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Consultation Document

Internal Drainage Districts and Internal Drainage Boards Wholly or Mainly in Wales



Date of issue: 29 May 2012
Responses by: 31 August 2012

Overview

This consultation document presents three options for the future delivery of the functions of the Internal Drainage Boards operating wholly or mainly in Wales.

In seeking your views on these options this consultation document contains information on the functions of the Internal Drainage Boards, the wider changes to the system in which they operate and a summary of the matters to be considered.

How to respond

A number of questions are posed in Section 2 to this consultation document and we would welcome responses to these questions and any other relevant comments that you may have.

A consultation response form is included at the back of this consultation document. Alternatively hard copy or electronic responses should be sent to the addresses below by 31 August 2012.

Further information and related documents Large print, Braille and alternative language versions of this document are available on request.

Annex B to this consultation document contains a detailed list of the documents you may wish to consider in formulating your response as well as the contact details for other organisations that may hold relevant information, including the Internal Drainage Boards.

Contact Details

For further information:

Flood & Coastal Erosion Risk Management
Sustainable Places Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or

floodcoastalrisk@wales.gsi.gov.uk.

If submitting an electronic response or query please use the message header "Response to IDB Consultation 2012".

Data Protection

How the views and information you give us will be used.

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Ministerial Foreword

Internal Drainage Boards are independent statutory bodies responsible for land drainage in areas of special drainage need in England and Wales. They are long-standing public bodies with a requirement to supervise the management of water levels within their district and they perform an important role in managing flood risk within their areas.

Managing the risks of flooding and coastal erosion is something that the Welsh Government is committed to and in November 2011 I launched the first National Strategy for Flood and Coastal Erosion Risk Management in Wales at Borth, Ceredigion.

The National Strategy sets out the Welsh Governments policies and objectives for managing the risks our communities face. It clarifies the roles of those involved in flood and coastal erosion risk management, including Internal Drainage Boards, and makes it clear that we will be embracing a holistic approach that is able to adapt both to our changing climate, and to the needs of individual communities.

But if we are to adopt a truly holistic approach, then we need to look beyond the flood and coastal erosion risk management sector. We need to consider the impacts of the way in which we use the land around us and the impacts that has on the level of risk we face, as well as the opportunities it provides to address and reduce those risks. This is an approach familiar to our Internal Drainage Boards and one in which they have much expertise.

The Welsh Government has been considering how best to manage the natural resources of Wales for the benefit of our people, our economy and our environment. Earlier this month I announced my intention to create a new body bringing together the functions of the Environment Agency Wales, the Countryside Council for Wales and the Forestry Commission Wales to form a single delivery body charged with managing our natural resources.

It is in that context that I have decided that we should now review the delivery of the functions of the Internal Drainage Boards wholly or mainly in Wales.

Internal Drainage Boards undertake important work in the areas of land drainage and water level management, and their knowledge and functions are integral to delivering this holistic approach. Including their functions within any single body would enhance our ability to deliver this fully holistic approach to land and water level management, flood and coastal erosion risk management and the wider management of our natural resources, building their important local knowledge into the approaches adopted.

Building on the content of my proposals for establishing and directing a new body for managing Wales' natural resources, I am seeking your views on three options for the future delivery of Internal Drainage Board functions in Wales. I look forward to receiving them.

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Executive Summary

1. Current estimates show that one in six properties in Wales are at risk of flooding from rivers, the sea and surface water. Some 400,000 people live and work on our flood plains and £8 billion of our assets are vulnerable to flooding and coastal erosion.
2. Climate change projections suggest that in the future Wales can expect to see different rainfall patterns, combined with rising sea levels. These projections suggest that Wales will experience more frequent and more severe flooding in the future, along with increased rates of coastal erosion. More people, properties and infrastructure will be at risk.
3. The increasing scale of the risks means that it will not be possible to simply continue to build more and bigger drainage systems and defences. Doing so is not sustainable economically or environmentally and increases the risks of severe damage should defences be overwhelmed.
4. In recent years Wales has moved towards a response rooted in the principles of risk management, providing a holistic approach to managing the risks, their consequences and the wider impacts on Welsh communities. This is a fundamental change in the way we address both flooding and coastal erosion and involves addressing the risks at all levels from Government to the individual.

National Strategy

5. In November 2011 the Welsh Government published the first *National Strategy for Flood and Coastal Erosion Risk Management in Wales*¹.
6. Prepared under the terms of the Flood and Water Management Act 2010 the National Strategy sets four overarching objectives for the management of flood and coastal erosion risk in Wales:
 - reducing the consequences for individuals, communities, businesses and the environment from flooding and coastal erosion;
 - raising awareness of and engaging people in the response to flood and coastal erosion risk;
 - providing an effective and sustained response to flood and coastal erosion events; and
 - prioritising investment in the most at risk communities.
7. In addition to setting the overarching objectives for managing the risks of flooding and coastal erosion across Wales, the National Strategy also clarified the responsibilities of the different organisations in Wales engaged in flood and coastal erosion risk management. Referred to as 'risk management authorities' these are the organisations actively involved in addressing the risks of flooding and coastal erosion facing Welsh communities every day.

¹ National Strategy - available from :
<http://wales.gov.uk/topics/environmentcountryside/epg/waterflooding/flooding/nationalstrategy/5706151/?lang=en>

8. Internal Drainage Boards (IDBs) are risk management authorities with specific responsibilities in respect of flood risk management.

IDB Reform

9. The issue of reforming IDBs has been raised a number of times before. In 2005 the Department for Environment and Rural Affairs commissioned JBA Consulting to undertake an independent review of the IDBs in England. The review was tasked with making recommendations in relation to the organisational arrangements for IDBs in England with a view to ensuring that they were efficient, accountable and representative.
10. JBA Consulting produced their report '*Internal Drainage Board Review*²' in 2006, setting out a number of recommendations. While the review did not extend to include Wales, the Welsh Government took note of the recommendations.
11. The JBA report was followed by a joint Wales and England consultation on IDB reform, included within the wider consultation on the draft Flood and Water Management Bill, published in April 2009. This built on matters identified within the JBA report and concentrated on organisational, governance and financial reform.
12. IDB reform was not covered substantially within the final Flood and Water Management Act 2010, with only limited changes in relation to the establishment of consortia included.
13. IDBs are one of a number of bodies included within the provisions set out in the Public Bodies Act 2011, and the Welsh Ministers have powers to modify the constitutional arrangements or functions of the IDBs wholly or mainly in Wales, or transfer their functions to certain other bodies.
14. It is important to ensure that IDB functions are delivered consistently across all districts, meeting local needs and delivering against the Welsh Government's Living Wales agenda. It is also important that IDBs operate in line with wider expectations of Twenty First century public service delivery in Wales.

A New Approach to Natural Resource Management

15. In 2010 the Welsh Government consulted on a number of possible changes to the way in which the natural resources of Wales are regulated and managed. Chief amongst these was the proposal that Wales adopt an ecosystem approach to the way that it manages and regulates its natural resources.
16. An ecosystem approach would mean taking decisions in the interests of the wider services that the environment provides rather than in relation to individual drivers. This approach provides both significant opportunities and significant challenges for the way we manage the risks of flooding and

² <http://archive.defra.gov.uk/environment/flooding/who/idbreview.htm>

coastal erosion and it is important that all risk management authorities are empowered to operate in line with this new approach.

17. Further information on the ecosystem approach advocated is set out in the Welsh Government's Green Paper *Sustaining A Living Wales*³. The Welsh Government is also consulting on proposals to create a new body bringing together the functions of the Environment Agency, the Countryside Council for Wales and the Forestry Commission Wales. These proposals are set out in *Natural Resources Wales*⁴.

Effective Public Service Delivery

18. The Welsh Government is committed to ensuring that people can access effective and efficient public services wherever they are in Wales. The Programme for Government seeks to deliver on this commitment by:

- strengthening local democracy
- supporting continuous improvement in our public services
- ensuring that our funding supports stronger and more effective service delivery
- encouraging effective public service collaboration

19. The principles underlying the Government's approach to public service reform in Wales are simplification, collaboration and accountability. Collaboration allows public sector bodies to work together to deliver services at the most effective and efficient level -working nationally, regionally and locally. This ensures that specialist services can be provided in ways which are cost effective and resilient.

20. Our Programme for Government commits us to simplifying our statutory partnership structures and to remove the need for so many separate plans, needs assessments and committees. Single integrated plans are a significant reduction in bureaucracy that makes it easier for partners to focus on outcomes not processes, and ensure they are making a real difference for local people and communities.

21. Reform must go hand in hand with accountability. Accountability is one of the key principles of good governance which stand at the heart of public service. The Welsh Government is determined to uphold the principles of good governance and to support it across the public services in Wales. Good governance across the public service means applying the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership to serving the purpose of the institution and the public.

³ Sustaining a Living Wales - Green Paper available from:
<http://wales.gov.uk/consultations/environmentandcountryside/sustainingwales/?lang=en>

⁴ Natural Resource Wales - available from:
<http://wales.gov.uk/consultations/environmentandcountryside/singlebody/?lang=en>

Purpose of this Consultation

22. This consultation is intended to explore options for the delivery of IDB functions in the context the Welsh Government's Living Wales agenda and the wider reform of public service delivery.

23. To that end we are seeking views on three options for the future delivery of IDB functions in Wales. These are:

- Option 1 – Delivery through IDBs in line with current arrangements
- Option 2 – Delivery through IDBs, with changes to organisational arrangements
- Option 3 – Delivery through any new single body for natural resource management in Wales

24. We would welcome your views on these proposals and any other options that you think could be considered by the Welsh Government in deciding the future delivery of IDB functions in Wales.

Introduction

25. IDBs are independent statutory bodies responsible for land drainage in areas of special drainage need in England and Wales, sometimes referred to as internal drainage districts (IDDs).
26. They are long established public bodies operating predominantly under the Land Drainage Act 1991⁵ and have powers to undertake work to secure drainage and water level management within their districts, including undertaking flood defence works on ordinary watercourses.
27. IDBs also hold a number of duties and functions under other items of legislation, and many have their roots in private Acts; Acts of Parliament that relate to a specific area.
28. There are currently three IDBs operating wholly or mainly within Wales. One is located wholly in Wales, with two being located on the border with England. While their functions and organisational arrangements have been reviewed in the past, many of the wider organisational, governance and financial practices of IDBs remain largely unchanged since the passage of the Land Drainage Act 1991.
29. That Act represents the last major review of legislation in relation to IDBs. Despite the move towards a flood and coastal erosion risk management system set out within the Flood and Water Management Act 2010, only smaller adjustments were made to the roles and responsibilities of IDBs.

Flood and Coastal Erosion Risk Management in Wales

30. In November 2011 the Welsh Government published the first *National Strategy for Flood and Coastal Erosion Risk Management in Wales* providing a national framework for managing the risks now and in the future.
31. The National Strategy sets out the Welsh Government's policies and objectives for managing flood and coastal erosion risk across Wales. It also clarifies the roles and responsibilities of the Risk Management Authorities across Wales.
32. there are 31 Risk Management Authorities operating within Wales as follows:
 - the Environment Agency
 - the 22 Lead Local Flood Authorities
 - the three Internal Drainage Boards that are wholly or mainly in Wales⁶
 - the five companies that variously supply water and sewerage services for Wales and the borders⁷
33. The National Strategy acknowledges the importance of the functions performed by the IDBs operating wholly or mainly in Wales and recognises

⁵ Land Drainage Act 1991 – available from: www.legislation.gov.uk/ukpga/1991/59/contents

⁶ The Environment Agency Wales administers a further 11 Internal Drainage Districts in North West Wales.

⁷ Dŵr Cymru Welsh Water, Severn Trent Water, Scottish and Southern Water, Albion Water, Dee Valley Water.

them as key delivery partners for many of the measures for successful flood and coastal erosion risk management in Wales.

34. Drainage and defence will always be a part of the response to flood and coastal erosion risk and IDBs perform a key role in this area. However, it is important to ensure that the functions undertaken by IDBs are delivered in a way that is consistent with wider Welsh Government policies in respect of the Welsh environment and with the expectations of a Twenty First century public sector.

Delivery of IDB Functions

35. Reviews of the way IDB functions are delivered have been undertaken in the past. The 2006 *Internal Drainage Board Review*, which looked at IDBs in England, concluded that while IDBs provided a generally efficient model, their delivery of wider Government policies was variable. Furthermore, concerns were raised that not all IDBs were complying with the expectations of a statutory public body in respect of governance and accountability.
36. The IDBs operating wholly or mainly in Wales are generally small in size, both geographically and financially. While the *Internal Drainage Board Review* found IDBs to be generally efficient, there are always economies of scale and there may be more efficient ways of undertaking some of their functions.

Sustaining a Living Wales

37. With increasing demands being placed by society on the services that our natural resources provide, one of the key challenges we face in the Twenty First century is to find ways of securing a healthy, resilient and productive environment which both now and in the future delivers for society as a whole, supporting employment and wellbeing.
38. We also need to set our priorities to better meet the strategic outcomes of our European environmental obligations and to address the fundamental risks and opportunities before us rather than tackling individual symptoms in isolation.
39. By focusing on making the best possible use of natural resources our approach should deliver benefits for society and the economy.
40. In January 2012 the Welsh Government launched a consultation on the *Sustaining a Living Wales* Green Paper. We are seeking views on proposed changes to the governance and delivery of the management and regulation of the environment in Wales based on the ecosystem approach. This will mean considering and regulating the environment and its health as a whole rather than dealing with individual aspects separately.
41. This approach will require managing our environment as an integrated system where decisions on one element impact on performance and affect the benefits that the environment can provide to society. It is important that the future delivery of IDB functions is considered in the context of this changing approach to the management of our environment.
42. In support of the Living Wales agenda, the Welsh Government has also recently launched a consultation on proposals to establish a single body for natural resource management in Wales. If established, the single body would bring together the functions of the Environment Agency, the Countryside Council for Wales and the Forestry Commission.
43. While the focus of the work in relation to the single body has been on bringing together the functions of the Environment Agency, the Countryside Council for Wales and the Forestry Commission, the Welsh Ministers have also agreed to consider looking at incorporating the functions of other bodies within the single body, where this is appropriate, including functions currently exercised by the Welsh Government.
44. The detail on the single body proposal is set out in the recently closed consultation, *Natural Resources Wales*. The Natural Resource Wales consultation makes clear that the Welsh Ministers are considering placing a number of other functions within the single body, including those held by the IDBs.

Consultation Purpose

45. This consultation builds on the comments in relation to IDBs contained in *Natural Resources Wales* and explores options for the future delivery of IDB functions in Wales.
46. Technical or unfamiliar terms are defined in Annex A and details of where to obtain additional information, including the contact details for the IDBs in Wales, are at Annex B.

Section 1 – Internal Drainage Boards Wholly or Mainly in Wales

47. An IDB is required to exercise a general supervision over all matters relating to the management of water levels for the land within its IDD. The main source of the IDBs legislative powers is the Land Drainage Act 1991, though IDBs and their functions predate this legislation.

IDB Functions

48. The statutory duties contained in the Land Drainage Act 1991 are few in number and include requirements to:

- undertake general supervision over all aspects of land drainage within the district;
- undertake general duties with respect to the environment, and recreation in respect of the natural and built environment and public access;
- determine the total annual value of all chargeable properties within the district.

49. The discretionary powers held by IDBs under the Land Drainage Act 1991 are much wider and include permissive powers allowing the IDB to:

- undertake works to alleviate flooding;
- improve and maintain the drainage system;
- manage and control activities in and alongside the drainage system to ensure that flood risk management and land drainage standards are not impaired;
- create bye-laws;
- raise income towards the costs of flood and water level management schemes and other land drainage work.

50. The duties and powers of an IDB extend to any watercourse within its boundary other than a main river. IDBs retain records of their boundaries and the watercourses they are responsible for which can include small streams and rivers, field or drainage ditches and other similar structures designed to take water run off.

51. The functions of an IDB are overseen by a board consisting of representatives of the local landowners and representatives of the relevant Local Authorities. This level of representation reflects the main funders of IDB functions, though specific governance arrangements vary between IDBs and are set out in their Standing Orders.

52. Representatives of the local landowners are elected from within the local population, subject to certain eligibility criteria, and representatives of the relevant Local Authorities are nominated from within the elected Councillors or officials. The size and meeting arrangements of the boards vary.

53. The Land Drainage Act 1991 refers to some IDBs as being either wholly or partly in either Wales or England, with the Welsh Ministers responsible for those wholly in Wales, the Secretary of State for Environment and Rural Affairs responsible for those wholly in England, and the Welsh Ministers and Secretary of State for Environment and Rural Affairs jointly responsible for those partly in either both Wales and England⁸.

54. More recently, the Flood and Water Management Act 2010 refers to IDBs as being either wholly or mainly in either Wales or England, with the Welsh Ministers responsible for IDBs that are wholly or mainly in Wales. This terminology has been replicated within the Public Bodies Act 2011. There is a requirement within the Public Bodies Act 2011 to consult the UK Government on proposals in relation to the IDBs for an area not wholly in Wales and thus partly in England.

IDBs Wholly or Mainly in Wales

55. There are currently three IDBs operating wholly or mainly in Wales:

- Caldicot and Wentlooge Levels IDB (wholly in Wales);
- Lower Wye IDB (mainly in Wales and partly in England); and
- Powysland IDB (mainly in Wales and partly in England).

Caldicot and Wentlooge Levels IDB

56. The district covered by the IDB has a total length of some 19 miles and an average width of approximately two miles, comprising in total 26,000 acres (10,500 hectares), lying within a catchment area of 64,100 acres (25,940 hectares). This is divided into two areas:

- the Caldicot Level to the east of Newport comprising 17,500 acres (7,100 hectares); and
- the Wentlooge Level to the west of Newport comprising 8,500 acres (3,400 hectares).

57. Land Drainage within the intervening area lies under the jurisdiction of Newport City Council.

58. The whole of the Caldicot and Wentlooge Levels IDB area lies below high tide level (some by as much as four metres). The area is protected from frequent flooding by sea defences that have been constructed along the Severn Estuary between Cardiff and Chepstow. The Environment Agency currently manages and maintains these sea defences.

⁸ Functions under the Land Drainage Act 1991 are conferred on the “relevant Minister” which term encompassed the Minister for Agriculture Fisheries and Food in relation to districts neither wholly nor partly in Wales; the Minister for Agriculture Fisheries and Food and the Secretary of State in relation to districts partly in Wales; and the Secretary of State in relation to districts wholly in Wales. Only functions of “the Secretary of State” were transferred under the National Assembly for Wales (Transfer of Functions) Order 1999. Paragraph 30 of Schedule 11 to the Government of Wales Act 2006 transferred the functions of the National Assembly for Wales to the Welsh Ministers.

59. Caldicot and Wentlooge IDB also provide administrative and drainage services for a number of other IDBs in both England and Wales.

Lower Wye IDB

60. The district covered by the IDB works is inter-linked and upland by nature, linear in shape, covering mainly the Monmouth catchments and surrounds through to Pontrilas in the south and eastwards towards Hereford.

61. The Board is responsible for some 3,523 hectares and maintains in length 32.9kms of adopted watercourses. The Board's drainage system consists of three distinct parts: the river Trothy system, the river Monnow system and the various brook systems southwest of Hereford.

62. Much of the work of the IDB is completed on its behalf by Caldicot and Wentlooge Levels IDB with whom it has an administrative arrangement.

Powysland IDB

63. The district covered by the IDB covers 16,101 acres (6,516 hectares) and includes 156 kms of watercourses. It covers the valley of the River Severn from Garthmyl to the River Vyrnwy in the Community of Llandysilio, the Guilsfield Brook, the Sarnau Brook and the Camlad and the Aylesford Brook parts of which are in Shropshire.

64. The IDB is self administered, contracting drainage service providers as required.

Internal Drainage Districts administered by the Environment Agency

65. In addition to the three IDD's wholly or mainly in Wales administered by IDBs, there are a further eleven IDD's in North Wales administered by the Environment Agency Wales.

66. The eleven IDD's administered by the Environment Agency are:

- Afon Ganol IDD
- Ardudwy Marsh IDD
- Borth IDD
- Dysynni Valley IDD
- Glaslyn and Penysflog IDD
- Harlech and Maentwrog IDD
- Llanfrothen IDD
- Malltraeth Marsh IDD
- Mawddach & Wnion IDD
- Conwy Valley IDD
- Tywyn IDD

Funding of IDBs

67. As noted above, the Land Drainage Act 1991 includes certain discretionary or permissive powers that enable IDBs to raise the funding required to undertake their wider functions. Funding can come from a number of sources, but the majority is paid locally by those most likely to benefit from the works undertaken; essentially this is all of those people living within the IDD serviced by the IDB.

68. The IDBs wholly or mainly in Wales are currently funded by two main mechanisms:

- agricultural drainage rates;
- a special levy on Local Authorities.

69. For the purposes of IDB funding, every property within the IDD is subject to a drainage rate and special levy. To calculate and collect that rate, properties are divided into those considered to consist of agricultural land and buildings, and 'other' land and buildings. The occupiers of those properties considered to include agricultural land and buildings are charged agricultural drainage rates which they pay direct to the IDB. For the 'other' land and buildings, a charge is instead levied on the relevant local authority, referred to as the special levy.

70. Based on agricultural drainage rates and special levies alone, income for the three IDBs wholly in mainly in Wales over the last three years is set out in Table 1 below. This shows that, overall, the vast majority of funding for IDBs is raised in a levy paid by local authorities.

Year	IDB	Rates (£)	Levies (£)	Total (£)
2009-10	Caldicot & Wentlooge Levels	34,147	1,149,401	1,183,548
	Lower Wye	4,627	26,113	30,740
	Powysland	39,453	31,858	71,311
2010-11	Caldicot & Wentlooge Levels	35,320	1,189,036	1,224,356
	Lower Wye	4,752	26,818	31,570
	Powysland	46,029	37,168	83,197
2011-12	Caldicot & Wentlooge Levels	35,320	1,189,036	1,224,356
	Lower Wye	4,752	26,818	31,570
	Powysland	48,221	38,938	87,159

Table 1 – IDB Funding

71. While the agricultural drainage rates and special levy are the main sources of funding for the three IDBs wholly or mainly in Wales they are not the only ones. IDBs can and often do charge for undertaking private works, either for individuals or on a contractual basis. Caldicot and Wentlooge Levels IDB, for example, undertake works on behalf of other IDBs charging accordingly.
72. In addition to this IDBs can request additional discretionary funding from the Environment Agency under the Land Drainage Act 1991 where their IDD receives water from land at a higher level. This is commonly referred to as an 'upland water' contribution and requests can be made where the IDB incurs expenses in dealing with that water. Powysland IDB has received funding for this service in relation to their IDD.
73. Conversely, under the Water Resources Act 1991⁹ the Environment Agency must issue a precept to an IDB to recover a contribution that the Environment Agency considers fair towards their expenses. The Environment Agency does so in respect of the IDBs wholly or mainly in Wales, often resulting in the seemingly unnecessary process where the IDB is requesting a sum from the Environment Agency only to be charged a sum in return.

Audit Arrangements

74. Of the three IDBs wholly or mainly in Wales, only Caldicot and Wentlooge Levels IDB is wholly in Wales and therefore audited by the Wales Audit Office.. Both Lower Wye IDB and Powysland IDB are cross border bodies and they are audited by the Audit Commission.
75. Under the rules operated by the Audit Commission, all small bodies are subject to limited assurance review. Recently changes were made to the threshold, below which a public body is considered to be a small body, by raising it from £1million to £6.5million.
76. On the 13 August 2010, the Secretary of State for Communities and Local Government announced plans to disband the Audit Commission, transfer the work of the Audit Commission's in-house practice into the private sector and put in place a new local audit framework. Local authorities would be free to appoint their own independent external auditors. A new decentralised audit regime would be established and councils and local health bodies would still be subject to robust auditing.
77. All small bodies, including the two IDBs wholly or mainly in Wales, that are currently audited by the Audit Commission will be subject to the arrangements put in place following the disbandment of the Audit Commission.
78. Whilst the differences in audit arrangements for the three IDBs wholly or mainly in Wales are not new, they may present a risk that in future

⁹ Water Resources Act 1991 – available from: www.legislation.gov.uk/ukpga/1991/57/contents

differences in scrutiny and governance could emerge and so this will need to be monitored accordingly.

79. The Welsh Government is keen to ensure that all IDBs operating wholly or mainly in Wales are audited on the same basis and under the same rules as other Welsh public bodies and this is something we will be considering further in the future.

Section 2 – Options for the Future

80. There are a number of options for the future delivery of IDB functions in Wales. Each of the options under consideration has advantages and disadvantages and the Welsh Government is interested in your views on these, and on any other options.

The Options

81. The three options under consideration are:

- Option 1 – Delivery through IDBs in line with current arrangements
- Option 2 – Delivery through IDBs, with changes to organisational arrangements
- Option 3 – Delivery through any new single body for natural resource management in Wales

Assessment Criteria

82. In assessing each of the proposed delivery options the Welsh Government will be considering them against a set of core criteria. These are:

- Delivery of the requirements of the flood and coastal erosion risk management system for Wales, as set out within the National Strategy.
- Delivery of the Living Wales agenda and an ecosystem approach to natural resource management in Wales.
- Alignment with the expectations of Twenty First century public service delivery in Wales.
- Scope for maintaining and building expertise in flood and coastal erosion risk management including local requirements.
- Ability to address cross border requirements, including risks and management activities.
- Delivery of a cost effective and efficient flood and coastal erosion risk management service.

83. Three levels have been used for each option to show the effectiveness in delivering the core criteria. The three levels are set out below:

- a. Low: ineffective
- b. Medium: effective to some extent but with limitations
- c. High: effective

Option 1 – Delivery through IDBs in line with current arrangements

84. One option for the future delivery of IDB functions in Wales is to maintain the current arrangements. This would see the three IDBs currently operating wholly or mainly in Wales continuing to deliver the functions that fall to them within the Land Drainage Act 1991, and continuing to do so in line with existing arrangements.

85. In effect this is the no change option. No amendments would be made to the governing legislation either in respect of the functions of the IDBs or their operational arrangements.

Assessment against criteria

Criteria	Assessment
<p>Delivery of the requirements of the flood and coastal erosion risk management system for Wales, as set out within the National Strategy.</p>	<p>Medium</p> <p>IDBs wholly or mainly in Wales are designated as Welsh Risk Management Authorities and as such are under a statutory duty to act consistently with the National Strategy. However, the three IDBs operating wholly or mainly in Wales are small in size which may constrain some of their actions.</p>
<p>Delivery of the Living Wales agenda and an ecosystem approach to natural resource management in Wales.</p>	<p>Low to Medium</p> <p>IDBs undertake a range of functions including drainage and water level management for environmental purposes. However, boundaries are often not aligned with wider water catchments and can constrain activities.</p> <p>Constraints over the size of IDBs and their rateable area caused by the current border setting arrangements could also limit their options in terms of taking a full ecosystem approach, such as where boundaries transect habitats.</p>

<p>Alignment with the expectations of twenty first century public service delivery in Wales.</p>	<p>Low</p> <p>Concerns about the governance and wider organisational arrangements raised in previous reviews have not been fully addressed. While some IDBs have made significant improvements on a voluntary basis, others have made no changes at all.</p> <p>It is clear that the current statutory arrangements created by the Medway letter and the Land drainage Act 1991, do not allow for the simplification, transparency or accountability in service delivery that the Welsh Government expects of the public sector in Wales.</p>
<p>Scope for maintaining and building expertise in flood and coastal erosion risk management including local requirements.</p>	<p>Medium to High</p> <p>IDBs have developed significant expertise in managing the risks within their districts. The size and nature of those districts, and the inclusion of local landowners on their boards, means that this includes a good understanding of local requirements.</p> <p>However, Whilst there will be exceptions, when considering areas beyond the district boundaries, it is possible that local knowledge does not extend beyond these boundaries.</p>
<p>Ability to address cross border requirements, including risks and management activities.</p>	<p>Low to Medium</p> <p>Two of the IDBs wholly or mainly in Wales are located on the England-Wales border and are, by their nature, cross border. However, in both cases the area of land covered in England is relatively small in comparison to the area of land in Wales.</p> <p>While cross border IDBs have a good understanding of the issues within their district, their boundaries are not</p>

	<p>always in line with the wider catchments and it is not standard practice for IDBs to maintain a sound understanding of issues beyond their boundaries, therefore it would be expected that IDBs would lack good understanding of issues beyond their district.</p>
<p>Delivery of a cost effective and efficient flood and coastal erosion risk management service.</p>	<p>Medium</p> <p>The IDBs wholly or mainly in Wales are relatively small in size. While previous reviews have concluded that IDBs offer a cost effective service, they have also suggested that this could be further enhanced by operating on a larger administrative area. Smaller IDBs have been encouraged to merge or form consortia where appropriate.</p> <p>In some cases it may also be more cost effective for smaller IDBs, such as those wholly or mainly in Wales, to work more collaboratively with local authorities or others in respect of back room services, including finance and procurement services.</p>

Option 2 – Delivery through IDBs, with changes to organisational arrangements

86. Similar to Option 1, Option 2 would maintain some of the current arrangements. This would see the three IDBs currently operating wholly or mainly in Wales continuing to deliver the functions that fall to them within the Land Drainage Act 1991, but with amendments to their organisational arrangements.

87. No amendments would be made to the governing legislation either in respect of the functions of the IDBs or the establishment of IDBs. However changes would be made to:

- adjust the membership of IDBs - This would allow for a more even proportion of land owners and local authority representatives and will deliver representation more in line with its expenditure profile;

- simplify the process for boundary alteration and amalgamation - Amalgamation is a time consuming process that is not currently cost effective. Streamlining the notification procedure and adding flexibility for informing those affected would simplify the process;
- replace the IDB special levy with contractual arrangements between IDBs and the relevant Local Authorities - this would offer better 'value for money';

and

- review the circular payments between IDBs and the EA
This will determine the effectiveness of the circular payments and establish if they were still required.

Assessment against criteria

Criteria	Assessment
<p>Delivery of the requirements of the flood and coastal erosion risk management system for Wales, as set out within the National Strategy.</p>	<p>Medium</p> <p>Option 2 would necessitate some changes to the governance and wider organisational arrangements for IDBS wholly or mainly in Wales. However, it would not amend their flood and coastal erosion risk management functions.</p> <p>IDBs wholly or mainly in Wales would continue to be designated as Welsh Risk Management Authorities and remain under a statutory duty to act consistently with the National Strategy.</p> <p>The amendments to their governance and operational arrangements would provide an opportunity to increase the boundary size, which could assist in the delivery of their flood and coastal erosion risk management functions by minimising the amount of water that IDB's are required to deal with water that falls on land outside their district and flows down into IDB managed watercourses. However, the option to increase a boundary is not limitless and there would still be some constraints. For example, limits are</p>

	<p>set by the Land Drainage Act (1991) and the Medway letter.</p>
<p>Delivery of the Living Wales agenda and an ecosystem approach to natural resource management in Wales.</p>	<p>Medium</p> <p>Option 2 proposes no changes to the flood and coastal erosion risk management functions of the IDBs.</p> <p>IDBs would continue to undertake those functions, including drainage and water level management for environmental purposes. However, the amendments to their governance and organisational arrangements could assist in meeting the requirements of the Living Wales agenda. Increasing boundaries could result in a better alignment with wider water catchments.</p> <p>The option to increase the boundary is not limitless, so some constraints would remain.</p>
<p>Alignment with the expectations of twenty first century public service delivery in Wales.</p>	<p>Medium</p> <p>Option 2 would make amendments to the governance and wider organisational arrangements for IDBs wholly or mainly in Wales. This would enhance the simplification, transparency and accountability in service delivery, bringing IDBs closer to the standard that the Welsh Government expects of the public sector in Wales.</p> <p>Some constraints would however remain as a result of the relatively small size of the IDBs wholly or mainly in Wales. This could result in continued concerns regarding cost effective service delivery.</p>

<p>Scope for maintaining and building expertise in flood and coastal erosion risk management including local requirements.</p>	<p>Medium to High</p> <p>The position in relation to this criterion is the same as with Option 1.</p> <p>IDBs have developed significant expertise in managing the risks within their districts. The size and nature of those districts, and the inclusion of local landowners on their boards, means that this includes a good understanding of local requirements.</p> <p>This local knowledge often does not extend beyond the district boundaries. While the proposals amendments to governance and organisational arrangements may allow district boundaries to be extended, time will be needed to build up knowledge in relation to new areas.</p>
<p>Ability to address cross border requirements, including risks and management activities.</p>	<p>Low to Medium</p> <p>The position in relation to this criterion is the same as with Option 1.</p> <p>Two of the IDBs wholly or mainly in Wales are located on the England-Wales border and are, by their nature, cross border. However, in both cases the area of land covered in England is relatively small in comparison to the area of land in Wales.</p> <p>While cross border IDBs have a good understanding of the issues within their district, their boundaries are not always in line with the wider catchments and there is not always as good an understanding of the issues beyond the district.</p> <p>The proposals amendments to governance and organisational arrangements may allow district boundaries to be extended, but time will be needed to build up knowledge in relation to new areas.</p>

<p>Delivery of a cost effective and efficient flood and coastal erosion risk management service.</p>	<p>Medium</p> <p>The position in relation to this criterion is the same as with Option 1.</p> <p>The IDBs wholly or mainly in Wales are relatively small in size. While previous reviews have concluded that IDBs offer a cost effective service, they have also suggested that this could be further enhanced by operating on a larger administrative area.</p> <p>The proposals amendments to governance and organisational arrangements may allow district boundaries to be extended. However, given the location of the IDBs in question, merger would not be practical. A consortia arrangement could be considered, subject to clarity over accounting and administrative arrangements.</p> <p>In some cases is may also be more cost effective for smaller IDBs, such as those wholly or mainly in Wales, to work more collaboratively with local authorities or others in respect of back room services, including finance and procurement services.</p>
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Option 3 – Delivery through any new single body for natural resource management in Wales

88. Under this Option, responsibility for delivering the functions of the IDBs in Wales would transfer to any new single body for natural resource management in Wales. This is the proposed new body to be formed from the merger of the Environment Agency Wales, the Countryside Council for Wales and the Forestry Commission Wales.
89. There is an overlap between the work done by IDBs and other risk management authorities. The overlap in the work done by IDBs and the Environment Agency Wales and also the synergies with the work of the Countryside Council for Wales and the Forestry Commission Wales would effectively mean that by implementing this Option separate IDBs would be abolished, with their duties and responsibilities transferring to any single body in their entirety along with the assets that they hold.

90. This would represent a fundamental change in the way IDB functions are delivered in Wales.

Assessment against criteria

Criteria	Assessment
<p>Delivery of the requirements of the flood and coastal erosion risk management system for Wales, as set out within the National Strategy.</p>	<p>High</p> <p>If established, a single body would assume the functions of the Environment Agency in relation to flood and coastal erosion risk management in Wales. This includes their national oversight for all flood and coastal erosion risk management activity in Wales and their technical advisory functions.</p> <p>IDBs wholly or mainly in Wales are designated as Welsh Risk Management Authorities and as such are under a statutory duty to act consistently with the National Strategy. The Environment Agency is also a designated Welsh Risk Management Authority and any single body would also be designated as such.</p> <p>In addition to this any single body would operate across the whole of Wales, with the flexibility to implement the full range of flood and coastal erosion risk management functions in all parts of the country.</p>
<p>Delivery of the Living Wales agenda and an ecosystem approach to natural resource management in Wales.</p>	<p>High</p> <p>If established, a single body would assume the environmental functions of the Environment Agency, Countryside Council for Wales and the Forestry Commission. This would provide any single body with a range of statutory powers and duties to act in the interests of the environment and in particular to operate in line with the ecosystem approach to natural resource management in Wales.</p>

	<p>Any single body would operate across the whole of Wales, with the flexibility to implement the full range of environmental functions in all parts of the country.</p>
<p>Alignment with the expectations of twenty first century public service delivery in Wales.</p>	<p>Medium to High</p> <p>The establishment of any single body would be undertaken in the context of the simplification, transparency and accountability in service delivery that the Welsh Government expects of the public sector in Wales.</p> <p>The most up to date conventions and standards for administrative, governance and financial practices would be applied in the establishing legislation and throughout standing orders. Over time the Welsh Government would expect any single body to become an exemplar organisation for public service delivery.</p>
<p>Scope for maintaining and building expertise in flood and coastal erosion risk management including local requirements.</p>	<p>Medium to High</p> <p>If established, a single body would assume the flood and coastal erosion risk management functions of the Environment Agency. In addition to their oversight for all flood and coastal erosion risk management activities in Wales and their technical advisory functions the Environment Agency has a range of operational functions that would also be assumed by any single body.</p> <p>The Environment Agency already administers eleven drainage districts in North Wales, undertaking the functions of IDBs within those areas. They also operate within the districts of the three IDBs wholly or mainly in Wales, often undertaking similar operational activities.</p>

	<p>Whilst any single body may not immediately have the local knowledge acquired by IDBs, it would have a strong local area focus, building on the current arrangements of the Environment Agency, Countryside Council for Wales and Forestry Commission. It would also benefit from a larger workforce and greater resilience in drainage expertise, being able to call on staff from across Wales as required.</p>
<p>Ability to address cross border requirements, including risks and management activities.</p>	<p>Medium to High</p> <p>If established, any single body would operate within the boundaries of Wales. Separate arrangements would have to be made in relation to the English areas covered by the two IDBs located on the England-Wales border. However, in both cases the area of land covered in England is relatively small in comparison to the area of land in Wales, and the single body may consider entering into a local service level agreement with English authorities.</p> <p>Any single body would be assigned with statutory powers and duties to cooperate with English authorities to manage cross border risks, and in respect of flood and coastal erosion risk management would continue to work with the Environment Agency (which would be an England only body). This would be necessary to meet European and domestic reporting arrangements.</p> <p>Cross border working is something the Environment Agency and Forestry Commission have significant experience of and any single body would be able to call on this expertise. It would also benefit from a larger workforce and greater resilience in drainage expertise, being able to call on staff from across Wales as required.</p>

<p>Delivery of a cost effective and efficient flood and coastal erosion risk management service.</p>	<p>High</p> <p>If established, any single body would cover the whole of Wales. In addition to benefiting from the streamlining of a range of back room functions, which could enhance the delivery of IDB functions, it would also have greater negotiating power in relation to tendering contracts and procuring services allowing for greater economies of scale.</p> <p>Any single body would also be able to call on a wider pool of personnel, materials and assets to undertake its functions.</p>
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Funding Arrangements

91. The funding of IDBs will also need to be considered in relation to each of the Options. At present the majority of funding for IDB functions come from drainage rates levied directly on local landowners and the special levy paid by relevant local authorities. Under each of the Options above it is envisaged that some form of levy will be retained, preserving the principle of payment for services. However, the way in which it is raised will vary.
92. Under Option 1, which proposes no change to the way IDB functions are delivered, there would also be no change to the current levying arrangements. The range of levies currently applied would continue to be applied, with levels set by the IDB Board concerned.
93. Under Option 2, which proposes some changes to the organisational arrangements for IDBs such as simplifying the process for boundary alteration and amalgamation and adjusting the membership of IDBs, there would be some changes to the levying arrangements. These changes are designed to simplify current arrangements and increase transparency and accountability. However, as with Option 1 the levels charged under both the drainage rate and any contractual agreement would continue to be set by the IDB Board concerned.
94. Under Option 3, which proposes transferring the IDB functions to any new single body for natural resource management in Wales, there would be some changes to the levying arrangements in the interests of accountability and transparency. However, as there would be no IDB as such, the levy would be set by the single body. At this time we envisage that would be done by the Regional Flood and Coastal Committee for

Wales, Flood Risk Management Wales, which we anticipate transferring from the Environment Agency to any single body.

95. Flood Risk Management Wales includes representatives of the local authorities and a number of independent members drawn from within the flood and coastal sector. Some further adjustments to membership may be required to facilitate landowner representation.

Preferred Option

96. The Welsh Government is minded to adopt Option 3 for the future delivery of IDB functions. This would see responsibility for undertaking IDB functions transferred to any single body established in consequence of the outcome of the consultation *Natural Resources Wales*.

97. Views on this proposal are invited from all consultation respondents.

Internal Drainage Districts administered by the Environment Agency

98. The Environment Agency is separately considering the viability of a number of the IDD under their administration. Subject to the outcome of that review of which the Environment Agency will publish on their website¹⁰ in due course, it is possible that the Environment Agency may approach the Welsh Government with a view to removing the IDD designation from some areas. Removing the IDD designation can also apply to IDBs where appropriate. The decision to remove a designated IDB or IDD from some areas can be taken should it be the case that certain IDBs or IDDs are no longer workable.

99. In relation to the options considered above, it is envisaged that the following would occur in relation to any remaining IDBs administered by the Environment Agency:

- Option 1 – the remaining IDBs would continue to be administered by the Environment Agency, or any single body, in line with current arrangements.
- Option 2 – the remaining IDBs would continue to be administered by the Environment Agency, or any single body, in line with the revised governance and organisational arrangements.
- Option 3 - the remaining IDBs would be administered by any single body.

100. If the Options 1 or 2 are adopted, it is also possible that individuals may come forward with a view to establishing dedicated IDBs for these areas and taking that role on in place of the Environment Agency, or any single body.

¹⁰ www.environment-agency.gov.uk/

101. If Option 3 were adopted then IDBs as separate public bodies would cease to exist.

Questions

Which of the three Options for the future delivery of IDB functions in Wales do you support and why?

Are there any other relevant matters for the future delivery of IDB functions in Wales that you think the Welsh Government should consider?

Do you have any further information or evidence which you feel the Welsh Government should consider in reaching their final decision on the future delivery of IDB functions in Wales?

Are there any other matters that you would like to draw to the attention of the Welsh Government in relation to the delivery of IDB functions in Wales?

Section 3 – Timing and Next Steps

102. The Welsh Government is interested in your views on the matters raised within this consultation. Please take the time to consider the options set out for the future delivery of IDB functions in Wales and share your opinions with us.

Responding to the Consultation

103. Responses can be sent to:

Flood & Coastal Erosion Risk Management
Sustainable Places Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Or to:

floodcoastalrisk@wales.gsi.gov.uk.

104. If submitting an electronic response please quote the message header "Response to IDB Consultation 2012" within the subject field.
105. The closing date for this consultation is 31 August 2012.
106. Please contact us if you wish for these documents to be made available in a different format (large print etc.) and we will endeavour to accommodate your request.
107. In line with the Welsh Government's policy of openness, at the end of the consultation period copies of the responses we receive may be published in a summary of the responses to this consultation. **If you do not consent to this, you must clearly request that your response be treated as confidential using the option provided on the response form.**
108. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request.
109. Respondents should also be aware that there may be circumstances in which the Welsh Government will be required to communicate information to third parties on request, in order to comply with their obligations under the Freedom of Information Act 2000

Other Matters to be considered

110. There are three other matters that will need to be considered before coming to a final decision on the future delivery of IDB functions in Wales.

Sustaining A Living Wales

111. In January 2012 the Welsh Government published a Green Paper on the new approach to natural resource management in Wales, setting out the details of the new ecosystem approach to environmental regulation and management. The consultation on the Green Paper is due to close on 31 May 2012 and can be accessed via the Welsh Government website¹¹.
112. Before reaching a final decision on the future delivery of IDB functions in Wales it will be important to consider the outcome of the consultation on the Green Paper and the implications this has for natural resource management in Wales. If there are changes to the approach advocated as a result of the consultation this may change the position in respect of the delivery of IDB functions.
113. The Welsh Government will include details of these considerations within its response to this consultation on IDBs wholly or mainly in Wales.

Natural Resources Wales

114. In February 2012 the Welsh Government published a consultation paper on the establishment of a single body, incorporating the functions of the Environment Agency Wales, the Countryside Council for Wales and the Forestry Commission Wales. That consultation paper, which closed on 2 May 2012 also sets the timetable for the establishment of the new single body and can be accessed via the Welsh Government website¹².
115. Included within Natural Resources Wales is a short section on IDBs, which sets out at a high level some of the advantages of incorporating IDB functions within the single body. Natural Resources Wales poses no questions about this, but it will still be important to consider any comments made in relation to IDB functions within any responses to that consultation.
116. The Welsh Government will include details of these considerations within its response to this consultation on IDBs wholly or mainly in Wales.

Wales Audit Office

117. Since the passing of the Flood and Water Management Act 2010 we have been made aware of a number of concerns regarding the administration and governance of the Caldicot and Wentlooge Levels IDB. Those concerns were passed to the Wales Audit Office for consideration.
118. At the time of writing the Wales Audit Office have yet to report their findings. It is important that the Welsh Government fully considers any findings which may be reported to it by the Wales Audit Office that have a bearing on the delivery of IDB functions.

¹¹ Sustaining a Living Wales - Green Paper available from:
<http://wales.gov.uk/consultations/environmentandcountryside/sustainingwales/?lang=en>

¹² Natural Resource Wales - available from:
<http://wales.gov.uk/consultations/environmentandcountryside/singlebody/?lang=en>

119. The Welsh Government will include details of these considerations within its response to this consultation on IDBs wholly or mainly in Wales.

Timetable for Decisions

120. The Welsh Government is proposing to create a new single body on 1 April 2013.

121. Decisions as to the future delivery of IDB functions will be made by the autumn of 2012 at which time it will be made clear when any changes required to deliver the supported option will take effect.

Annex A – Glossary of terms

A

Agricultural Drainage Rate - A sum of money paid annually to the Internal Drainage Board by properties within a drainage district.

B

C

Coastal erosion – the wearing away of coastline, usually by wind and/or wave action.

D

Drainage – the natural or artificial removal of surface and sub-surface water from an area.

E

Ecosystem Approach - a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way.

Environment Agency Wales - a Welsh Government sponsored Public Body responsible to the Welsh Ministers.

F

Flood – temporary covering of water of land not normally covered with water.

G

H

I

Internal Drainage Board (IDB) – independent statutory bodies responsible for land drainage in areas of special drainage need in England and Wales. They are long established bodies operating predominantly under the Land Drainage Act 1991 and have permissive powers to undertake work to secure drainage and water level management of their districts.

Internal Drainage District - low lying areas of the country, where flood risk management and land drainage are sensitive issues.

J

K

L

M

Main River – is a watercourse shown as such on a river map and for which the Environment Agency has responsibility.

N

O

Ordinary Watercourse – all Watercourses that do not form part of a main river, and which are the responsibility of local authorities or, Where they exist, internal drainage boards.

P

Q

R

Risk Management Authority – A Welsh risk management authority is defined in Section 6 of the Flood and Water Management Act 2010 as the Environment Agency, a lead local flood authority, a district council for an area for which there is no unitary authority, an IDB for an internal drainage district that is wholly or mainly in Wales and a water company that exercises functions in relation to an area in Wales.

S

Special Levy – Some of money paid to IDBs by Local Authorities

T

U

Upland Water Charge – Some of money paid to IDBs by the Environment Agency

V

W

Welsh Government – the executive of the government in Wales

Water Level Management – managing the level reached by the surface of a body of water

Y

Z

Annex B - Schedule of Relevant Documents

GENERAL

Title:	National Strategy for Flood and Coastal Erosion Risk Management in Wales
Description:	The National Strategy for Wales sets out our policies on flood and coastal erosion risk management. It also establishes a delivery framework that meets the needs of Wales now and in the future.
Available from:	wales.gov.uk/topics/environmentcountryside/epq/waterflooding/flooding/nationalstrategy/5706151/?lang=en

Title:	JBA Internal Drainage Board Review
Description:	An independent Review of Internal Drainage Boards (IDBs) in England
Available from:	http://archive.defra.gov.uk/environment/flooding/who/idbreview.htm

CONSULTATIONS

Title:	Natural resources Wales
Description:	Consultation on proposed arrangements for establishing and directing a new body for the management of Wales' natural resources.
Available from:	wales.gov.uk/consultations/environmentandcountryside/eshliving/walescons/?lang=en&status=closed

Title:	A living Wales – a new framework for our environment, our countryside and our seas - Consultation on the National Environment Framework
Description:	Our new Natural Environment Framework (NEF) focuses on managing our environment as a whole rather than focusing on separate parts.
Available from:	wales.gov.uk/consultations/environmentandcountryside/eshliving/walescons/?lang=en&status=closed

Title:	Sustaining a Living Wales
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Description:	A Green Paper on a new approach to natural resource management in Wales.
Available from:	wales.gov.uk/consultations/environmentandcountryside/sustainin gwales/?lang=en

Title:	Draft Flood and Water Management Bill and consultation
Description:	A draft Bill for new legislation for managing flood and coastal erosion risk in England and Wales. Published for public consultation in April 2009.
Available from:	www.official-documents.gov.uk/document/cm75/7582/7582.pdf

Title:	Draft Flood and Water Management Bill: Summary of Consultation Responses received and considered by the Welsh Government.
Description:	A summary of consultation responses to the draft Flood and Water Management Bill considered by the Welsh Government.
Available from:	wales.gov.uk/docs/desh/consultation/091119floodingresponsesen .pdf

Title:	Taking forward the draft Flood and Water Management Bill - The Government response to pre-legislative scrutiny and public consultation
Description:	The UK Government's response to each of the recommendations made by the Environment, Food and Rural Affairs (EFRA) Select Committee in its pre-legislative scrutiny report.
Available from:	www.defra.gov.uk/environment/flooding/documents/policy/fwmb/b ill-consult-response.pdf

LEGISLATION

Title:	Flood and Water Management Act 2010
Description:	The Flood and Water Management Act 2010 received Royal Assent on 8 April 2010. It was passed in recognition of the need to update the legislation governing flooding and coastal erosion
Available from:	www.legislation.gov.uk/ukpga/2010/29/contents

Title:	Water Resource Act 1991
Description:	The Water Resources Act defines the Environment Agency's role in water pollution, water resource management, flood defence, fisheries and navigation. It covers discharges to surface and ground waters, estuaries and coastal waters, and controls abstracting and impounding water.
Available from:	www.legislation.gov.uk/ukpga/1991/57/contents

Title:	Land Drainage Act 1991
Description:	An Act to consolidate the enactments relating to internal drainage boards, and to the functions of such boards and of local authorities in relation to land drainage.
Available from:	www.legislation.gov.uk/ukpga/1991/59/contents

Title:	Public Bodies Act 2011
Description:	The Public Bodies Act received Royal Assent on 14 December 2011. The Act gives Ministers the power, by order, to abolish, merge or modify constitutional or funding arrangements, or modify or transfer functions of those public bodies listed in Schedules 1 to 5 of the Act; and sets out an enhanced scrutiny procedure for the orders.
Available from:	www.legislation.gov.uk/ukpga/2011/24/contents

USEFUL WEBSITES

- **Association of Drainage Authorities website**
www.ada.org.uk
- **Internal Drainage Boards (IDBs) wholly or mainly in Wales**

Caldicot & Wentlooge Levels	Lower Wye	Powysland
www.caldandwentidb.gov.uk	www.lowerwyeidb.org.uk	www.powyslandidb.org.uk

- **Cardiff Council website**
www.cardiff.gov.uk/splashpage.htm
- **Newport City Council website**
www.newport.gov.uk/dc/index.cfm
- **Powys County Council website**
www.powys.gov.uk

- **Monmouthshire County Council website**
www.monmouthshire.gov.uk
- **Herefordshire Council website**
www.herefordshire.gov.uk
- **Department for Environment, food and Rural Affairs (Defra) website**
www.defra.gov.uk

Annex C – Past Reviews of IDB Functions

IDB operations have been reviewed in the past; the first review took place in 2006, followed by another review in 2009. The findings of these reviews however, are not currently implemented within the new flood and coastal erosion risk management system. The wider changes proposed to the way in which Wales manages its natural resources presents an opportunity to reconsider whether or not those changes, or further ones, should now be made.

Internal Drainage Board Review, 2006

Background

In August 2005, the Department for Environment and Rural Affairs appointed JBA Consulting to undertake an independent Review of Internal Drainage Boards in England. The purpose of the review was to consider the current institutional and administrative arrangements of IDBs in England and to advise on suitable model arrangements to ensure that in delivering flood risk management responsibilities IDBs were efficient, accountable and representative.

To achieve the primary aim of the review to gain an understanding of the present and future requirements of IDBs, particularly at a time when substantial changes in flood risk management and agriculture management were taking place, JBA Consulting undertook to engage with a wide range of stakeholders.

JBA consulted within the sector including the IDBs themselves, Defra, the Environment Agency, English Nature (now Natural England), the [RSPB](#), the rate and levy payers and their representative organisations ([National Farmers Union](#), [Country Land and Business Association](#) and the [Local Government Association](#) (LGA)), and all the other stakeholders who have a direct or indirect interest in water level and flood management in IDB districts.

The consultation exercise produced numerous comments and suggestions with regard to the following:

- IDB performance;
- views on their future role;
- examples of good and bad practice; and
- perceived barriers and constraints to change.

A general theme highlighted was the IDBs have an important role to play in flood risk management and provided an efficient and effective service. A considerable majority of consultees commented that IDBs needed full time professional advice that covered a wide range including finance, engineering and the environment.

Key Findings & Recommendations

Key findings

Following substantial consultation and analysis, JBA Consulting submitted their report to Defra on 28 February 2006. The report was comprehensive and

detailed the background to the review, the consultation and the current and future role for IDBs.

The review highlighted 21 key findings which cover a range of issues. In broad terms they can be grouped into three categories as set out below:

Financial

- Raising and applying Income locally to ensure adequate drainage, flood and environmental level water management and improvements is financially viable.
- The level of service has been maintained over the past 5 years with the rates and special levies being kept within or below the rate of inflation.
- Some IDBs are good at raising additional income and willing to use their power to borrow.
- Smaller IDBs have insufficient income to deliver the expectations of a statutory body.
- Focus needs to be on the best rate of return rather than high cost projects better undertaken by others.

Effectiveness and Efficiency

- IDBs provide land drainage and flood risk management benefit to 1.2 million hectares of land, 600,000 people and 879,000 properties.
- Reduced local accountability and ability to equitably manage conflicting objectives can be an issue where the area covered by the IDB is too large.
- Difficult to see how other existing statutory bodies would be able to consistently match the level of service provided by IDBs
- Sufficient activity in some cases warrant full-time professional management staff covering administration, finance, engineering and conservation
- IDBs generally respond well to clear direction and change, when explained and justified.

Delivery of wider government objectives

- Not all IDBs are aware of or fulfilling all their environmental duties
- As part of their role, IDBs need to be willing to deliver wider government objectives and take into account valid wider stakeholder interest in their decision making.
- Clearer steer required from government and monitoring of IDBs is required. A tighter support framework is needed.
- Relationship between IDBs and the Environment Agency need to be improved to better utilise the knowledge and skill of both bodies.

Recommendations

The review offered six overarching headline recommendations on suitable 'model' arrangements that would ensure IDBs are efficient, accountable and representative of the interests of both drainage rate payers and wider interests in delivering their flood management responsibilities.

The recommendations are set out below:

1. IDBs should be allowed to continue in their role of providing water level management in low-lying areas provided they reform their governance, environmental management, accountability and representation arrangements where required and as outlined below.
2. The preliminary assessment suggests that a further 44 IDBs remaining after current amalgamations and abolitions could benefit from amalgamation. In addition to these a further 42 may benefit from amalgamation or grouping.
3. JBA Consulting believe that IDBs themselves were best placed to decide on the change required, however, they should be given clear direction by Defra on the need for change to meet the requirements of a modern water level management body by means of an implementation plan.
4. IDBs will benefit from support in making these changes. The best source of this support needs to be agreed in any implementation plan.
5. The split of responsibilities and the working relationship between each IDB and the Environment Agency should be clarified and formalised.
6. Until the recommendations of the report are implemented, further radical change and particularly changes to critical ordinary watercourse definitions or enainment should be kept to a minimum.

Conclusion

It was concluded that IDBs generally provide a satisfactory service and have the ability to provide expertise and knowledge of integrated drainage, water level management and flood risk management. There is a general need to strengthen aspects of their governance, representation, internal accountability and transparency. A key area in need of improvement is the co-operation with the Environment Agency and meeting the requirements/expectations of a statutory body.

When considering the future of IDBs the review concluded that wholesale abandonment would have adverse effects however, abandonment of smaller areas should not be ruled out. Abolishing of IDBs could be done without legislative change, however, whilst this option has benefits such as an integrated management system these benefits are outweighed by factors such as loss of an important delivery route for land use change and improved land management. Without further external direction, it is anticipated that the pace of making changes across IDBs will not continue. However, it is not considered necessary or favoured for the Environment Agency to assume the role of IDBs.

The review offers the preferred option for the future of IDBs is further re-organisation and change, with the amalgamation and consolidation of IDB governance and management arrangements. This would go some way to strengthen accountability to government and general public.

Post Review

The Review did not extend to consider IDBs in Wales, however the review was welcomed and findings noted by the Welsh Government. In England, there was a drive for amalgamation of smaller IDBs; however, the severe flooding in 2007 prompted further reviews of the wider flood risk management process.

Draft Flood and Water Management Bill 2009

There are some 160 IDBs in Wales and England; IDBs are long established independent statutory bodies responsible for land drainage in areas of special area drainage. They have powers to undertake work to secure water level management, including flood defence works on ordinary watercourse.

In recent years, concerns have been raised that some IDBs are agricultural efficient, to the detriment of nature conservation and other wider Government policies. Their accountability and accessibility has also been questioned. Some of these issues were highlighted in the review that JGB published in 2006.

Proposals on the future role of IDBs were not including in the draft flood and water management bill. However, the draft Bill consultation put forward proposals for reform to considered

Proposals within the Draft Flood and Water Management Bill

The proposals for revisions to the role and governance of IDBs in Wales and England were set out in the draft Bill consultation paper. These proposals are summarised below.

- ***Allow IDBs to form consortia, private companies and other innovative delivery models***
In the Land Drainage Act 1991 there is limited basis for consortium arrangements and there is no detailed procedure for forming them. IDBs are unable to set up limited companies/corporate bodies or provide management services in return for a fee to another IDB. In allowing this, IDBs would not be allowed to delegate control over the exercise of their statutory powers to other corporate bodies but would be allowed to set up corporate bodies to provide management services.
- ***Simplify the process for boundary for alteration and amalgamation***
Amalgamation is a time consuming process that is not currently cost effective. Streamlining the notification procedure and adding flexibility for informing those affected would simplify the process.
- ***Relax the restrictions currently imposed by the Medway Letter***
The principles set out in the Medway letter¹³ limit IDB boundaries, this does not allow for strategic and holistic management of the IDB catchment. IDBs should be able to expand their boundary where appropriate. Guidance on doing so must be followed and a detailed analysis, consultation process must be completed.
- ***Move the supervision of IDBs from the EA to county and local authorities.***

¹³ The "Medway Letter" from M.A.A.F. dated 28th June 1930 which defined the limits of Internal Drainage Boards as the area up to 8ft above the highest known flood level whether rural or urban.

The draft flood and water management Bill placed responsibility of local flood risk management on Local Authorities. Moving supervision of IDBs to the local authorities would enable IDBs to deliver their 'local leadership' role more effectively and allow Local Authorities to utilise the skills and knowledge of IDBs to improve their own.

- ***Adjust the membership of IDBs***
Members of the IDBs can very much direct the work and attitude of the IDB and influence their policies and practices. The number of local authority representatives IDBs is limited and repealing this limit will deliver representation more in line with its expenditure profile.
- ***Allow Ministers to make regulations determining the structure of IDBs***
Reducing the number of IDBs to encourage better engagement and management of them has been encouraged for some time; however, progress to amalgamate has been slow. Minister should have powers to set appropriate size, shape and structure of IDBs.
- ***Local Authority funding for IDBs***
IDBs are currently funded by agriculture drainage rates and a 'special levy' paid by local authorities. There are 'value for money' concerns over current funding arrangements and proposals we made to replace the special levy with agency or contractual arrangements between IDBs and local authorities.
- ***Reviewing the circular payments between IDBs and the EA***
Funds pass between IDBs and the EA to pay for the management of water flowing in and out of a district. The two bodies currently compensate to some extent for the action taken by the other. Reviewing this regime to establish if it was still required was proposed.

Consultation Responses

The majority of the responses received in respect of the proposals mentioned above were from IDBs.

Almost all respondents agreed to the proposals for IDBs to share services and form/participate in consortia and limited companies. Also proposals to make procedures to amalgamate etc simpler, relax restrictions imposed by the Medway letter and review the circular payments between IDBs and the EA were agreed by the majority.

Several IDBs disagreed with the proposal for Local Authorities to take the supervisory role of IDBs from the EA due to reasons such as lack of expertise and funding; however, it was suggested there was a case for local authorities to be the interface with the public, and the role could be extended to one of overall coordination and linking of the actions of the operating authorities through the creation of Local Area Partnerships.

Proposals to adjust IDB membership and to allow Ministers to make regulations determining the IDBs structure received a mixed response. Suggestions were put forward that the consideration of catchment boundaries should take priority however, Ministers could intervene to determine structures where IDB are either in default or unable to agree details with their FRM Partners. Concerns raised regarding membership adjustment centred around the Local Authorities lack of attendance to board meeting.

Government Response and the Flood and Water Management Act 2010

Owing to time and space constraints the majority of the proposals highlighted above were not included within the Flood and Water management Act 2010 (the Act). The provisions in respect of consortia and the duty for IDBs to act consistently with the local and national strategies and co-operate with other flood authorities were included with the Act.

In their response to the pre-legislative scrutiny the then UK Government confirmed that the future structure of IDBs should continue to be based around hydraulic catchment boundaries rather than local authority administrative boundaries. However, the then UK Government and Welsh Government considered that further work was needed to consider the precise basis and criteria for such restructuring which takes into account the benefits of existing boundaries and smaller scale bodies as well as the advantages of catchment-level IDBs.

In terms of allowing for IDBs to extend their boundaries beyond those provided for by the Medway Letter, legislative provisions may not be required. Further consideration was required as to how larger IDBs that cover higher ground would fit in with funding systems and the new structures that are being created. It was also felt that the process for amalgamation and order making should be streamlined.

**Consultation
Response Form**

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

Which of the three Options for the future delivery of IDB functions in Wales do you support and why?

Are there any other options for the future delivery of IDB functions in Wales that you think the Welsh Government should consider?

Do you have any further information or evidence which you feel the Welsh Government should consider in reaching their final decision on the future delivery of IDB functions in Wales?

Are there any other matters that you would like to draw to the attention of the Welsh Government in relation to the delivery of IDB functions in Wales?

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here: