



Llywodraeth Cymru
Welsh Government

PUBLICATION

Flood and Coastal Erosion Committee meeting: 23 September 2021: notes

Notes from the meeting of the Flood and Coastal Erosion
Committee on 23 September 2021.

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Meeting no 7: minutes

Virtual Meeting via Microsoft Teams

Present

Martin Buckle (Chair) (MB)	Flood & Coastal Erosion Committee
James Morris (JM)	Welsh Government
Chris Curry (Secretariat)	Welsh Government
Simon Dooley (SD)	Cardiff Council
Clive Moon (CM)	Vale of Glamorgan Council
Nicholas Paines (NP)	Law Commission
James Owen (JO)	Welsh Government
Catherine Marshall (CMA)	Environment Agency
Jonni Tomos (JT)	Welsh Government
Simon James (SJ)	Natural Resources Wales

Committee Members:

Darren Thomas (DT)	Pembrokeshire County Council
Geraint Edwards (GE)	Conwy County Borough Council
Jean-Francois Dulong (JFD)	Welsh Local Government Association
Karen Potter (KP)	Open University
Paul Blackman (PB)	Wallingford Hydro Solutions
David Harris (DH)	Independent Consultant
Anne-Marie Moon (AM)	JBA Consulting
Jeremy Parr (JP)	Natural Resources Wales
Mike Wellington (MW)	WSP Consultation
Natalie Haines (NH)	Mott MacDonald
Catherine Wilson (CW)	Cardiff University
Lorna Davis (LD)	National Farming Union Cymru
Adrian Philpott (AP)	Dwr Cymru – Welsh Water

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Observers:

Nailah Altuwaairgi	Welsh Government
Poppy Jones	Law Commission
Charlotte Black	Law Commission
Lisa Smith	Law Commission
Ouahes Henni	Law Commission

Apologies:

Andrew Stone (AS)	Rhondda Cynon Taf CBC
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Apologies and introductions

Chair gave the apologies and introductions were made.

Declaration of Interests

The Chair asked members of the committee to consider the papers and declare if they had any conflicts of interest, none were given. The Chair advised members that today's meeting will be recorded by the secretariat.

Minutes of the meeting held on 20 May 2021, and Matters Arising

[Draft minutes of the meeting held on 20 May 2021](#) had been circulated for comment and subsequently published.

The Chair noted that all actions had been completed.

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Chair's Announcements

The Chair provided an update on his activities since the sixth meeting of the Committee in May 2021.

On 22 July he wrote to Lord Justice Green, the Chairman of the Law Commission for England and Wales, in response to the Commission's consultation on its 14th Programme of Law Reform. He expressed the Committee's interest in the programme, but indicated that, with the Policy and Legislation Sub-Committee due to report in May 2022, it would be premature to respond fully to the consultation at that stage. He expressed the hope, however, that this might be the beginning of a dialogue between the Committee and the Commission.

He explained that Lord Justice Green had responded on 30 July, indicating that the Commission was already taking an interest in the law relating to flooding and coastal erosion, and that an ongoing dialogue with the Committee would be welcomed.

On 25 August he received a letter from Dr Elizabeth Haywood who, as a Natural Resources Wales Board member, chairs their Flood Risk Management Committee. She advised the Chair that her term would end on 31 August, and on that date she would be replaced by Julia Cherrett, who is also an established member of the Board and Committee. Dr Haywood and the Chair had met periodically to update each other on the work of the respective committees, and it was suggested that similar arrangements with her successor would be beneficial. Dr Haywood also expressed her support for the work of the Committee, and in particular the work of both the Resources and Policy & Legislation Sub-Committees. The Chair explained he had responded to Dr Haywood expressing his thanks for her input, and support for her proposal.

In early September, the Chair responded to the Law Commission's consultation paper: "Regulating Coal Tip Safety in Wales", indicating the Committee's support for the proposals, including their benefits for flood risk management.

In June he attended the quarterly meeting with the Chairs of the English

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Regional Flood and Coastal Committees (RFCCs). Of particular interest was a discussion about the challenges to be faced by Risk Management Authorities (RMAs) in developing the capacity to deliver the new six year FCERM programme, and the role that the Environment Agency and RFCCs can play in supporting local authorities. The meeting also agreed to arrange a workshop on coastal landfill sites. This took place w/c 27 September, with Anne-Marie Moon agreeing to attend as a representative of the Committee. The next meeting of the RFCC chairs also took place during w/c 27 September, with an update on the Shoreline Management Plan refresh programme, as well as a follow up discussion on the six year programme.

In July he attended a meeting of the Flood and Coastal Risk Programme Board. The focus was mainly on the programme for 2021-22, but there were also discussions about the progress being made on longer term pipeline planning, and about the Resources Sub-Committee's Interim Report. The next meeting takes place in November.

Following the Committee's response to the Welsh Government's consultation on the draft update of TAN 15 in January 2020, the Committee was invited in June this year to provide further comments as the work on TAN15 approached its conclusion, and these were submitted in July.

Finally, he took the opportunity to put on the public record that he had been invited by the Minister to extend his term as Chair by a further year, an invitation that he has accepted, with similar invitations extended to all members of the Committee.

Items from the Regional Groups

DT provided an update on the South West Wales Flood Risk Group, which has met once since the last Committee meeting on 23 June, with the next meeting due to take place on 29 September, but which is being re-arranged.

An update from the Welsh Government's FCERM Programme Team was provided to the last Regional Group, which covered FCERM grants, 2021-22

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pipeline planning, plaques and interpretation boards and section 19 reporting. The meeting which was due to be held on the 29 September will cover local strategies, asset management and the future of the group.

There were no specific issues or items from the regional flood group to raise here with the Committee, and no feedback to report from the Swansea and Cardigan Bay Coastal Engineering Group.

GE provided an update on the North Wales group, which last met on 22 July. He explained that there had been administrative changes with Richard Weston of Natural Resources Wales (NRW) being elected as Chair and Owen Conroy of Conwy County Borough Council (CCBC) elected as Vice-Chair.

At the July meeting the format for future meetings was discussed, where it was agreed that the new National FCERM Strategy should provide agenda items going forward, keeping the meetings more focussed. It was also agreed that there would be four meetings a year, three of which would be virtual with one face to face, with a concise briefing note including identified objectives to be issued within 2 weeks.

The benefits of flood groups and community flood risk plans were discussed, with benefits of joint working identified with RMAs such as NRW, CCBC and Isle of Anglesey (IoA) contributing. Warning and Informing was also identified as being critical in advance of a storm event.

A significant item discussed at the meeting was the regions staff and skills deficit. Members identified staff shortages in both the Local Authorities (LAs) and NRW, with currently over twenty vacancies in North Wales. There is an issue with both recruiting and retaining staff, although Owen Conroy confirmed that CCBC had success in recruiting graduates, with Ross Akers (NRW) suggested joining up with Academia as there is availability to recruit students on a sandwich placement.

FCERM pipelines was also raised at the meeting, with LA members citing issues securing match funding for construction schemes. They also raised concerns about the inflation of construction materials, with some schemes almost doubling in cost.

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Two presentations were received at the meeting:

- NRW National Asset Database – Emily-Rose Jenkins
- Rainscape and Culverted Watercourses – Dominic Scott, Dwr Cymru Welsh Water

Sustainable Drainage Approval Bodies (SABs) were discussed, where it was agreed a review group would be set-up following completion of the regional guidance, with each LA producing their own appendices to be sent to developers and consultants for comment. In addition 4 out of the 6 LA's agreed to look into a regional SAB possibility.

The group also discussed the practicalities around combining Local Flood Risk Management Plans (LFRMP) and Local Flood Risk Management Strategies (LFRMS) into one document.

The final item discussed at the meeting were the two Natural Flood Management (NFM) pilot schemes on the IoA, with farmers and landowners key to the success of these schemes.

The Chair commented on the issues of availability of match funding, and the staff and skills deficits. He confirmed that these issues have been the subject of significant discussion within the resources sub-committee, and was confident they will feature in the recommendations of the sub-committee.

JFD provided an update on the South East Wales group, with the group having last met in April and due to meet again in October.

He confirmed that the same issues raised in the North Wales group were discussed, specifically around the difficulty to recruit, with a lack of skilled workforce over a range of functions. The other main discussion point was the increasing cost of delivering capital works.

There was a discussion around potential reorganisation of the regional group, which is one of the areas the Resources Sub-Committee report is capturing under governance and collaboration. There was a suggestion of using the County Surveyor Society (CSS), which the group felt was a good opportunity to

provide more of a strategic steer, with the inclusion of Chief Officers and Heads of Service.

The group discussed asset databases, with the majority of the LAs not having these in place. This is due in part to the complexity of obtaining this information from third party asset owners.

The practicalities around combining LFRMP and LFRMS were discussed, with the group very supportive in terms of reducing the resource implications in delivering two documents. It was agreed that making a single stronger document to drive internal resourcing, access to more funding and provide more clarity to the public would be preferable.

JFD explained that with the agreement of the Welsh Government (WG) he had arranged for the set-up of a Steering Group with about eight LA's and WG representation, to take forward the development of a template to assist LA's in the development of their Local Strategies. The finalised template will be used by all Welsh LAs.

Presentations from South East Wales

Presentation by Simon Dooley, Team Leader, Flood & Coastal Risk Management, Cardiff Council and Anne-Marie Moon, Technical Director, JBA Consulting

SD & AM gave a presentation to the Committee on the Lamby Way Coastal Risk Management Scheme in Cardiff.

Presentation by Clive Moon, Engineering Manager Environment, Vale of Glamorgan Council

CM gave a presentation to the Committee on the Coldbrook Flood Alleviation Scheme in Barry.

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Presentation by Nicholas Paines, QC, Commissioner for Public Law and for the Law in Wales, Law Commission for England and Wales

NP gave a presentation to the Committee on the Law Commission for England and Wales and their 14th Programme consultation.

Action: The Chair would make further contact with the Commission to agree mechanisms by which the dialogue between the Committee and the Commission could be taken further.

Agriculture (Wales) White paper progress report, James Owen, Deputy Director, Land Management Reform Division, Welsh Government

JO thanked the committee for the invitation to come back after he spoke a few months ago. He advised that the Minister for Rural Affairs, Lesley Griffiths, recently made a statement in the Senedd around the direction of travel of Welsh Government's future farming policy which has been outlined in the response to the White Paper.

He explained that they will be introducing an Agriculture Bill into the Senedd in 2022, with the intention of doing this before summer recess. Proposals in the Bill were set out in the Agriculture White Paper and alongside the [statement](#) the Minister published the Welsh Government's [policy response](#), which sets out the provisions and proposals to take them forward.

JO discussed the headline proposals around the new Sustainable Land Management (SLM) and the Sustainable Farming Scheme (SFS), which will effectively start to phase out the basic payment scheme and replace it with a scheme based on the premise of public money for public goods. These are alongside a range of other provisions that were set out in the White Paper around forestry, tenancy etc. He advised that there is quite a bit of detail in the

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policy response by the Minister, which provides more information about the Bill.

He confirmed they had also published a range of evidence reports alongside the oral statement, which included:

- Independent analysis of the White Paper consultation responses, with production of a **summary consultation document**, published alongside the Ministers statement.
- The **report** following the first stage of Co design last year, where around 2000 people mainly farmers were engaged in Welsh Government's (WG) proposals for the scheme.
- Report from academics and research companies which relates to the work on logic chains, establishing the link between the actions WG will ask a farmer to undertake, and the environmental outcomes WG are seeking to reward through the new scheme.

In her statement the Minister set out very clearly how WG intended to move effectively over the term of Government to introduce the sustainable farming scheme in 2025. The Minister intends to introduce the Agriculture Bill in the Senedd in 2022, which subject to Royal Assent will give Welsh Ministers the powers to introduce the new scheme and its proposals.

The hope is that the Bill will receive Royal Assent in 2023. Alongside introducing the Bill, officials will set out an outline of the draft sustainable farming scheme explaining how powers in the Bill will be used to introduce this new scheme, and will also use that as a vehicle for further engagement, particularly with farmers and land owners.

The outline final scheme, is intended to be published in 2023, and will then go out for consultation. A Regulatory Impact Assessment (RIA) will be undertaken, which will set out Governments best assessment on the impact of the proposals on the farming community, the economy, the environment and on social issues. Subject to approval the aim is to then start the outreach program for the scheme in 2024.

JO discussed the outreach program explaining that this a big transformational change, as farmers are being asked to do something materially different in the

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future. From 2024 onwards, officials will start to work with farmers around the various actions and undertake individual farm reviews, to ascertain these actions and opportunities, with a view of first contracts going live in 2025.

JO summarised his update as follows:

- In 2022 will be introduction of the Bill, the RIA, and an outline of the scheme.
- In 2023, subject to Royal Assent, a final decision on the scheme and setting out in detail Government plans for the transition phase in 2024, alongside significant outreach and starting to ask farmers to sign up to sustainable farming scheme contracts.
- From 2025 onwards contracts will commence, whilst the basic payment scheme will continue to be phased out over a multi-year period.

The Chair thanked JO for his update and asked if there would be a further consultation opportunity for the Committee to provide a response on. JO advised that at the end of the code design period in 2023, officials intend to publish a final scheme which will be consulted on.

JP asked if there will be catchment scale interventions where it would be sensible to accommodate them.

JO confirmed that one of the eleven outcomes they are seeking to achieve is around flood management, and that officials would expect the scheme to be able to provide an incentive for farmers to undertake some management action on their land, at either a catchment or individual farm level.

LD asked a question around alignment of the scheme across the border with England.

JO confirmed that cross border issues were a particular area of focus and consideration for WG officials. He advised there were around 500 cross border farms and that officials had convened a cross border policy coordination group with Defra earlier this year. He did, however, explain that Welsh Ministers have devolved responsibility for agricultural policy in Wales, and whilst officials will continue to work as closely as they can with Defra, there will inevitably be some divergence.

The Chair invited JO back to a future meeting at the appropriate time to provide a further substantive update.

Presentation by Catherine Marshall, Flood & Coastal Risk Management Team Leader, Environment Agency North East

CMA gave a presentation to the Committee on community engagement in the North-East of England.

The slides from all the presentations will be shared with the Committee.

Reports

Planning Technical Advice Note (TAN) 15 – Jonni Tomos, Planning Directorate, Welsh Government

JT thanked the committee for the invitation, providing an update on TAN15 with the help of a short presentation.

JT confirmed that a soft launch of TAN15 will take place on Tuesday 28th September. He advised that the team had spent the summer finalising its drafting, with a lot of work designing the document and around press releases etc, and that the documents would be available on a fairly informal basis for 9 weeks before they come into effect on Wednesday, the 1st of December.

He explained that the nine week lead in period is mainly to raise awareness and to let people who are planning new schemes and development know that there's going to be something new in place on the 1st of December. It will also provide the opportunity for NRW to start revising the advice they provide from late October early November onwards. He confirmed that this was a new way of working for the planning team, as they hadn't undertaken a lead in period on

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planning policy before.

JT advised that the TAN 15 and the Flood Map for Planning (FMfP), which includes new climate change allowances will all be made available on the 28th September. There will also be a ministerial statement and a letter from the chief planner issued to all the stakeholders, approximately one thousand organisations and individuals. He confirmed that officials had also worked closely with NRW in producing a guidance note, highlighting the implications of having two TAN 15's for that nine week period.

He explained that on the 1st of December the new TAN15 FMfP will come into full effect, with the TAN14, coastal planning, the old TAN15 documents and the Development Advice Map all being cancelled.

JT discussed the new notification direction which will not have a minimum threshold, and will apply to all residential development, whether partially or entirely within the highest risk area, zone 3 on the new FMfP. He explained that this change of approach showed the Minister's determination to restrict any sort of development taking place in the highest flood risk areas.

He advised there would also be changes to secondary legislation on procedural things such as how and when NRW are consulted, which will take effect on the 1st December. He confirmed that the big news story that will be pushed by the Welsh Government is the integration of climate change projections into the flood risk areas for planning. JT suggested that this innovative approach is not being used by any other country, and is a real indication of Welsh Government commitment in attempting to prevent problems for future generations.

He continued by explaining that the scope of the new TAN15 is going to be wider than the previous version, with the new document integrating coastal planning, and giving more weight to risks from surface water and small watercourses.

JT provided further updates on the new TAN15 which included:

- Improved alignment of the SuDS Approving Body (SAB) approval process, with the introduction of a drainage statement to assist the coordination of planning authorities and SABs.

- Introduction of justification tests, which is one of the two key tests for whether development is considered appropriate or not.
- Amendment of the vulnerability categories, with the introduction of a new water compatibility category of development and merging the highly vulnerable and emergency services into the same category.

JT introduced Simon James, NRW who provided a demonstration of the new FMfP.

Natural Resources Wales Update / Annual Report

JP provided an update on NRW's annual report.

He explained that this was the first time that NRW had produced an annual report in this particular format. The report highlights the good work which has taken place and details NRW's key achievements and deliverables such as:

- Launch of the new flood maps
 - Flood Risk Assessment Wales (FRAW) mapping &
 - Flood Map for Planning (FMfP)
- Recent launch of the flood risk post code finder
- Launch of the online river levels which received approximately 730,000 hits in the first 10 months
- Maintenance and upkeep of asset management, and the database.
- Ongoing flood incident management work, such as flood forecasting and warning & informing, with 153 days of heightened flood risk experienced in the last financial year.

JP advised that the intention is to publish the report on the NRW website in October.

JP discussed capacity and skills and the increasing expectations and demands on Risk Management Authorities (RMAs), suggesting that we to recognise the good work that goes on and be realistic about what we can do going forward as well. He explained that the third element of the report covers future challenges which can be split into three categories:

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- Maintaining what we've got – maintenance of assets and keeping all the infrastructure we've got in place, such as ICT and maps
- Adaptation to climate change
- Resilience of communities

JP also discussed significant projects that are underway, such as:

- Replacement flood warning system
- Hydrometric review of NRW's resources and infrastructures
- Risk based revenue allocation model, to look at investing in NRW's defences and maintenance on a risk basis, utilising the funding.
- Increasing interest in the catchment scale approach
- Reservoir safety work emerging from the Toddbrook review.

JP confirmed that the intention is that the annual report will be part of the Section 18 reporting statutory requirement.

Wales Coastal Groups Forum Progress Report

DH provided an update on the Wales Coastal Forum group (WCGF).

DH confirmed that a focus of the Forum's work this year has been on supporting the delivery of the Shoreline Management Plan Refresh (SMPR) project, and the key issues picked up during the project. He advised that a webinar is planned following completion of the project to disseminate findings.

DH also discussed the review of the technical health checks which were also part of the SMPR project. He confirmed meetings are being undertaken between the consultants and Coastal Groups to work through the process and outcomes. He also mentioned the issues around the SMP2 actions plans, where a task and finish subgroup will be set up to take forward.

DH praised the Wales Coastal Monitoring Centre (WCMC), confirming that there is a lot of ongoing excellent work taking place. He advised that the WCGF supported the development of the latest business case submitted to the WG earlier this year. This led to the WCMC receiving a five year agreement in

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principle, although funding continues to be allocated on an annual basis and is reducing in real terms.

He explained that WCMC has developed a new website, although not yet officially launched seems a lot clearer for users. He mentioned the new National Coastal Erosion Risk Management project (NCERM 2) currently being undertaken in England and discussed the contracts WCMC have with organisations to gather data on beach surveys. He also discussed the SMP story map which is currently being developed by NRW as part of the sustainable management of natural resources portal.

DH confirmed that Rick Park, Coastal Adaptation Programme Lead at NRW, provided a presentation on Coastal Adaptation in Wales at the April meeting and explained that the Forum were currently reviewing and revising their terms of reference.

DH finished his update by discussing Network Rail confirming that they hadn't attended recent WCMC meetings, but would hopefully provide further updates on their ongoing studies of the SMPs in future meetings.

Resources Sub-Committee

To receive the minutes of its meeting held on 07.07.2021 and 03.08.2021.

The Chair drew attention to the item on page 6 of the August minutes relating to pipeline information for RMAs. This item was discussed briefly at Welsh Government's Programme Board, with Sarah Dafydd also providing an update in the Resources Sub-Committee where the issued had moved on considerably. The initial Programme Board paper now being superseded, following indications within the WG that slightly longer term settlements may be forthcoming, with potentially 4 years for capital funding and 3 years for revenue funding.

The Chair also explained that Local Authorities have been contacted to identify funding needs for the next 4 years, to help support the work required for the WG finance team.

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JM provided an update confirming that over the summer WG had to move very quickly in submitting a business case to treasury for these longer term allocations, for the kind of capital and revenue that was likely to be required over this term of this Government. All RMAs were asked to submit evidence and information to help form that business case, which was submitted in August.

JM confirmed that the outcome of that case is awaited, as it's being considered alongside other policy and programs by the appropriate Ministers.

Policy and Legislation Sub-Committee

To receive the Interim Report of the Sub-Committee, and the minutes of its meetings held on 24.06.2021.

JP introduced this item, by providing an update on the interim report.

He advised that the group decided to take an approach to identify three key areas that it wanted to explore in more detail, to manage the work and really focus in on the priorities. He introduced the three areas as work streams for the group:

- Annex A - Control of Flood Risk Management Assets – which also covers the issues associated with the designation of powers and riparian responsibility.
- Annex B - Roles and responsibilities – measure 1 of the National Strategy is an area which would benefit from extra scrutiny
- Annex C - Adaptation and resilience – need to look to the future in addition to now.

JP suggested that each of these three areas were discussed earlier with the Law Commission, and that it's encouraging that the sub-group has identified similar issues, and could feed into a potential revision to the Flood and Water Management Act.

Committee Work Programme

To receive the report of the Chair, and to consider the recommendation that the updated Work Programme be approved.

The Chair introduced and discussed the main changes to the document, with committee members content with the update and roll forward of the work programme.

Any other business previously notified to the Chair

The Chair advised that he hadn't been notified of any AOB items, although wanted to draw attention to the Welsh Flooding Conference which is taking place virtually on the 19th, 20th and 21st of October.

Date and venue of next meeting

Date and venue of next meeting: 27th January 2022, Coed Pella, Conwy Council, Colwyn Bay, LL29 7AZ

The Chair concluded the meeting.

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