I can confirm that digital material is indeed included. Moreover, the Bill is drafted broadly, to include future technologies or formats which we cannot as yet anticipate, but which might be termed “post-digital”.

As paragraph 75 of the Explanatory Notes which accompany the Bill states: “Object’ in the Bill means an object, document or other thing having historical, archaeological, architectural or cultural significance or interest relating to the historic environment generally or with particular reference to Scotland. The term ‘document’ used here takes its meaning from schedule 1 to the Interpretation and Legislative Reform Scotland Act 2010 and means ‘anything in which information is recorded in any form (and references to producing a document are to be read accordingly)’. ‘Document’ would cover information recorded in electronic form, for example, digital images, databases, spreadsheets and 3-D and 2-D spatial data.”

6. General powers listed in schedule 1, paragraph 12

Because Historic Scotland at present shares the identity of Scottish Ministers, it already has access to all of these general powers, while RCAHMS also has access to the majority of the powers listed. I therefore confirm that there are no new powers here which are not already available to one or both of the current bodies.

7. How will relevant bodies work together to mitigate the impacts of climate change?

Historic Scotland already plays a leading role in respect of climate change mitigation and adaptation, working with other bodies in the conservation and construction sectors to research and develop solutions to issues such as how to improve the thermal efficiency of traditional buildings without unacceptable impacts on their historical and architectural significance.

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The Scottish Government's Energy Efficiency Action Plan 2010 and the Scottish Climate Change Adaptation Programme 2014 place specific responsibilities upon Historic Scotland, including undertaking research into energy efficiency measures in traditional buildings, developing a methodology for assessing the impact of climate change on the historic environment, and disseminating the results of research through publications and guidance. These responsibilities will transfer to Historic Environment Scotland.

In addition, as a public body, Historic Environment Scotland will undertake a range of actions across its own operations to conform to the Public Bodies Climate Change Duties (2011) stemming from the Climate Change (Scotland) Act 2009.

8. Questions related to the Financial Memorandum:

Clarification of “staffing costs” of £680k (paras 34 and 36)

The staff costs of £680k, associated with the Transition Programme, cover the requirement for temporary, specialist support for the Programme’s management and delivery. 47% of these staff costs relate to existing Historic Scotland and RCAHMS staff resource, with the remaining 53% consisting of secondments and fixed term appointments. These temporary posts will last until the end of 2015.

Impact of certain possible costs on HES’ service provision in the event of HES not having charitable status for a period.

The whole of the financial memorandum which accompanies this Bill has been developed on the basis of Historic Environment Scotland not having charitable status as a decision on any application will be for the incoming board of to make. On this basis the overall costs to the organisation remains affordable on the basis of the current budget allocations to Historic Scotland and RCAHMS, and any costs fall within the parameters agreed by the Scottish Cabinet and both organisations when the creation of HES was proposed.

The costs, outlined in the financial memorandum, which HES may incur in 2014/15 and 2015/16 are, as Committee notes, relatively modest as a percentage of overall budget and remain affordable within the context of the current budget allocation to Historic Scotland and RCAHMS. Work has been on-going in both organisations to further refine these costs and they have been factored into budget allocations for 2014/15, with service provision protected across the organisation through declining budget allocation being offset by growth in commercial income.