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Summary of responses to the consultation on the draft Flood and Water Management Bill from 21 April 2009 – 24 July 2009

November 2009

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1. Introduction

1.1 Background

The draft Flood and Water Management Bill introduced a framework to help us protect ourselves better from flooding, manage water more sustainably and improve services to the public.

The draft Bill was published in draft on 21 April 2009. It opened up to full consultation via the Defra website, to allow interested parties to contribute their opinions to the development of the Bill. The consultation paper set out the policy background and rationale for the proposals and invited consultees to express their views. The consultation closed on the 24 July 2009.

This summary analyses in full all of the responses to the public consultation in England. The consultation paper included a series of questions on policy for Wales. These have been analysed separately by the Welsh Assembly Government. A summary is published at <http://wales.gov.uk/consultations/environmentandcountryside/floodwaterbill/>

1.2 Analysis methodology

We received responses in a variety of formats, both electronically and in hard copy. Some respondents answered every question directly, others just provided general comments.

The Bill Team carried out the initial logging and analysis of responses. This involved reviewing each response, assigning a sectoral category to each respondent, marking up which sections each respondent had commented on both in their direct answers and in general comments, recording any general comments which fell outside of the questions and passing them on to the policy lead's attention as appropriate for in-depth analysis.¹

The in-depth analysis involved exploring in detail the individual consultation responses and considering key comments and common views expressed by respondents within the sector groupings. The policy teams each conducted qualitative and quantitative analysis for their questions and section as a whole.

These analyses were used to inform policy development and the policy response set out in the command paper to Parliament: "Taking forward the draft Flood and Water Management Bill: the Government response to pre-legislative scrutiny and consultation" and are now published in this document.

1.3 Number and composition of consultation respondents

In total we received 642 responses to the consultation in England.

¹ As policy leads reviewed whether responses were marked up correctly this may have resulted in a discrepancy between the numbers responding to each section presented in the main graphs at the front of the document and the numbers of respondents referred to in the main text. The latter should be considered authoritative.

A number of respondents, in total or in part, supported other responses or based their response on standard text. In particular, we identified 110 similar responses, received as part of a campaign organised by the Royal Society for the Protection of Birds (RSPB). We received a further 26 identical responses using standard letters supplied by the Middle Level Commissioners and another 9 responses using standard text provided by MicroDrainage. For the purposes of this summary these three groups of responses have been considered “standard responses”.

Although there were other respondents who also had clearly collaborated in some fashion these were not easily identifiable in significant numbers and so the remaining 497 have been considered “non standard” responses. In developing policy we have taken due account of the views demonstrated by the standard responses. However, the analysis that follows focuses primarily on the non-standard responses received.

Number of non-standard responses received by sector

The following pie chart shows the number of non-standard responses that were received, categorised by sector.

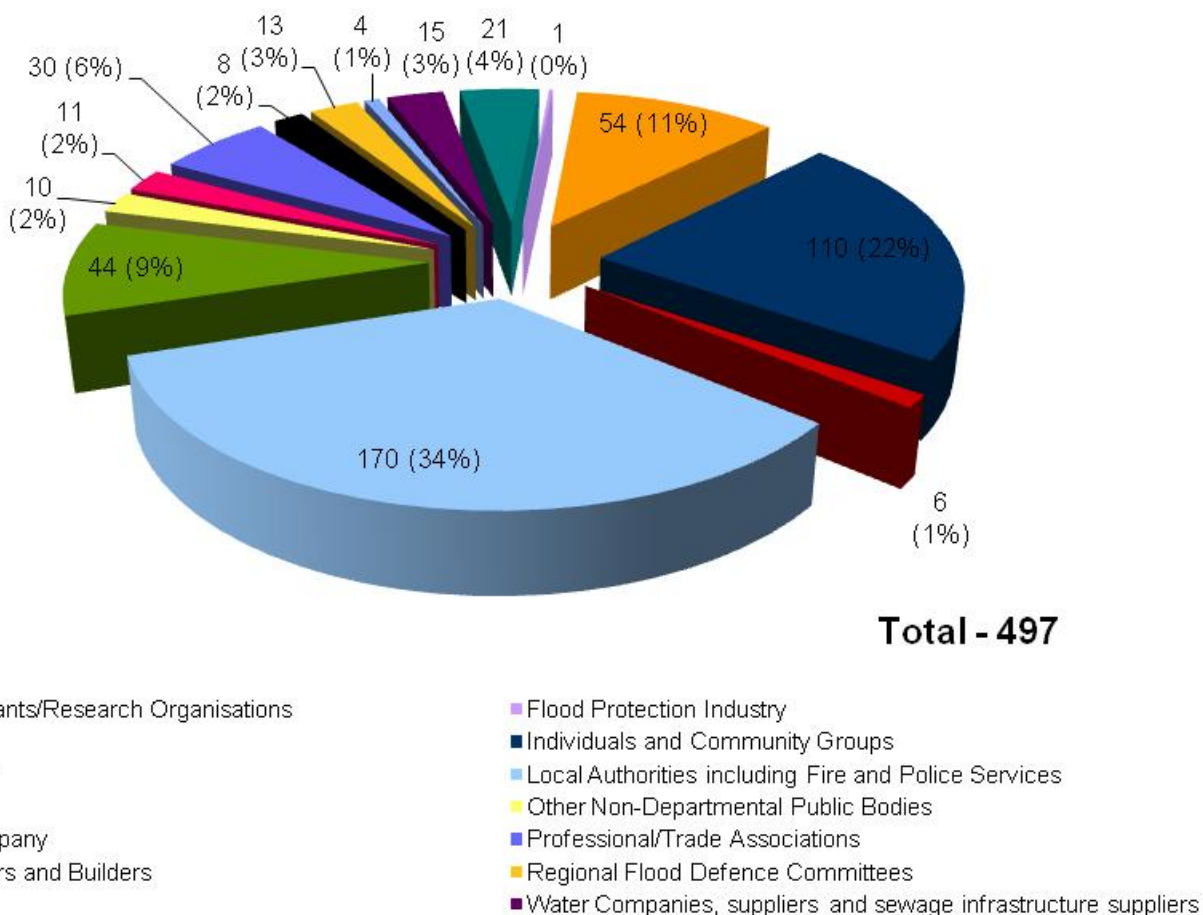


Figure 1: The pie chart shows the number of non-standard responses received, categorised by sector.

Number of standard responses received

The following pie chart shows the numbers of standard responses received.

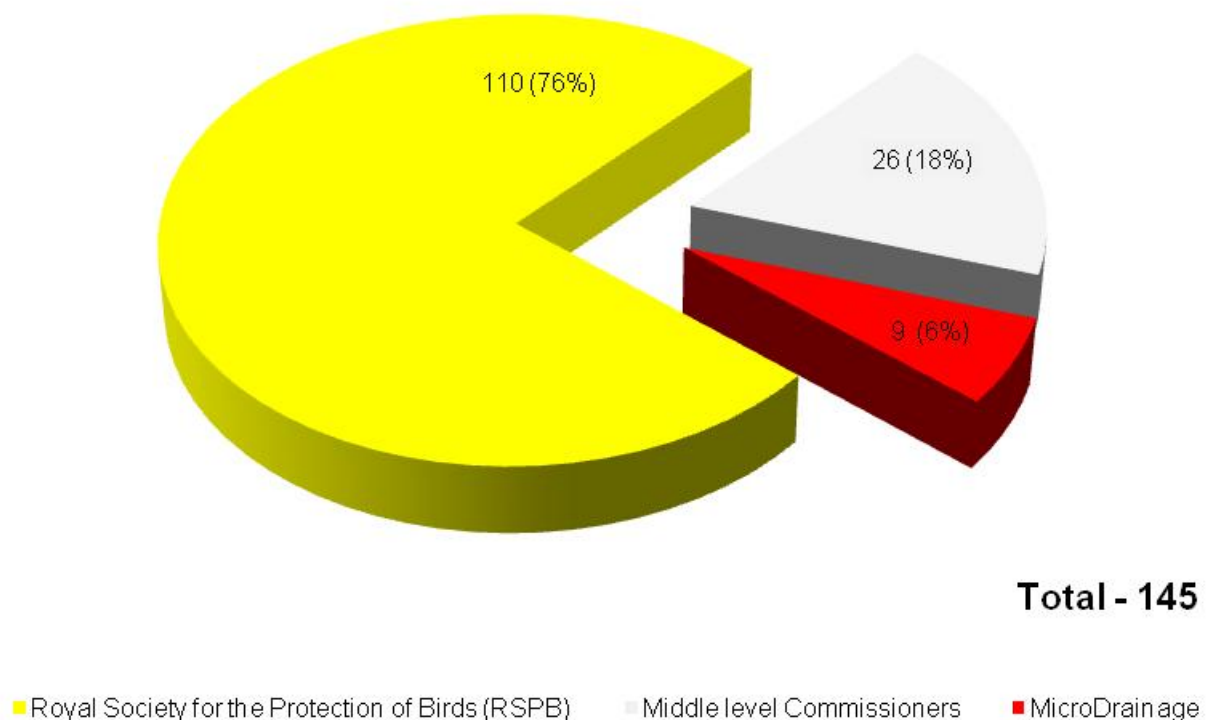


Figure 2: The pie chart shows the number of standard responses received, categorised by the initiating organisation.

Number of non-standard responses to each policy area

The following bar charts show the numbers of non-standard responses to each of the policy areas considered in the consultation paper. As most respondents addressed more than one area in their responses, the total number of respondents shown here is considerably larger than the total number of responses received.

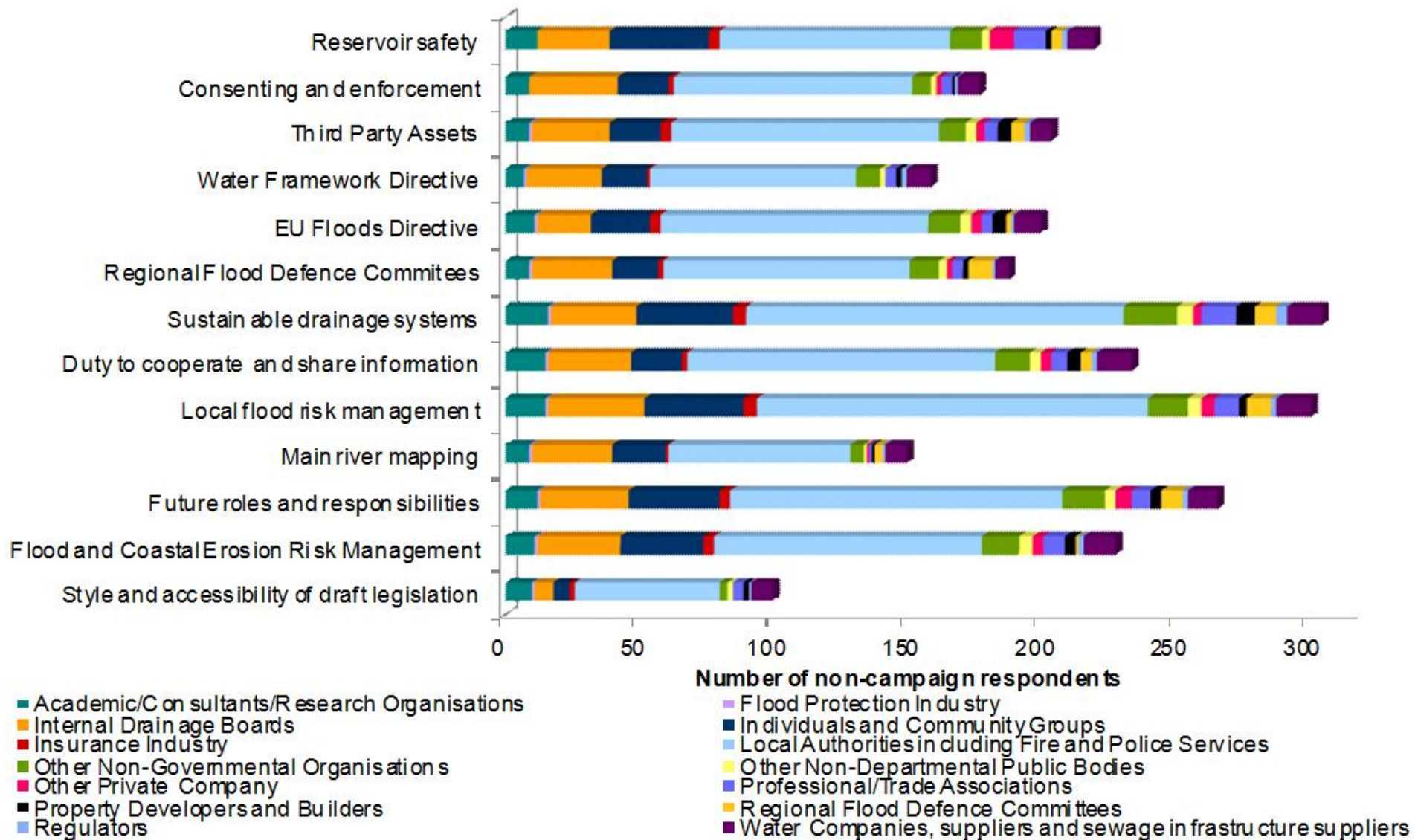


Figure 3: The bar charts represents the responses to section one and two of the consultation paper.

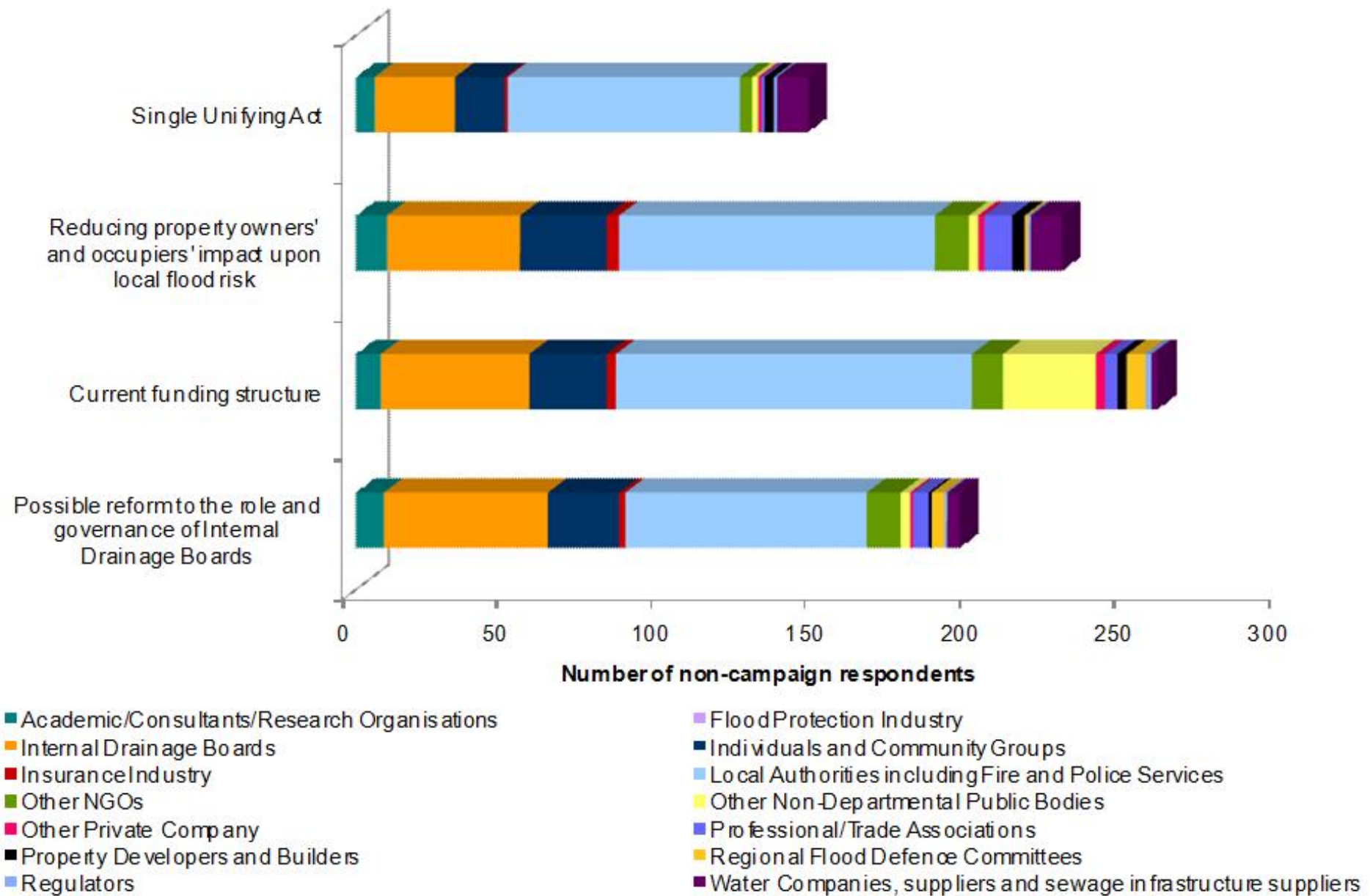
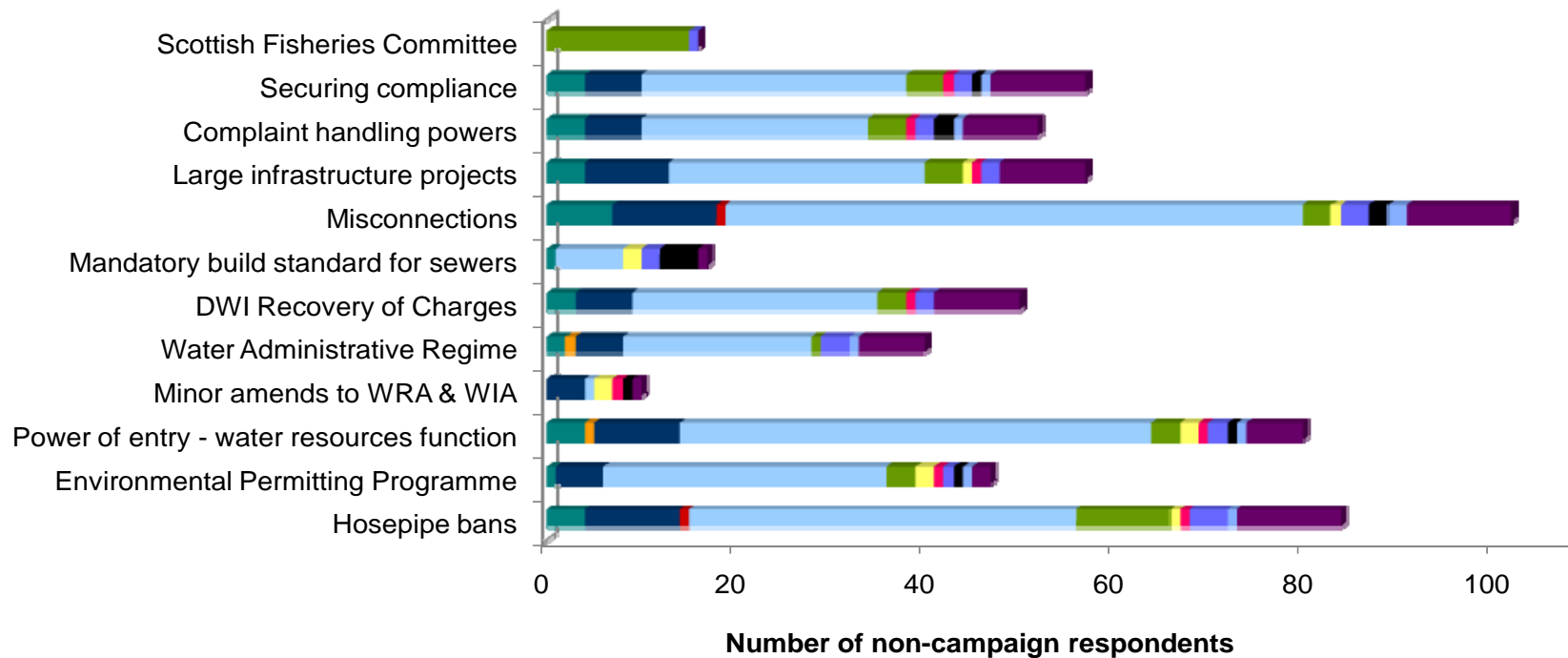
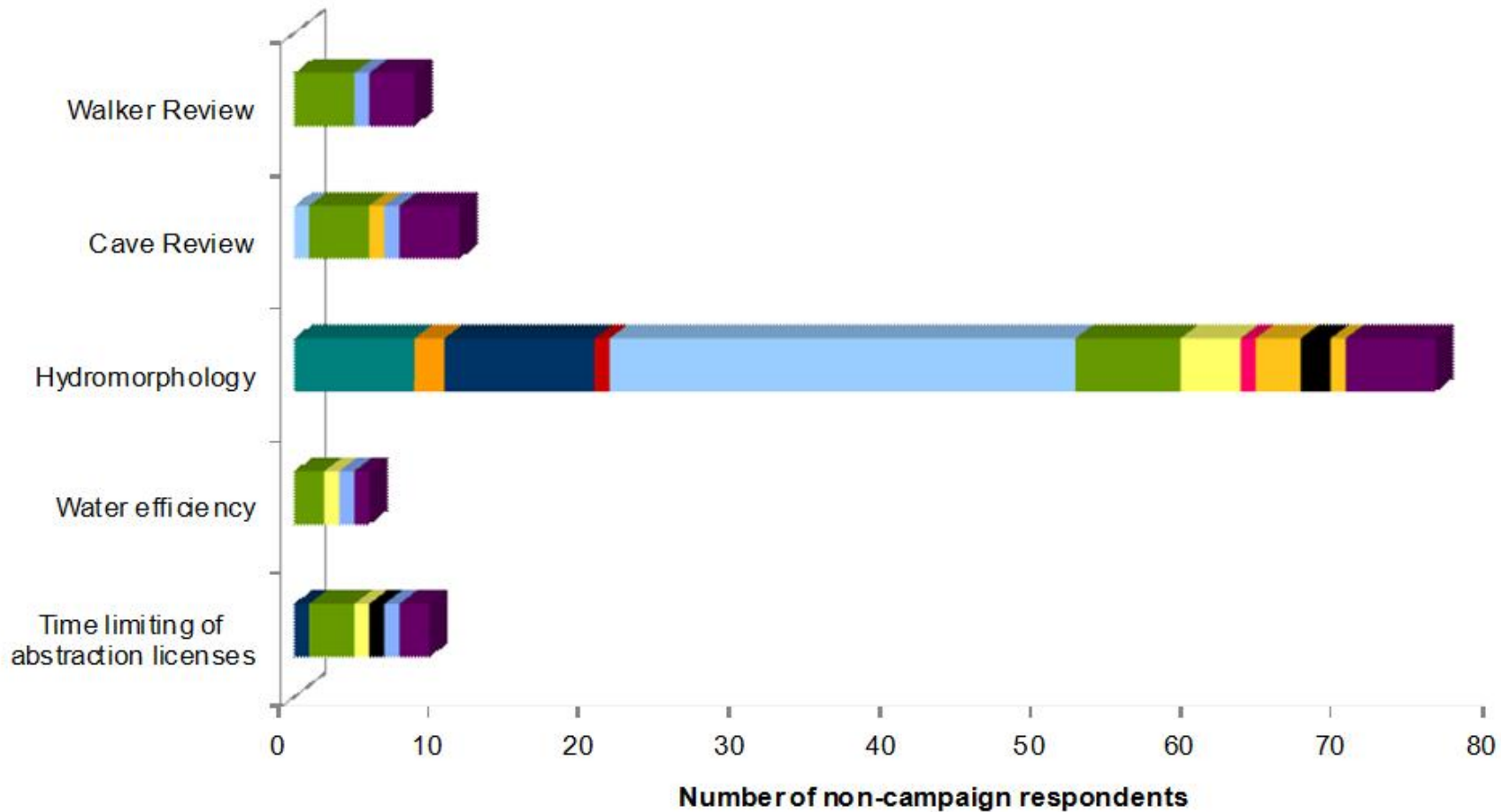


Figure 4: The bar charts represents the responses to section three of the consultation paper.



- Academic/Consultants/Research Organisations
- Internal Drainage Boards
- Insurance Industry
- Other NGOs
- Other Private Company
- Property Developers and Builders
- Flood Protection Industry
- Individuals and Community Groups
- Local Authorities including Fire and Police Services
- Other Non-Departmental Public Bodies
- Professional/Trade Associations
- Regional Flood Defence Committees

Figure 5: The bar charts represents the responses to section four of the consultation paper.



- Academic/Consultants/Research Organisations
- Internal Drainage Boards
- Insurance Industry
- Other NGOs
- Other Private Company
- Property Developers and Builders
- Regulators
- Flood Protection Industry
- Individuals and Community Groups
- Local Authorities including Fire and Police Services
- Other Non-Departmental Public Bodies
- Professional/Trade Associations
- Regional Flood Defence Committees
- Water Companies, suppliers and sewage infrastructure suppliers

Figure 6: The bar charts represents the responses to section five of the consultation paper.

2. Summary of Responses

2.1 Cross-cutting themes

Many issues raised through the public consultation refer to single policy areas in the draft Bill. However, several recommendations and responses were relevant across the draft Bill or fell outside of the specific issues consulted on.

Support for the Bill

While most respondents raised at least some concerns, they were generally welcoming of the Bill. Around 100 respondents included unprompted comments in support of the Bill's main aims. There was little outright opposition.

Length of consultation and scrutiny

Some respondents to the public consultation felt we had allowed too little time for responses on what was admittedly a wide ranging subject matter and a lengthy document.

However, both the consultation and the period allowed for EFRA's pre-legislative scrutiny were longer than the standard periods and these concerns were not borne out by the number and detail of the responses received. Furthermore, many of the policy elements of the consultation were familiar to stakeholders from previous strategy and consultation documents.

Flood Risk Reduction Targets and Long Term Investment

In response to the consultation the insurance industry called for long term legally binding targets for reducing the number of homes and businesses at different levels of flood risk. To ensure targets are met insurers also called for a long term investment strategy for flood risk management.

Flood management priorities

Some respondents to the consultation complained of a comparative lack of measures relating to coastal erosion. Others questioned the apparent absence of flooding from sewers from the draft Bill and this issue's seeming lack of importance in the Government's² eyes compared to the distressing experiences of individuals.

Some respondents felt that the Government was reacting too strongly to the experience of the 2007 floods in concentrating on surface water flooding when fluvial flooding was still the major flood risk in their eyes. Better maintenance and dredging of river channels was a common call, with some respondents feeling that maintenance had suffered since the Environment Agency had taken on responsibility for critical ordinary watercourses in recent years.

Prevention and Resilience

Many respondents to the consultation complained that the Government's policy on increasing housing development, especially on brownfield sites, is inconsistent with avoiding development in flood plains and increasing exposure to flood risk.

² In this document "the Government" means the UK Government in respect of England

The insurance industry welcomed Planning Policy Statement 25 believing it has strengthened the planning guidance that preceded it. However, they also believed that it could be strengthened further and should be applied more rigorously, and where developments are built in flood plains they need to be adequately defended.

Flood Response

i. Who to contact

The National Flood Forum consultation response called for a single point of contact on all flood related matters - something like a 'one stop shop for flooding' – to address the frequent complaint that flood victims find they have to make many telephone calls before an organisation will own a problem.

ii. National publicity campaign

Both the National Flood Forum and the Insurance Industry called for increased awareness raising, possibly through a national campaign to inform the public about the new roles and responsibilities of flood authorities and educating people to protect themselves against the risk of flooding.

iii. Emergency Plans

The Environment Agency was keen that local authorities should oversee emergency evacuation planning for vulnerable sites. They proposed that vulnerable sites should be designated as needing a flood evacuation plan, with a statutory duty on the site's operator to prepare, communicate and action the plan. Similarly, the National Flood Forum wanted to see provisions within local flood risk management strategies to review local emergency plans.

iv. Flood Warnings

The National Flood Forum felt that flood warnings should be related to specific communities, not river lengths. They also said that warnings should specify the water levels likely to be reached, related to known local property floor levels, and that the Environment Agency should map these floor levels where the information does not already exist.

v. Role of the Emergency Services

Responses from the emergency services and employee organisations sought greater clarity on their role. The Fire Brigades Union response suggested it is a mistake for the Government to delay implementing the statutory duty on fire and rescue authorities to respond to flood incidents. The Union supported a specific duty to respond and for the service to play a wider role in flood management.

vi. Flood Wardens

The National Flood Forum felt that local flood risk management strategies should encourage the introduction of local flood warden schemes, and that the Bill should therefore require the Environment Agency to develop a national framework for flood warden schemes within the national strategy. Such schemes should include appropriate training, leading to a recognised qualification.

Surface Water Drainage Charges

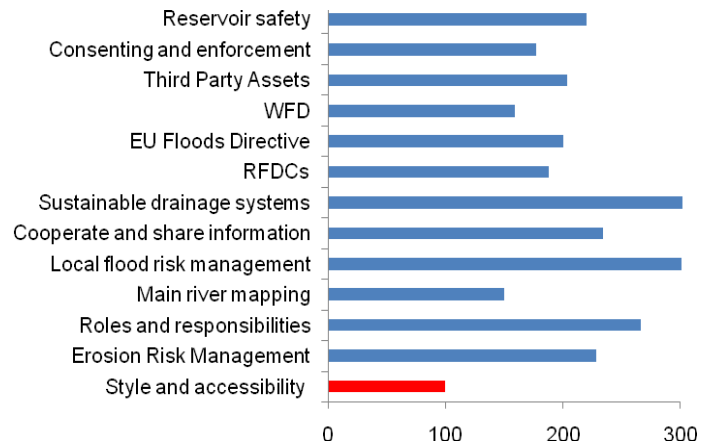
Although not covered in the draft Bill consultation document, unaffordable rises in surface water drainage charges were mentioned by a number of respondents.

3. Key conclusions by policy area

3.1 Style and accessibility of the draft legislation

100 responses were received to this section. The majority of the respondents were local authorities or internal drainage boards. Around two thirds of respondents thought the drafting style was clear.

There were varying degrees of enthusiasm expressed in the responses, but less than ten per cent were critical, and their concerns did not always appear to relate to the drafting of the Bill.



Approximately half of the responses were positive about the length and order of the clauses and the structure of the sentences, with the remaining half providing neutral or no response to the question.

The Law Reform Committee of the Bar Council, commented that the modern drafting style and plain language, was successful at avoiding archaic and potentially ambiguous words. This comment was supported by other respondents. However, others thought that, for example, the use of “thing” and “thinks” may have detracted from the weight and authority of the language. The Chartered institution of Water and Environmental Management commented that in some instances, clarity of detail may have been compromised by brevity.

There was also considerable support for listing key definitions at the front of the Bill and Parts and the use of overview clauses demonstrated in the draft Bill.

Readers of the draft legislation expressed difficulty in understanding legislation by reference. To eliminate this issue a number of consultees asked for a Single Unifying Act or Keeling Schedule, which shows significant amendments to previous legislation. They felt this would help to reduce the difficulty of absorbing referential legislation, as it contains the provisions of the earlier legislation and shows the effect of the amendments in the subsequent amending legislation.

3.2 New approaches to flood and coastal erosion risk management

Question 8: Are you content with the definitions of “risk” and “risk management” in the draft Bill?

146 responses were received to this question. Around two-thirds of responses were either not supportive or neutral. The highest level of concern came from individuals, community groups and internal drainage boards.

In particular, the Association of Drainage Authorities considered that

the definition of risk was “both confusing and very unclear and fails to match the normal definitions used within the flood risk management community”. Natural England felt that the drafting of the definitions for “risk” and “risk management” had unintentionally introduced constraints on the activities of flood authorities. Potential beneficial consequences were omitted from the definition, meaning flooding to benefit natural habitats etc., would not be considered.

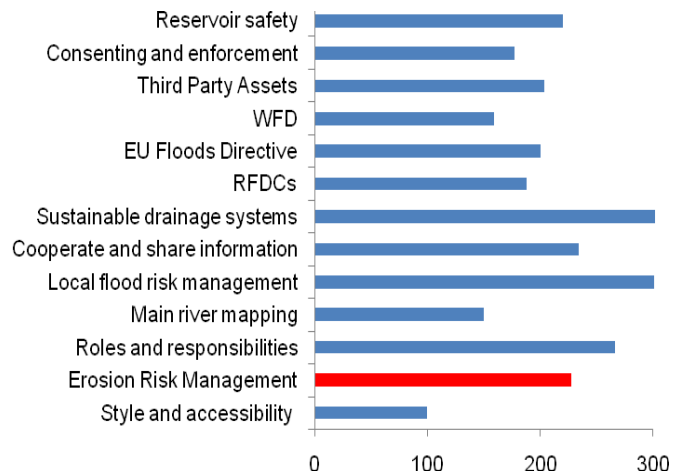
Other respondents noted the potential confusion between the concepts of “risk” and “hazard” and that the definition should be consistent with the European Floods Directive (Article 2(1)). Others felt that the definition of “risk management” should be more inclusive of risk minimisation techniques such as the pro-active management of river and land drainage systems as a whole.

Some respondents also addressed other definitions within or outside of the draft Bill. The Association of Drainage Authorities considered that the definition of flooding was flawed as “it does not include waterlogging or saturation of soils within 600mm of the ground surface”. They suggested the definition should reflect more the close management of water levels in watercourses or underground (groundwater). The National Farmers Union’s response also highlighted that waterlogging should be included in the definition of a flood rather than just land “covered by water”.

The Chartered Institution of Water and Environmental Management asked for a clear definition of the terms “natural processes”, “land management” and “resilience”.

Question 9: Are you content that the draft Bill should enable a wider range of approaches to managing flood and coastal erosion risk than is currently allowed under existing legislation, such as resilience, and that it should be sufficiently flexible to accommodate new approaches which may be developed in future?

261 responses were received of which the vast majority supported enabling a wider, more flexible approach to flood and coastal erosion risk management. These included the large number of responses which came from members of the public as a result of a RSPB campaign. They called for the Bill to require soft engineering techniques to be considered by flood and coastal erosion risk management planners and also to give flood management authorities the



power to carry out environmental works for creating wetland habitats, restoring river channels, re-aligning sea defences and removing weirs.

Natural England, the National Trust, and other non-government organisations had similar views, and suggested we should go further in the Bill to ensure (and not just enable) a wide range of approaches. Natural England commented that there should be an explicit duty for sustainable flood risk management.

Internal drainage boards suggested that local authorities in particular should be encouraged to use a wide range of approaches through a clear direction in the Bill enabling them to act, rather than powers enabling them not to act. The Environment Agency commented that “Legislation should do more than ‘enable’. It should be the driver for actively promoting alternatives such as resistance and resilience”. A local authority commented that it was essential to provide clarity within the Bill and Planning Policy Statement 25 about when resilience is suitable over resistance.

While support was strong for the wider range of approaches, some, such as the Middle Level Commissioners, responded by saying that the primary aim should be to protect people and property (as opposed to more environmental considerations). Other internal drainage boards commented that they support the use of a wide range of approaches as long as they are in addition to, but do not replace, the traditional approaches of defence, drainage and protection. The Central Association of Agricultural Valuers, and others, asked that the Bill should include provision for full compensation for those whose property or business is affected by any new measures.

A local authority commented:

“Clearly from the householder’s perspective resilience solutions to managing flood risk may not be considered appropriate. Such proposals need to be carefully managed both in terms of educating the general public and making the decision making process transparent. The grant scheme initiative to provide property resistance and resilience measures was welcomed. However the scheme needs to be adequately funded to match the demand”.

A county council, and others, commented that “the term ‘resilience’ should not refer to just households but should refer to the community and community buildings more generally”.

Question 10: Does the approach in the draft Bill to flood and coastal erosion risk management adequately cover adaptation?

129 responses were received to this question of which two thirds were supportive including most local authorities and all internal drainage boards. However, only a quarter of non-government organisation responses were supportive.

The RSPB recommended that adaptation should be made a specific objective of national and local strategies. Natural England and others wanted to see a specific reference to climate change adaptation in the Bill.

Question 11: Does the proposed approach to flood and erosion risk management:

- **Facilitate and encourage authorities to make effective links between land management and flooding and erosion?**
- **Enable and encourage authorities to play an appropriate role in the delivery of wider multiple objective projects through the use of their flood and erosion management functions, including projects that are specifically required to achieve environmental, cultural and social outcomes?**

131 responses were received to this question of which two-thirds were supportive.

However, many internal drainage boards felt that not enough emphasis had been placed on existing good land management practices. Other responses supported the proposed approach but noted that the fundamental objective should always be to protect people and property.

A local authority noted that the Bill enabled effective links to be made but did not actively encourage them. A regional flood defence committee commented that there needed to be stronger links to the town and country planning system to ensure that all authorities are encouraged to make effective links between land management and flooding and erosion.

A county council felt that the links between land management and flooding were already well known but that the Bill did not give lead local flood authorities any powers to tackle this significant issue, which affects the scale of flooding, should farmers and other land owners fail to take action voluntarily.

The RSPB wanted to see land management change as part of the range of activities that could be done as a flood management measure. The Environment Agency commented that “local authorities should have new powers to create run-off reduction zones in which they can introduce restrictions on land management practices for particular portions of land.”

The National Trust identified that there should be a duty placed on operating authorities to consider wider multi-objective projects. Other non-government organisations noted that an opportunity to integrate flood management objectives with Water Framework Directive objectives was being missed. A county council noted conflicts between flood defence and environmental enhancement and sought clarification on how these issues should be prioritised.

Question 12: Are there any approaches to flood and coastal erosion risk management which should be adopted but which the draft Bill would not allow?

116 responses were received to this question.

Many responses cited examples of schemes not explicitly mentioned in the Bill such as retrofitting sustainable drainage systems (SUDS) or developer-contribution led schemes, but equally not excluded by the Bill. Others required more emphasis on resilience and resistance measures (including retrofitting) or action by private owners.

A local authority identified that the lead local flood authority should have sole power for ordinary watercourses flooding in its area and that Clause 42 suggested conflict where these powers were also assigned to district councils.

A number of respondents were very concerned about the exclusion of sewer flooding from the Bill.

The Chartered Institution of Water and Environmental Management noted that the draft Bill was silent on the role of strategic planning (linked to Planning Policy Statement 25) and the relocation of properties to more sustainable locations. A county council suggested the need for an approach of managed abandonment for properties continually flooded (similar to managed retreat on the coast). Others identified the need for an ability to buy-out properties continually being flooded.

Coastal authorities identified that the consultation paper did not draw sufficient distinction between the risks from flooding and coastal erosion and that the draft Bill did not expand on erosion risk management measures other than coastal defences. Internal drainage board respondents identified that Clause 36 would prevent an internal drainage board from undertaking works to manage flood risk from the sea.

The RSPB was concerned that “the permissive nature of the provisions means that many planners and engineers will simply not consider integrated and more sustainable flood management schemes.”

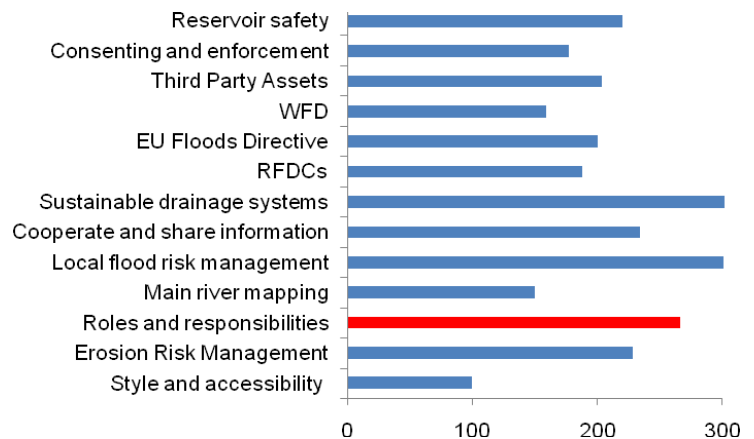
Question 13: Should all operating authorities be required to contribute to sustainable development objectives when carrying out flood and coastal erosion risk management?

267 responses were received to this question of which the overwhelming majority were supportive including all of the key stakeholders that responded to this question. However, many respondents requested a clearer definition of sustainable development and roles and responsibilities.

3.3 Future roles and responsibilities

Question 14: Are the component parts of the Environment Agency strategic overview clear and correct and do they achieve the objectives?

Most respondents agreed that the Environment Agency strategic overview was clear and correct and that the component parts meet their objectives. Some respondents, however, felt that the overall aim of the Government’s plan had been “downgraded” from flood prevention to flood management.



The Association of British Insurers agreed with the proposed functions for the Environment Agency, and felt that the Agency are the best placed organisation to take the national leadership role. The National Flood Forum supported the proposal, but suggested that the Bill should more clearly specify the outputs by the Environment Agency.

Other respondents, particularly county councils, felt that there was a risk of certain types of flooding being given less importance than others. These respondents were keen to highlight that all flood types should be given the same level of importance. There was a general consensus throughout the responses that although the Environment Agency had a clear strategic overview, there was still room for improvement, with some mentioning an increased input from local authorities and other sources.

Question 15: If not, what further changes should be made?

Requests for greater clarity and accountability were prominent in various respondents’ comments. The issue of reducing flood risk as opposed to managing it was highlighted by several respondents. Some local authorities felt that that the Environment Agency need to pay more attention to the maintenance and dredging of main rivers, but on the whole widely held views did not emerge from particular types of respondent. Most expressed individual issues (normally on a local level) that were specific to their own experience of the Environment Agency.

For example, one county council suggested the establishment of an independent body to overview the Environment Agency’s roles and responsibilities while another local authority was concerned that the Agency could take a particularly high level approach and this could lead to misinformation at local levels. One unitary council wanted the Environment Agency to produce a layer of the flood zone map taking into consideration up-to-date climate change models and the effect they will have on UK flood scenarios. The Association of British Insurers also felt that the Environment Agency should be publishing maps showing the flood risk from all sources and the plans for reducing this risk.

Question 16: Do you have any comments on the proposal that the Environment Agency issues a National Strategy for flood and coastal erosion risk management with which all

operating authorities will be required to act consistently when delivering their flood and coastal erosion risk management functions?

There appeared to be some surprise that this measure was not already in force. Many respondents felt that a national strategy was needed to ensure a cohesive response to flood risk.

However, although a national strategy was generally felt to be a good thing, most respondents still felt that local level strategies also had their place in the system and should not be overlooked.

The National Farmers Union agreed that a national strategy should be published and that operating authorities should be required to act consistently with it, subject to that strategy being consulted on and the views of consultees being given genuine consideration. However, they did request a provision which would allow local authorities to depart from the national strategy in exceptional cases.

The Environment Agency welcomed their potential new role. However, they did add that Government may wish to provide more clarity on what the National Strategy will contain, and how it will be consulted on and applied.

Question 17: Do you have any comments on the proposal that other bodies would have to have regard to the Environment Agency's National Strategy and guidance? Do you consider that any other bodies should be added to the list in clause 23? In particular, how should the sewerage industry is brought into the new framework?

The most popular suggestions for additions to clause 23 were:

- The Highways Agency;
- water companies responsible for sewerage; and
- internal drainage boards.

Although many did not give specific examples of who they felt should be included in clause 23, many did comment that the list should be wide ranging and comprehensive as all interested parties have a role to play.

Many respondents felt that the sewerage industry at present was not taking an appropriate amount of responsibility and suggested that regulations need to be tightened. However, ideas on how to do this were not as numerous.

Many local authorities suggested that water companies should be required to provide all data, information and modelling results to the Environment Agency and local authorities to inform their flood risk management strategies. One suggested that water companies should be statutory consultees in areas of known surface water flooding problems.

The National Farmers Union, in common with a number of respondents, stated that flooding from sewerage systems due to system failure and lack of maintenance is an issue. The damage and distress caused is no less significant simply because the problem is localised rather than systemic.

Question 18: Do you think that the Environment Agency should be required to consult as part of preparing or publishing its strategy?

Respondents overwhelmingly agreed that the Environment Agency should be required to consult. Several respondents asked that the consultations be as wide as possible.

The view of the Coastal Group chairmen was that clause 17 should say that the Environment Agency “must” issue guidance about the application of this strategy, rather than a discretionary “may”. Similarly, the frequency of reporting on the strategy under clause 18 should be defined rather than left open.

The Environment Agency stated that they consulted externally on both the 2003 and 2009 Flood Risk Management Strategies and would continue to do this in the future with or without a statutory requirement.

Question 19: Should the Environment Agency have a regulatory role in relation to coastal erosion risk management, in particular for consenting and enforcement as set out in paragraphs 103-105? What alternative arrangements might be preferable?

Two-thirds of the comparatively small number of responses to this question broadly supported (this includes the regional flood defence committee chairmen and the Environment Agency) such a regulatory role for the Agency and only around ten per cent were against.

Those supporting it felt it was sensible to have a single unified department dealing with all aspects. However, those who disagreed either felt that it was Environment Agency would have and would effectively be regulating itself, or that they lacked sufficient expertise to be able to do the job well.

Question 20: Should the Secretary of State have the power to direct the Environment Agency to undertake local flood risk management work in default of local authorities, and recover reasonable costs?

Most respondents supported the proposal. However, most also believed that these powers should only be used in extreme circumstances and within stated guidelines. Most also felt that an enquiry would be the best way to decide whether to involve the Secretary of State.

Internal drainage boards generally supported the proposal, as long as there were safeguards in place to ensure the Secretary of State’s powers did not detract from local ones. The majority of local authorities also supported the idea, but within carefully defined guidelines.

Question 21: Should the Environment Agency be able to undertake coastal erosion risk management works concurrently with local authorities where appropriate to support the delivery of the strategic overview role?

Very few respondents opposed this idea. Some, in particular several internal drainage boards, did have concerns about the effects on public understanding of who is in charge of the works and an overall lack of clarity. Natural England supported the idea and believed that this proposal will help better management of the coast.

The regional flood defence committee chairmen felt that the Environment Agency should be able to undertake coastal erosion risk management works where appropriate. It would be consistent with extending the remit of levy expenditure, but could also be essential where work was necessary to ensure the delivery of the national strategy but where, for local reasons, the local authority was unwilling or unable to deliver.

Question 22: The Environment Agency is drawing up a coastal map showing which operating authority will exercise flood and coastal erosion risk management powers on each length of coast. Should the Environment Agency maintain this and should the procedure for amending the map be the same as for main river maps, or should it be a non-statutory process?

Relatively few respondents answered this question, and again, very few respondents were opposed to this idea. Of those who did answer supporting the Environment Agency's role, the majority supported making the process statutory, although one significant exception was Natural England.

3.4 Main river mapping

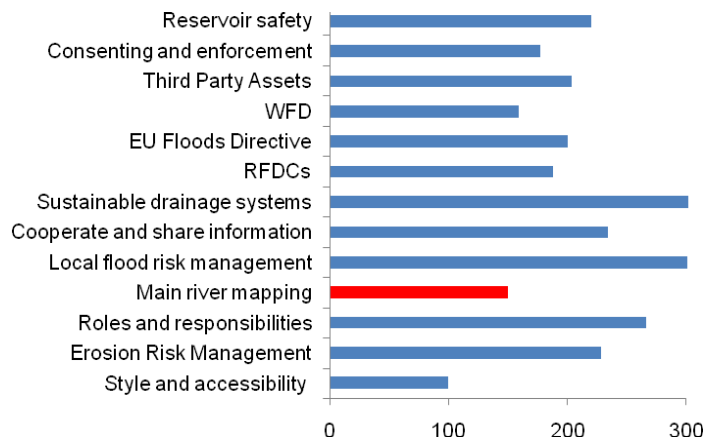
Question 23: Do you have any comments on the proposed changes to main river maps as set out above [in the original consultation document]?

Most respondents were in favour of the proposal to place a duty on the Environment Agency to maintain the main river map and provide reasonable facilities to inspect it. Many suggested that the maps should be readily available to the public by incorporating them into existing online flood maps.

Some local authorities commented that lead local flood authorities should be consulted before revisions to main river maps are made. Local authorities also suggested that lead local flood authorities should also be able to request a change to the main river map. Similarly, internal drainage boards raised concerns about whether there will be any restriction on who is able to refer a proposed alteration to the Minister.

It was suggested that groundwater “winterbournes” that impact groundwater flooding should also be mapped.

One local authority felt there should be independent scrutiny to ensure the geographical data held is accurate. One water company³ asked that the Environment Agency be under a duty to publish the Main River Map as a freely available Geographic Information System (GIS) dataset (not just as a paper map or electronic copy).

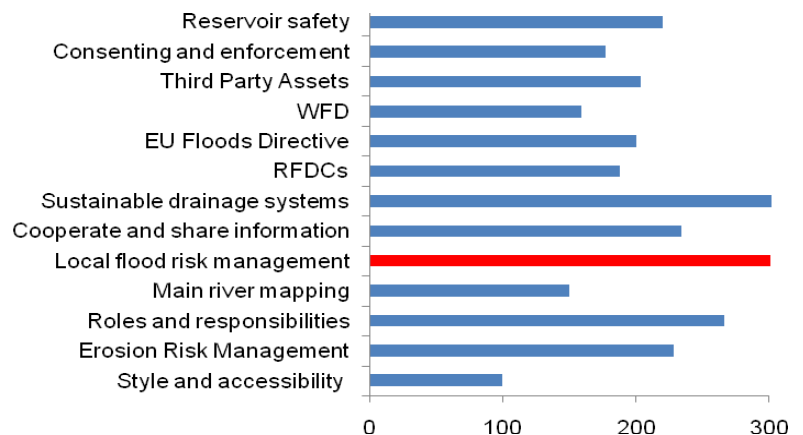


³ Water company in general refers to a water and sewerage company

3.5 Local flood and risk management

Question 24: The Government’s response to Sir Michael Pitt’s Review accepted that county and unitary local authorities should have the local leadership role. Does the draft Bill implement this effectively and support the development of effective local flood management partnerships?

290 responses included comments on this question. The majority (around eighty per cent) either agreed that the Bill implemented Sir Michael Pitt’s Review recommendation effectively or agreed but with caveats.



There was widespread support for counties and unitary authorities taking on a lead role for local flood risk management.

The main and most common issues raised related to local authorities not currently having the skills or capacity to take on the new role and that funding and resources to do this were insufficient in the proposals made. The Local Government Association contested the funding assumptions made and said much more work needs to be done to assess the full costs of the Bill proposals and any related savings for local authorities.

District councils wanted the Bill to be clearer on how the partnerships were supposed to work and on the need to allow for local flexibility in implementation. District councils also wanted the impacts on their existing flood risk activities to be clearer. Internal drainage boards wanted their future supervision to remain with the Environment Agency and felt that the new leadership role envisaged for county and unitary authorities should largely be one of co-ordination.

Some groups including internal drainage boards and local authorities requested more clarity on how liaison across catchments would work in practice. Regional flood defence committees and water companies in particular expressed concerns that a lead role for local authorities would not necessarily simplify the arrangements for tackling all forms of flooding.

There was consensus on the need for both capacity building within the lead local flood authorities and adequate resourcing to enable them to take on the new role. The insurance industry had some concerns that with the expanded role proposed for county, district and unitary authorities, many may not have the expertise required to carry out the proposed new roles and felt that this could lead to a fall in standards.

Fire and police authorities pointed to a need for links to be made to contingency and emergency roles. A number of respondents stressed the importance of getting the right range of powers to support the role.

Question 25: Do you have any comments on the proposal that the county and unitary authorities will develop a strategy for local flood risk management and that district local authorities and internal drainage boards would be required to act in a manner which is

consistent with that strategy in delivering their flood and coastal erosion risk management functions?

There was large majority support for the lead local flood authorities to develop a strategy for local flood risk management in its area.

There were a few reservations as to whether all relevant authorities should have to act consistently with the strategy. However, there was a common call that there needed to be more clarity on what a strategy would look like and how it might be implemented.

The importance of constructive partnership working supported by good communications and clarity in roles was the most common issue raised. Some regional flood defence committees expressed a view that the Environment Agency should have a stronger input into the overall scrutiny of local strategies and wanted them to have a co-ordinating role.

As with Question 24, skills, capacity and funding for partners to fulfil their roles effectively was a common caveat to support and again a number of respondents wanted to be clearer on how the strategies would work across catchments. Water companies and Ofwat were concerned that requirements for consistency with strategies should not automatically commit water companies to funding works that did not meet their existing criteria.

Question 26: Do you have any comments on the proposal that other bodies would have to have regard to the local flood risk management strategy and guidance? Do you consider that any other bodies should be added to the list?

Many respondents suggested other bodies that should be added to the list, with the water companies, Environment Agency, internal drainage boards, private landowners and the Highways Agency being suggested frequently. Many respondents suggested the list should encompass all bodies; this suggestion was heavily backed by internal drainage boards.

Some water companies suggested that the partners and stakeholders identified in the Living Draft Surface Water Management Plan Guidance (Defra Feb 2009), <http://www.defra.gov.uk/environment/flooding/manage/surfacewater/plans.htm> could be used to form the basis of a more comprehensive list.

Question 27: Do you think that the county and unitary local authorities should be required to consult the public as part of preparing or publishing their strategy?

Over ninety per cent of respondents were in favour of a requirement on lead local flood authorities to consult the public as part of preparing their strategies. A significant number also felt that the consultation process should be proportionate and that biennial reporting was preferred to annual. A small number thought public consultation unnecessary and likely to delay a strategy's development.

Question 28: Further to its duty to investigate flooding incidents, should the county or unitary local authority have powers to carry out works of an emergency nature? If so, what powers would be needed?

A high proportion of respondents supported this proposal. Around half of responses to this question came from local authorities.

The main issue raised in response was not whether lead local flood authorities needed new powers, but what those powers should be and how they should work in practice. The needs most commonly identified were for a power of entry and a power to carry out emergency works where a third party asset owner is unable or unwilling to do so. A power to require landowners and individuals to remedy problems was also suggested. Lead local flood authorities were also keen for a power to recover costs in the former instance

Powers could be given in a number of ways. There was a strong call for lead local flood authorities to be given the same powers that district councils and internal drainage boards already have under existing legislation such as the Land Drainage Act 1991. Some internal drainage boards and district councils questioned the current skills and capacity of lead local flood authorities to investigate flooding incidents and called for powers to be delegated to themselves.

Regulators and water companies suggested that careful consideration be given to the relationship between those powers already vested in existing flood defence and drainage organisations (Environment Agency for main rivers and sea flooding, Highways Agency for trunk roads, and water companies for public sewers) and any that may be given to the lead local flood authorities.

Question 29: Do you think that the Environment Agency and county and unitary local authorities should be able to gather information from private landowners and individuals about flood drainage assets related to their respective responsibilities? What, if any, sanction is needed to ensure information is provided?

There was a very strong consensus across all stakeholder groups that the Environment Agency and the lead local flood authority should be able to gather information from private landowners/individuals about flood drainage assets. A variety of sanctions were suggested including recovery of costs, a financial penalty (generally undefined) or a criminal offence.

Several respondents stressed that the requirement to provide information should be reasonable and proportionate and that a request for information should have a reasonable time limit. Others suggested that any request for information should come with help on how to provide the information as some landowners and individuals may not understand what information is required and why it is needed. Concerns were also raised that if both the Environment Agency and lead local flood authority had these powers there would be a danger that requests for information could be duplicated.

An alternative view which was less common was that sanctions were a last resort and it is more beneficial to encourage co-operation by offering assistance and advice.

Question 30: Should county and unitary local authorities be legally required to produce reports on the way that they are managing local flood risk? Should this requirement be annual?

Around eighty per cent of respondents supported the lead local flood authority producing reports but varied across and within stakeholder groups over how frequent they should be.

The main reasons for support were that it adds transparency and accountability to the strategy and its delivery, and that it allows the public to be aware of what is being proposed and what actions are being taken. It was also felt to be good discipline to report on a regular basis.

Comments reflected the proposal's lack of clarity on the level of detail and the purpose of the report and some respondents therefore felt unable to judge whether the reports should be annual or not. There were widely held concerns that annual reporting would be very burdensome to lead local flood authorities and a range of alternative time periods were suggested, from two to five years.

Some local authorities suggested that the timing of reports should be linked to other reporting timetables such as linking with overview and scrutiny arrangements. It was suggested by some that reporting could be directly linked to National Indicator 189 and another suggestion was that lead local flood authority reporting could be covered in a similar way to Environment Agency reporting under draft clause 18(2).

Some lead local flood authorities even questioned whether they were the right organisation to complete the report, suggesting the Agency instead to link more closely with the national strategy. Another suggestion was that the partnership should produce the report as all stakeholders should be actively engaged. It was also suggested that it should be up to the partnership groups to decide the frequency of reporting with perhaps higher risk areas reporting on a more regular basis.

Question 31: Should the Environment Agency provide support and advice to the local overview and scrutiny functions as part of the exercise of its strategic overview role?

The vast majority of the 167 respondents to this question were in broad agreement that the Environment Agency should provide support and advice to the local overview and scrutiny functions as part of their strategic overview role. The most notable exception was the Environment Agency itself.

The main reasons for agreeing with the role of Environment Agency providing support and advice to the local overview and scrutiny functions as part of the exercise of its strategic overview included:

- local authorities generally have yet to develop sufficient flood management skills;
- the Environment Agency has this expertise and knowledge;
- it would encourage interaction between the Environment Agency and other partners;
- it would lead to national consistency;
- the Environment Agency works on catchment rather than political boundaries;
- it would lead to strong links with the national strategy and the Environment Agency's strategic overview.

However, it was noted by some that the Environment Agency need to be resourced adequately to ensure there are sufficient trained staff to carry out the role.

In contrast, the Environment Agency felt that as county and unitary authorities would have the leadership role for local flood risk management and delivery responsibilities, executive decisions and oversight should be provided by their own local overview and scrutiny functions. The Environment Agency saw its role as one of providing guidance and advice at a local level, but leaving decisions to the ultimate responsibility of the lead local authority.

Some individual internal drainage boards and local authorities agreed with this view. Other respondents suggested that regional flood defence committees have a role to make the link between the national strategy and local flood risk management to ensure a consistency of approach.

Some respondents wished to understand the Environment Agency role more fully before commenting fully.

Question 32: Should the list of bodies required to co-operate with overview and scrutiny committees be extended to encompass all relevant authorities and as a result pick up internal drainage boards and water companies?

Again around ninety per cent of the 147 responses received were in agreement with the question. Only one district council and two water companies felt the list should not be extended proving there to be a consensus of support across stakeholder groups to extending the list. Internal drainage boards in particular were keen to be involved with overview and scrutiny committees.

The Environment Agency, though, commented that internal drainage boards and water companies would already be covered by the broader co-operation and information sharing provisions of clauses 24-26. Whilst two water companies were not keen to have a specific involvement, others said that they already participate with overview and scrutiny committees. One asked that the potential cost involved should be recognised by Ofwat when setting price limits.

Question 33: Should regional flood and coastal committees (or another body) be involved in peer reviewing any annual reports produced by local authorities?

About sixty per cent of the 123 responses agreed that regional flood and coastal committees should be involved in peer reviewing any annual reports produced by local authorities.

Many of those agreeing with the question did so without comment. The main reasons for supporting this approach were that regional flood and coastal committees were well placed to carry out this work, it would enable an overview across local authority boundaries and it would enable improved consistency.

Those who disagreed with this approach came mainly from the local authority sector. Some felt that if the Environment Agency had inputted to the overview and scrutiny role and the reports are developed within the local flood risk partnership then a further regional flood and coastal committee check was excessive. Other respondents could not see what benefits the proposal would have; feeling that clear guidance and an established format would be enough to ensure decent annual reports.

The Environment Agency also supported the regional flood and coastal committees' role of peer reviewing reports produced by local authorities. Other respondents mentioned that regional flood and coastal committees did not need a formal role but could advise on good practice. An alternative proposal was that organisations such as internal drainage boards, water companies and district councils should be invited to sit on the committee to provide the wider perspective

needed to peer review the reports; as regional flood and coastal committees currently focus on main river and coastal flooding.

Regional flood and coastal committees themselves were generally supportive of the potential role and many felt that they were well placed to deliver this as part of the Environment Agency's strategic overview role. However, one felt that this would create another level of unnecessary bureaucracy whilst another preferred a partnership based approach. Yet another regional flood defence committee suggested that only a sample be peer reviewed.

Question 34: Should district local authorities and internal drainage boards continue to manage flood risk from ordinary watercourses, taking account of Local and National Strategies?

Around ninety per cent of respondents supported the proposal due to the local knowledge that the local authorities and internal drainage boards have of their local area.

A few internal drainage boards felt that leaving out the Environment Agency was a mistake and that it went against the general theme of Sir Michael Pitt's Review, in that it made the process more complicated. Local authorities also argued that in areas where there are no internal drainage boards, this role should lie with the lead local flood authorities.

Question 35: Should county and unitary local authorities have powers, concurrent with district local authorities and internal drainage boards, to manage flood risk from ordinary watercourses in their areas? Or should they remain able to act only in default?

Around three quarters of respondents supported the proposal, though local authorities were largely supportive of acting only in default.

The National Farmers Union felt that adding another tier of authorities who can act on such matters is going to lead to confusion. As such, the Union felt that they should only be able to act in default. Conversely, regional flood defence committees felt that the lead local flood authorities should have the authority to cover ordinary watercourse, even if in practice they delegate the work to internal drainage boards and district local authorities.

The Environment Agency was against the proposal, feeling that the Bill needed to clarify roles and responsibilities. It pointed to the Bill enabling delegated arrangements to be made between authorities as an alternative to such powers.

Question 36: Should any sea flooding works that a local authority wants to undertake require the consent of the Environment Agency?

Over three quarters of respondents supported this idea and only two per cent of local authorities who responded disagreed. Most respondents who supported the idea felt that it would help with a unified response to coastal flooding works.

The British Insurance Brokers Association agreed with the proposal, but felt that local authorities should also have the powers to act alone in emergencies without having to wait for consent from the Environment Agency.

The Environment Agency stated that it already funds capital works through its grant allocation powers, which is then linked to shoreline management plans and coastal and estuary investment strategies. They wish this to continue.

Question 37: Should all relevant organisations have the power to undertake any flood and coastal erosion risk management at the request of another body?

The vast majority of respondents expressing an opinion agreed with this proposal. Some were concerned, though, that there could be a potential overlap of responsibilities and that duplication could happen without careful consideration.

Local authorities were apprehensive that the role of the Environment Agency in this respect was being reduced. They felt that the Environment Agency has more resources and expertise and therefore should take the lead in most flood and coastal erosion risk management. However, the Environment Agency supported the proposal, subject to the agreement and confirmation of the organisations' ability to deliver what is asked of them.

Whilst the Association of British Insurers supported the proposal, the British Insurance Brokers Association disagreed, preferring co-ordination from a central source.

Question 38: Should the functions of consenting, and the production and coordination of the strategy (for both Environment Agency and county and unitary local authorities) remain as ones which cannot be carried out by another authority?

Two-thirds of respondents supported this proposal, in general as they felt that the current system was working well and should not be altered.

Several local authorities felt that another authority could act as an advisor, but the final decision should be with the lead local flood authorities. However, other local authorities believed that if the upper tier authority was likely to ultimately be the lead authority, then they should remain the lead.

Several internal drainage boards responded that the operating authority responsible for managing the watercourse system should have consenting powers. They felt that production and co-ordination of the strategy should be carried out by the competent authority to suit the local catchment's conditions.

The Association of British Insurers agreed with the question, broadly supporting the proposals. However, it did feel that the proposals would make the functions more confusing and move away from Sir Michael Pitt Review's aim of streamlining responsibilities for flood risk management.

Question 39: Are the assumptions in the IA reasonable? Is further evidence available to improve the analysis? Are the measures detailed proportionate with the scale of benefits assumed?

Two thirds of respondents did not think that the assumptions in the impact assessment presented in the consultation document were reasonable. However, it was noticeable that the responses from the academic and consultants stakeholder grouping were markedly more

confident in the assumptions – around a third of the responses were positive - than other groups, where confidence was much lower at between five and fifteen per cent.

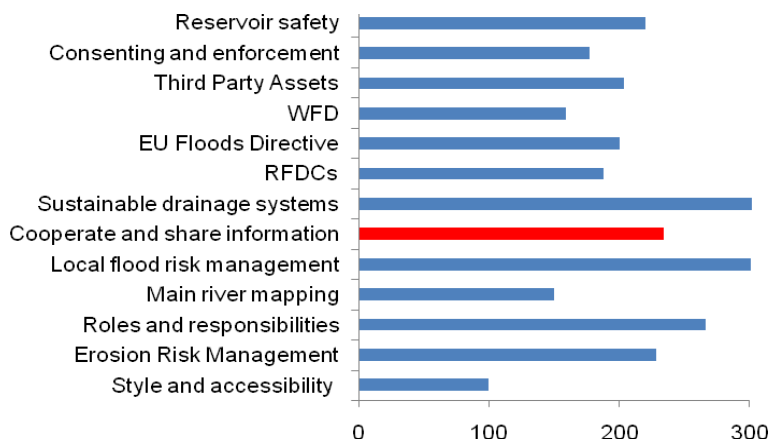
The main issues raised with this question related to the funding and costs quoted being insufficient. The Local Government Association expressed a strong view that funding arrangements based on the impact assessment would be inadequate. A frequent comment was that average figures such as those given for surface water management plans did not reflect the differing needs of local authorities due to the scale and complexity of flooding in different areas.

Others commented on an apparent shortage of evidence in the impact assessment - although this may have reflected a reading of the summary information rather than the full published impact assessment. Many felt that the assumptions made on potential savings from the transfer of private sewers and the avoidance of future flooding were overestimated. They also pointed to the imbalance between short term costs against long term benefits.

Fire and police authorities commented that the assumption of a possible 40 per cent reduction in flood risk could be an appropriate target. Other comments were that there was too much emphasis on planning to manage flood risk in the impact assessment and not enough on delivering actual implementation, without which a reduction in flood risk would be unachievable.

3.6 Duty to co-operate and share information

Question 40: As agreed in the Government response to Sir Michael Pitt’s Review, there will be a duty on relevant organisations to co-operate and share information. Do you think the list of relevant authorities to whom this applies is comprehensive?



Of the 177 responses received in reply to this question just less than half agreed that the list of relevant

authorities with a duty to co-operate and share information was comprehensive. Approximately a quarter of respondents disagreed.

Of those respondents who felt the list needed additions, the most common suggestions for inclusion were water companies, operating authorities, sewerage companies and internal drainage boards, which was particularly supported by the internal drainage boards themselves.

Calls were also made for the list in section 26 to replicate that in section 25. This was a common suggestion from the academics and consultants stakeholder group and unitary authorities.

The need to control information which may be deemed sensitive or important for national security was raised frequently as too was the cost of providing the information and how this may be met. These issues were predominantly raised by water companies, regulators and academics and consultants. Reservations were also frequently expressed over what information would be requested and by whom.

Local authorities raised concerns over the strength of the draft clause to obtain information, particularly from water companies. The Local Government Association stressed the importance of a clear duty on key stakeholders, specifically utilities, to share relevant information with local authorities. It recommended that Government should look at prescribing some basic levels of communication, and consider what action the lead authority would be able to take if co-operation were not forthcoming.

With the exception of local authorities and the insurance industry, there is a consensus across the stakeholder groups that the list is comprehensive. The former, in particular shire counties and London boroughs, disagreed with the list and suggested a variety of revisions.

Question 41: Should the Environment Agency and county and unitary local authorities be able to specify the format and standards for information to be shared between organisations?

150 responses were received for this question, over eighty per cent of which agreed that the Environment Agency and county and unitary local authorities should be able to specify the format and standards for information to be shared between organisations.

Comments indicated support for the Environment Agency and county and unitary local authorities specifying format standards, with most stakeholders thinking a common format would make data easily transferable and the sharing of data more efficient and cost effective, providing the formats specified are reasonable and avoid any unnecessary burden.

A common issue raised across several stakeholder groups, including non-government organisations, private companies and the insurance industry, was that the Environment Agency should be required to consult organisations on the data standards specified to help ensure the standards agreed upon are reasonable.

A minority of unitary authorities, district councils, regulators and individuals expressed some disagreement with this. Those district councils in disagreement were concerned with the level of specification, preferring to only follow guidance or a broad specification, a view supported by one regulator who felt any format requirement should not be mandatory.

3.7 Sustainable drainage systems

Question 42: Do you agree that national design, construction and performance standards for sustainable drainage of new developments and redevelopments should be developed and approved by the Secretary of the State and Welsh Ministers?

The vast majority of respondents to this question agreed with the proposal, though with some caveats expressed.

Some support was conditional on the format and standards being “reasonable” and “cost effective”, with one respondent keen to ensure maintenance lifecycle costs are taken into account as the National Standards are developed. One respondent suggested that the National Standards should be applied in proportion to the scale of individual developments.

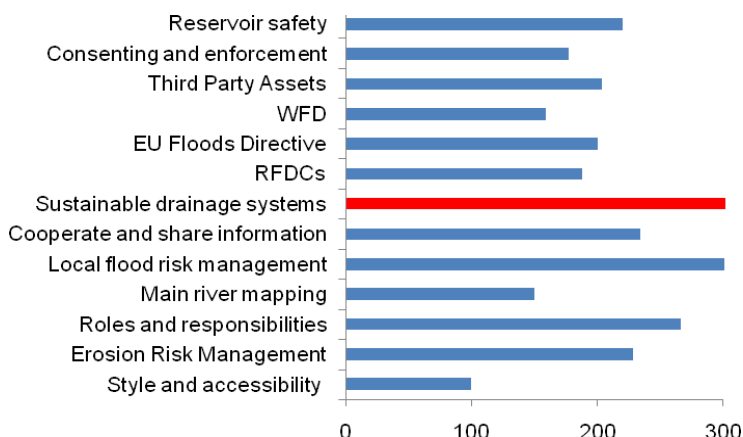
A few respondents were worried that the creation of standards might take a long time and were keen that work on the construction of SUDS should not be delayed as a result. One upper tier local authority was not supportive, believing that the decision making process should remain with local flood authorities, although other local authorities supported the concept of national SUDS standards. Another respondent agreed that there should be national standards, but did not think they needed to be agreed by the Secretary of State.

There were many ideas on the form the National Standards should take. Some respondents suggested they should cover all types of drainage not just SUDS, while others were keen to see consistency with the proposed mandatory standards for private sewers. Many local authorities and others called for a degree of flexibility in their interpretation to allow for local circumstance and new ideas.

One respondent asked that national standards should be in line with international standards, while another welcomed standards as they would reduce the scope for local variation. Developers felt that it was essential that the National Standards were practical and cost effective, and noted that the Government should be mindful of other competing concerns.

Respondents across different stakeholder groups pointed to WRC’s “Sewers for Adoption”⁴ as a good guide to how the National Standards should be published. Other respondents were keen that the National Standards should be based on current documents such as CIRIA’s SUDS manual (C697)⁵.

Many respondents pointed to the need for the National Standards to be developed in consultation with stakeholders. The Local Government Association was keen to be involved with the development of the National Standards, and some individual local authorities and water companies asked for this too.



⁴ <http://sfa.wrcplc.co.uk/>

⁵ <http://www.ciria.org.uk/suds/publications.htm>

Water companies were also concerned that they would not have the resources to implement new standards and asked that costs be evaluated and justified before standards are imposed. The Environment Agency welcomed the proposals, and felt retrofitting of SUDS would further help deliver improvements in water quality and flooding.

Question 43: Are there any particular issues which must be addressed in the standards to make them effective that have not been mentioned?

Many of the ideas generated in response to question 42 were repeated here – that local conditions should be respected; that flexibility would encourage innovation; that SUDS approval should be incorporated within the planning system; that *Sewers for Adoption* provided a good model; that local authorities should be involved in the development of the National Standards; and that they would require more resources for their new roles.

Many respondents felt that the definition of SUDS, the identity of the SUDS approval body and future funding arrangements all needed to be clearer. Many respondents referred to taking whole life costs into account here. One developer warned that without a full impact assessment into increased costs we will not know whether the potential costs of SUDS could have an effect on future house building levels.

Other developers were concerned about an over-reliance on ‘soft’ concepts such as swales and ponds. The National SUDS Working Group noted that the National Standards would provide certainty and a level playing field.

The Local Government Association considered that source control SUDS would play a vital role, and that appropriate solutions were needed for different sites and geography. Local authorities frequently raised concerns over the funding of future maintenance costs.

The insurance industry wanted a system of control to be put in place to ensure SUDS are maintained and controlled in future and felt that the National Standards should address future maintenance and inspection needs. The Environment Agency echoed this view. One water company response warned that otherwise this could act as a barrier to the take-up of SUDS.

Two local authority respondents noted that access rights would be a big issue when it comes to maintenance. Ofwat was concerned about the wrong access, suggesting that health and safety issues relating to open bodies of surface water needed to be addressed.

There was a common call for the National Standards to address how the discharged water from SUDS is to be catered for by water companies. However, views varied on the form such standards should take. Some respondents felt that water companies should accept any groundwater intercepted by SUDS into their sewers. But one water industry respondent was concerned that standards would lead to increased flows to be carried and treated via public sewers.

One local authority felt that there needed to be stricter standards on such discharge to sewers and watercourses. The Environment Agency considered the connection of SUDS to the public sewer to be the least preferred option, but where there is no choice they felt it should be with the explicit agreement of the water company. They felt that flood risk, water quality and amenity should be considered in the National Standards.

Many respondents referred to wider environmental benefits. Respondents suggested amongst other ideas, that the National Standards should:

- consider the widest range of amenity, habitat enhancement and landscape benefits that SUDS can deliver;
- be specific about environmental objectives and how they can be measured, with the design and implementation of SUDS having regard to the conservation of biodiversity;
- include traditional methods; and
- Provide that removal of vegetation should be kept to a minimum.

One individual expressed the opinion that developers tend to ignore the water quality elements of SUDS and that more advice should be given to them on this. A developer warned that SUDS could fail to meet the requirements of the Environmental Permitting regimes for contaminated sites. Another respondent called for guidance on allowing for the effects of climate change in design.

A wide range of other issues was also raised. Two respondents said the National Standards should be enshrined as a requirement of building regulations. One respondent called for an “as built” certificate to be issued.

A further two respondents noted that many bodies use other instruments (such as the Groundwater Directive) as a reason not to allow SUDS at specific sites. One water and sewerage company felt that the SUDS approval body should be obliged to adopt SUDS constructed by sewerage undertakers.

One respondent commented that the retrofitting of SUDS to existing developments not being addressed in the Bill is a significant missed opportunity. Other ideas were that the National Standards should address the costs and benefits of SUDS versus traditional drainage and that they should embrace both soft and hard engineering.

Question 44: Are there any examples where this form of approval, for the surface water drainage system associated with a new development, is not appropriate?

Many of the 161 respondents could not suggest any examples, while many included comments not directly related to the question.

Some local authorities were opposed to there being any exemptions, with respondents feeling that if SUDS were going to be implemented in significant numbers, then there should be no “get out clause”. The Environment Agency was not aware of any examples where approval was not appropriate.

When examples were put forward, size and impact were two issues more commonly mentioned. Three local authority respondents noted that small scale schemes should not need approval (i.e. water butts and soakaways). Others cited SUDS on individual plots. Two respondents said that sites where all water is re-used should not need to be approved. The National SUDS Working Group suggested that it might be easier to consider a simpler process for infill and one-off sites, and that a dispute resolution mechanism is key.

Other respondents cited the previous land use, for example when rebuilding housing on existing plots. Another respondent went wider, arguing that any brown-field redevelopment sites should not need approval.

One respondent pointed out that there may be some locations where SUDS will need to connect to a sewer as there might not be a watercourse available. Similarly, another respondent suggested that constrained urban redevelopment sites which do not have open land for drainage capacity would need a different approach. The Home Builders Federation questioned what appeals processes would be available, with regards to the decisions of the SUDS approving body.

Question 45: Does the process for adoption and connection described here provide a clear and workable approach for developers, local authorities and water and sewerage companies? Do you have any suggestions which would make the process simpler, speedier or lower cost?

Many of the 186 respondents to this question wanted greater clarity on how the adoption process would fit with the planning system. In particular, one respondent noted that they were concerned over how the process for approval and adoption would work in relation to phased developments.

Given the links with planning, some respondents called for the SUDS approval body role to sit with lower tier local authorities. Some respondents felt that the SUDS approval body should be made a statutory consultee in the planning process.

The Environment Agency felt that it was important for all key players to be involved at an early stage. The Local Government Association cautioned against causing additional burdens and delays in the planning process, and felt that there should be flexibility and local agreement about who takes on the SUDS approval body role – particularly as Planning Authorities sit at the lower tier.

A common worry from those developing SUDS was the time that would be taken by the SUDS approval body to process an application. In answer, one respondent felt that Key Performance Indicators should be developed to measure the process.

To save time and reduce bureaucracy, one respondent felt it would be beneficial if water companies were able to accept a connection on an existing network rather than be consulted on it – this view was also presented by house-builders, who felt that water companies should accept a connection. They also felt that SUDS approval body and highways inspections could be combined. Another respondent noted that it would be beneficial if connection of SUDS to the sewer is a formality rather than another approval process.

One water company noted that the adoption of minimum standards for smaller developments may speed up the process. CIRIA too thought there may be opportunities to make the approval process proportionate to the risk and scale of each site. Another water company said that they would like to see an extension of approval to any new or relocated connection to a sewer.

Finally, one respondent thought that some form of appeal against refusal of approval should be included.

Question 46: Are there examples where communal SUDS should not be adopted by the SUDS approval body?

Many of the 136 respondents to this question stated that SUDS should not be adopted where the SUDS approval body has not approved them or where they are not up to standard. Some respondents suggested that any SUDS which had been approved should be adopted. One respondent pointed out that it would be easier to enforce the approval framework if the SUDS approval body has the right to refuse adoption.

Access for future maintenance was the main concern driving suggestions of examples where communal SUDS should not be adopted. Some respondents suggested underground SUDS should not be adopted, particularly underground tanks forming part of a water and sewerage company's system. Respondents across the board pointed to private land, but especially where owners or their management companies were willing to take on the role themselves. Indeed, respondents suggested that where the SUDS approval body was confident that a feature would be properly maintained or otherwise continue to function, then it would not need adoption.

Some respondents suggested that small scale communal SUDS should not be adopted, while one water company's view was that large scale SUDS features should not. The Environment Agency did not think that rainwater harvesting should be adopted as it has special value to the customer.

A couple of respondents suggested that SUDS with environmental aspects should only be taken on by bodies knowledgeable about their maintenance.

Some respondents focused on the ownership of the SUDS. One respondent thought that council housing and housing association buildings SUDS should not be adopted, while another suggested the same for any SUDS on premises in the ownership of public bodies. The Home Builders Federation noted that it was more practical to adopt SUDS on public land, rather than private lands, but that highways authorities do not often adopt permeable roads.

Question 47: Do you agree with how the envisaged arrangements for replacing the automatic right to connect will work?

The majority of the 141 respondents agreed with the envisaged arrangements.

Those that disagreed largely did so on the grounds that the process was too complex and would cost too much. In particular, a number of respondents from the property development sector did not agree and said that there would be difficulties, especially if SUDS could not be put in, and that the proposal to modify the right to connect should be urgently reviewed. Of those developers who did see the arrangements as reasonable, a number were still concerned that the process should not incur any time or financial costs for them.

Many of those supporting the arrangements also raised some concerns. One of the most common concerns was that sewerage companies would not have any say on the right to connect SUDS or on the rates of discharge to their sewers. Respondents felt this was important for downstream drainage considerations especially where a high water table might lead to flooding in public areas.

Many solutions were suggested for this. Some felt that they should be automatically consulted. One council suggested that this consultation should focus on discharge capacity once the SUDS has been agreed. One respondent suggested a permitting system to give sewerage companies the means of limiting discharge. Others suggested that the right to connect should be completely under sewerage company control. One water company respondent suggested

that Section 101 of the Water Industry Act should be amended to enable water companies to retain the right to connect themselves. Another felt that sewerage undertakers would need powers to designate sewers as foul only.

However, some local authority respondents felt that local authorities should be able to approve a connection. The Local Government Association supported the option of draining to SUDS becoming the first rather than the last choice. One respondent suggested that sewerage companies should have no right of appeal on this. However, one water company respondent felt that it was important that they should have a right of appeal if the SUDS approval body chose to ignore their views when consulted.

A number of internal drainage board respondents and others raised the similar point that no provisions were made in the draft Bill to consult with and protect the operator of the receiving watercourse, who also may not wish to accept SUDS discharge because of an increased flood risk. One internal drainage board pointed out that we need to ensure that the risk of an illegal connection is not transferred to an open watercourse.

Question 48: Can the use of National Standards as a material consideration for the purpose of S115 (4) of the Water Industry Act 1991 provide sufficient legal certainty to prevent inappropriate agreements to drain highways to sewer?

The majority of the 99 respondents replied positively, or with a qualified “yes”. A number of respondents from different groups said that it would depend on the final standards and some said only if they would be compulsory. One respondent agreed, if only the National Standards are incorporated into planning procedures, building regulations and highway design specifications.

A water and sewerage company pointed out that they are not legally obliged to drain highways and only do so by agreement and they felt that the National Standards would help. A couple of local authorities, however, did not believe the National Standards would be sufficient, one feeling that an independent adjudicator in cases of disagreement would be a better option. The Environment Agency felt that both quality and quantity aspects were important.

Another respondent worried that disagreements needed to be headed off and felt that the National Standards would only be sufficient if the concerned sewerage company has no say as to whether their assets will receive flows and the default option for drainage must always be SUDS.

One developer thought not, stating that highways authorities are reluctant to adopt highways with infiltration drainage as the main means of surface water disposal. This was echoed by another respondent who answered yes, but believing it may require a culture change as some highways authorities are resistant to adopting permeable paving. Respondents from different groups highlighted that this is as much a problem of culture change - where highway engineers are used to connecting when and where they like to the sewer system - as one of having standards in place.

Respondents also noted that consideration should be given to the rights of allowing highways an automatic right to drain to a watercourse.

Question 49: What is the appropriate balance to enable good SUDS designs that work with the lie of the land, can discharge to a watercourse, and can be accessed for maintenance and inspection, whilst protecting the rights of the land-owners?

Many of the 121 respondents stressed the importance of trying in the first instance to come to mutual agreements between developers, third party landowners and the SUDS approval body. One respondent pointed out that in these cases the landowner generally benefits from the improved surface water management approach. One respondent thought that the developer should be responsible for reaching an agreement with the landowner and SUDS approval body should only get involved if an agreement cannot be reached. Another respondent suggested that a mirror of Section 100 of the Highways Act could be used as a fallback solution to such negotiations.

A solution similar to the provisions in the Highways Act was most popular amongst local authority respondents. The Environment Agency also agreed that the SUDS approval body should have right of access across third party land with appropriate compensation agreements for landowners. The National SUDS Working Group felt that the balance would be subjective, and depend on site opportunities and constraints.

A couple of the respondents thought that the SUDS approval body should have exactly the same powers to construct drainage across private land as water companies do under section 159 of the Water Industry Act 1991.

However some respondents were directly opposed to the SUDS approval body having powers enabling them to cross third party land. One local authority thought that a mirror of the Highways Act is likely to be too blunt an instrument. A popular opinion was that the responsibility to negotiate SUDS connections over private land should rest with the developer as part of the planning process, rather than the adopting authority.

The number of respondents in support of local authorities having powers to compulsorily purchase land was more limited.

Question 50: How wide should the SUDS Approval Bodies ability to delegate be?

129 respondents replied to this question. We did not identify any strong consensus of views coming from particular sectors. A significant minority of respondents were opposed to any delegation of functions as they felt this would potentially lead to inconsistency and confusion. Many respondents restated the suggestion from the consultation document that while functions could be delegated, ultimate responsibility should not be.

There was a variety of responses along non-specific lines such as “as wide as necessary”, and “as narrow as possible”. Other responses focused on the ability of other organisations to carry out the functions, while others thought delegation should be to where the most cost effective solutions could be provided.

Some respondents worried whether resources would accompany the delegation of functions. The Local Government Association agreed with local authorities taking on adoption and maintenance of SUDS, but felt the expertise on approval might sit better with the planning authorities (district councils) in two-tier areas.

Several different bodies were suggested as ones to which functions could be delegated. They included the Environment Agency, district councils, internal drainage boards, sewerage undertakers, third sector organisations, residential associations and any and all of the bodies in the local flood management partnership. Some respondents suggested that delegation should not go beyond public sector bodies so accountability could be clearly. One developer was worried about SUDS approval bodies delegating to commercial consultancies, because they could operate under a SUDS approval body monopoly.

Some respondents discriminated between different functions when commenting on whether they should be delegated at all, and if so, to which body. Again there was no clear consensus of opinion. Some limited delegation to approval, some to adoption, and some to maintenance. One respondent thought it should be limited to building control inspectors.

Question 51: Are additional enforcement powers needed – in particular should the SUDS approval body have an independent power to enforce the approval of SUDS? How would this work?

Opinion was split between the 165 respondents to this question, with roughly equal numbers supporting and opposing the extension of powers to the SUDS approval body.

Of those who responded positively, many did not comment on how such a power would work in practice. Of those that did, some suggested an effective appeal and dispute procedures for the developer and the SUDS approval body. Others suggested conditions that do not allow occupation of the site until SUDS are built to SUDS approval body satisfaction. One respondent thought that the SUDS approval body could appoint a SUDS inspector.

A couple of respondents noted that the SUDS approval body should have enforcement powers for aspects not covered by the building regulations. In contrast another respondent felt it would be ideal to ensure all SUDS fell within ambit of building regulations through the application of the National Standards.

One respondent thought that the SUDS approval body would need a power to enforce the provision of highway SUDS. Another felt that there would be a threat to developers if SUDS in highways were not adopted, so the SUDS approval body would need the power to complete works in default, via a legal agreement with the developer.

Some respondents suggested processes that mirrored other procedures such as highway adoption and development control. Some local authorities pointed out that the resource implications of any enforcement mechanism must be considered.

Other respondents suggested more powers for water companies rather than the SUDS approval body. Ofwat thought that there could be a power for water companies to require SUDS to be maintained and this could be incorporated within the consenting approach for surface water connections.

One water company felt that they should have the power to intervene if the developer or subsequent owner were to fail to construct or maintain adequately. Some developers felt that if the approval was processed prior to planning consent then the need for enforcement would be rare. Developers generally had concerns about a 100 per cent bond, and how this would be called-down.

Question 52: Views are welcomed on how best to ensure the maintenance of private SUDS and ensure that they are not redeveloped.

Many of the options here received a good share of support.

A significant minority was of the opinion that private SUDS should remain private without interference from the SUDS approval body. Some thought insurance had a role to play.

Many were of the opinion that a property owner's responsibilities could be highlighted through home information packs (HIPs) or through the title deeds of a property. It was also suggested that the latter could be used to make a duty to maintain legally binding. Other methods of publicity were barely mentioned.

A further sizeable group of respondents thought that planning conditions could be used to ensure owners maintained private SUDS. Building regulations / development control were other options supported, though less frequently.

The idea of registering all SUDS followed by an inspection regime was popular amongst local authorities. Some thought that this should follow the third party assets approach set out in the consultation document. The consequent need for rights of access to inspect was raised.

Others suggested that all SUDS should be maintained by public authorities, though many respondents were worried about where funding for the long-term maintenance of SUDS would come from.

Question 53: Is there any legal impediment to prevent a SUDS approval body from adopting existing SUDS?

The majority of the 135 respondents to this question could not identify any legal impediments, while a few answered "yes" without offering any further comment.

While no respondent could point to a show-stopping issue, potential impediments mentioned included existing legal agreements between different parties – including maintenance arrangements; land ownership; rights of access and compensation. Two water companies also thought there would be legal impediments as there is no legal right of connection to a public sewer for land drainage or highway drainage, and so water companies would not need to accept flows to the sewer from SUDS that drain across public spaces and roads.

Other respondents focused on non-legal impediments such as financial ability to maintain the SUDS and the condition the SUDS is in, especially in relation to the proposed National Standards.

Question 54: Do you agree that performance management of SUDS maintenance should be included within the local government performance framework, as part of their climate change adaption function?

126 respondents commented on this question. The overwhelming majority outside of local government supported the proposal. However, local authority opinion was split. While the majority were in favour, most county councils were opposed.

In general the inclusion in National Indicator 189 was more favoured than in National Indicator 188, as some respondents could not see a link between climate change and SUDS. The Local Government Association supported the use of both indicators to report performance.

A number of respondents who disagreed entirely thought that the National Standards would ensure performance is maintained.

3.8 Regional flood defence committees

Question 55: Do you agree that regional flood defence committees should be renamed as regional flood and coastal committees?

The majority of respondents (approximately three-quarters) agreed that regional flood defence committees should be renamed.

The regional flood defence committees who responded to this question, approved of the name change and felt that the inclusion of “coastal” explained the role more clearly. This view was supported by many local authority respondents.

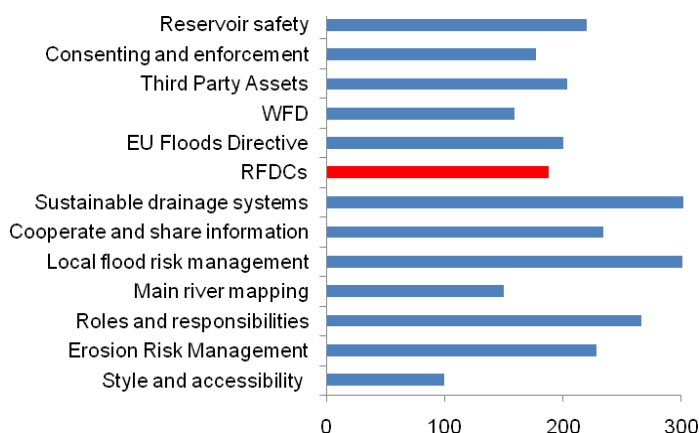
The Association of British Insurers agreed with the suggested name change and also suggested the Bill needs to modernise the role of regional flood defence committees so that they have a more important role in the Environment Agency’s decision making process. They also felt that regional flood defence committees should have a more active role in supplementing the Agency’s work. A few respondents felt it would be beneficial to move away from phrases such as ‘defence’ and ‘protection’ and focus on terms for instance ‘management of risk’ to reflect regional flood defence committees’ wider role.

Those who did not see a need for a name change (this included the British Insurance Brokers Association) believed this would not represent an efficient use of money and time, and that the current name was sufficiently representative of the regional flood defence committee role.

Question 56: Should regional flood and coastal committee status be predominantly advisory rather than executive?

Most respondents expressing an opinion one way or the other stated that they would prefer the regional flood and coastal committees to remain executive instead of becoming an advisory body. The primary concerns put forward were that a change in role would result in the reduction of powers, they would not be able to accomplish as much as currently possible, and their views may potentially be overlooked by the Environment Agency.

Other key issues expressed by respondents who disagreed with changing the status of regional flood defence committees to advisory, were around the key strengths of the regional flood defence committee being reduced. The National Farmers Union felt that regional flood defence committees should retain an executive status and be given powers to receive and scrutinise local flood and coastal erosion risk management plans and performance. The National Farmers Union felt that this was essential under the new arrangements specifically, as they are able to provide a useful counter balance to the Environment Agency powers and provide a strong local focus.



The Environment Agency proposed that the regional flood defence committees should retain executive powers in relation to the General and Special Drainage Charge. They also stated it was important that the role of regional flood defence committees for matters other than local funding is one that has real influence and authority, and will play an important role in delivery of the Environment Agency's strategic overview.

The British Insurance Brokers Association were also in support of retaining the executive powers of the regional flood defence committees. However, they felt that the Environment Agency should co-ordinate and have powers of veto.

Amongst the minority that was in favour of the change of roles, respondents stated that most other similar committees operate on an advisory basis and do so without reduced influence. Local authorities were generally in support of the proposed changes, their main argument being that executive decisions should be left to democratically accountable bodies. However, many felt that provisions should be made in the Bill to ensure that the advice given by the regional flood defence committee was listened to.

Question 57: Should the focus and roles of regional flood and coastal committees be as described in above? If not, do you have any other proposals?

The majority (over forty per cent) of respondents supported this proposal, a number of whom were keen to ensure that the regional flood and coastal committees retained the regional flood defence committee role of challenging Environment Agency policy to ensure local accountability. One concern was that the regional flood and coastal committees' role needed to be defined further, specifically the issue of democratic accountability.

Views from local authorities were split on this proposal. Some felt that there may be potential conflicts if the Environment Agency, local authorities and regional flood defence committees all have executive powers. Others held a contradictory view: that the regional flood defence committees should continue to make decisions and challenge Environment Agency policies and procedures, to ensure local accountability.

The regional flood defence committee chairmen considered that the Bill should provide for a new role for the regional flood and coastal committees consistent with that envisaged by Sir Michael Pitt's Review, but does not cloud accountability. They envisaged that the regional committees, as democratically based committees of the Environment Agency, should be forums within which the strategic overview role is supported and developed at the regional level and the delivery of flood and coastal erosion risk management plans and programmes is discussed and considered.

Responsibility should clearly lie with the Agency for producing and delivering a national investment programme for flood risk management. The regional flood and coastal committee role should be to provide local and regional input to the programme, to ensure stakeholder engagement in it and to review its delivery.

Natural England proposed a new two-tier system that builds on the proposed role of regional flood and coastal committees and introduces below the regional flood and coastal committees new 'catchment panels' that would be convened by the lead local flood authority. Some internal drainage boards would like to see the Bill allow the use of regional strategic flood risk assessments to produce a regional investment plan and to inform a national investment plan, consistent with the Sir Michael Pitt's Review.

Question 58: Do you agree that the membership of regional flood and coastal committees should be appointed as outlined above in future? If not, do you have any other proposals?

Most of the respondents (over half) agreed with the membership appointments, the Environment Agency agreed that the proposal would allow wider interests in general society to be considered.

Several stakeholders felt that the membership appointments should be extended to have a wider range of representatives from local communities, conservation groups, water companies, members nominated by relevant authorities (including internal drainage boards), insurance industry (especially in high flood risk areas), experienced engineers and planning officers.

Local authorities largely felt that the current system works well, however, some did suggest that allowing sub groups, regional development agencies and the inclusion of independent technical officers would be beneficial. One council consider it appropriate to have any local authority that contributes financially to be given an automatic seat on the committee.

A significant number of respondents felt that the Environment Agency should not be in charge of appointing committee members as it undermines the regional flood defence committees' independence in scrutinising Environment Agency plans.

Question 59: Should regional flood and coastal committees' levy-consenting powers be extended to coastal erosion issues?

The overwhelming majority (approximately three-quarters) of respondents agreed with the proposal. Respondents felt that allowing regional flood defence committees to levy against coastal erosion issues would present a more joined up and cohesive approach.

Some respondents clarified that even though they supported the proposal, the extra levy powers should also be subject to specific regulations and only be used when necessary. Others (predominantly local authorities) proposed that there should be provisions so that they could claim the fees back through the Revenue Support Grant. Concerns were also expressed that high costs involved with coastal defences could dilute the funds available for inland problems.

Internal drainage boards were more in favour of levy funding in exceptional circumstances where the regional flood defence committees are deemed not to be conforming to local or national strategies, this view was supported by the regional flood defence committee chairmen. Natural England supported the idea; however, it stressed that an extra levy for coastal defences should be raised when they fall within local or national flood and coastal erosion risk management strategies.

The British Insurance Brokers Association and some insurance companies had concerns that the proposal could have a detrimental impact on the insurance industry.

Question 60: Are there any other issues that you wish to raise in regard to regional flood and coastal committees?

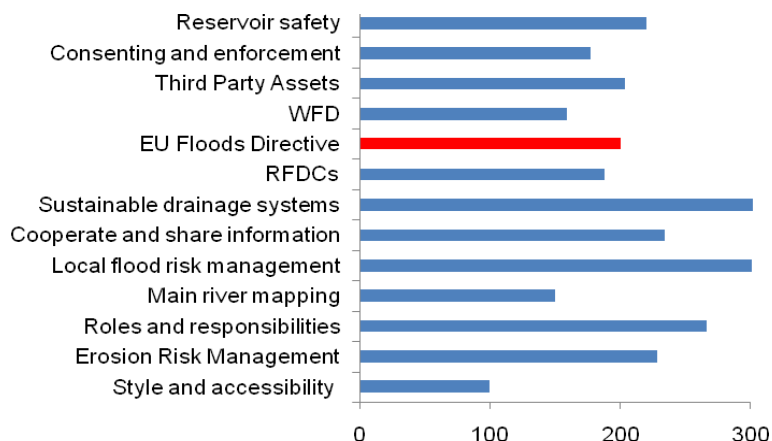
The most common response here was that the regional flood defence committees should encourage cross boundary relationships to assist with their role.

Many respondents questioned the amount of agreement they were getting on committee meetings and felt this would only be rectified if the regional flood defence committees' executive powers were to remain.

Several local authorities felt the need to make regional flood defence committees more open and accountable to the electorate on, for example, the priority of individual schemes, the timescales involved and the process by which members are selected. Some internal drainage boards were concerned that although flood risk accounted for fifty per cent of the funding and workload, of the committee, there was only a single internal drainage board member in many cases. One local authority suggested moving from a one year to a three year capital programme. It considered this scheme could provide better flexibility to the Environment Agency to move funding around between schemes that are progressing at different rates.

3.9 EU Floods Directive

221 respondents included comments on this section. Approximately half of these respondents broadly supported the Department's proposals; only about five per cent were absolutely against the proposed approach for implementation.



Question 61: Should flooding from sewerage systems caused solely by system failure be excluded from transposition of the Floods Directive? If not, how might such flooding be integrated?

Approximately a third of respondents favoured the exclusion of flooding from sewerage systems, where it is caused by a failure of the system, as opposed to excess loading (e.g. from heavy rain). Many respondents pointed to the fact that sewer flooding from system failure is already regulated and felt that including it within the remit of the implementation of the Directive would result in unnecessary duplication.

The National Farmers Union held a differing view and argued that the transposition of the Floods Directive should cover such flooding.

Question 62: Should the Environment Agency and county and unitary local authorities assume responsibility for implementing the Floods Directive, with the Environment Agency focussing on national mapping and planning and local authorities having specific responsibilities in relation to local flood risk? If not, what other arrangements would you suggest?

Approximately half of the respondents agreed with the proposals for the Environment Agency and local authorities to assume responsibility for implementing Floods Directive; with the Environment Agency assuming responsibility for national mapping and planning and local authorities having specific responsibilities for local flood risk. Although about twenty per cent of these respondents (including local authorities and the Association of British Insurers) felt that resource limitations in local authorities needed careful consideration and funding so that they can carry out these responsibilities.

Question 63: Should county and unitary local authorities be responsible for delivering PFRA's for local flood risk as described above? If not, who should be responsible?

A large majority of respondents expressing an opinion supported the Government's proposals that county and unitary authorities should be responsible for delivering preliminary flood risk assessments for local flood risk. Of these, approximately sixty per cent of the responses were from councils, and of those, almost a quarter called for sufficient funds and resources to enable

local authorities to undertake this work. Approximately one in six responses expressing an opinion were opposed to the Department's proposals.

Question 64: Is this framework a suitable approach for determining 'significant risk' or are there alternative approaches to consider?

Of the respondents who indicated a preference on the proposed approach for the determination of 'significant risk'. Just over two thirds supported our proposals with the rest opposed. Twelve per cent of those respondents called for a national and common agreed standard and guidance on a methodology for the determination of significant risk.

Question 65: Should county and unitary local authorities be responsible for determining significant local flood risk (ordinary watercourses, surface water and groundwater)? If not, who should be responsible?

Two thirds of respondents with a view on this question supported county and unitary authorities being responsible for the determination of significant flood risk for local flood risk sources. Of these, over a third stated that this would only be possible with clear guidance and the input of local partners, including district councils, internal drainage boards, and the Environment Agency.

Question 66: Should the proposed selection of 'significant risk' areas by local authorities be moderated along the lines of the arrangements set out above?

Of the respondents expressing an opinion in relation to the moderation of the significant risk areas, around four-fifths either supported the Department's proposal or did not express an opinion. Of those who did not support the need for moderation, some commented that if a national standard is set on significant risk, or if the Environment Agency were to determine risk areas, there would be no need for moderation.

Question 67: Do you agree with the proposed mapping arrangements set out above? If not, what alternative arrangements do you suggest?;

Question 68: Should the Environment Agency and local authorities have the discretion to determine whether or not to produce flood maps, as described above? If not, what other arrangement should apply?; and

Question 69: Should the arrangements for FRMPs be set out as above? If not, what alternative arrangements do you suggest?

On flood maps, of the respondents who expressed an opinion, the vast majority supported the Department's proposals.

Approximately two-thirds supported the Government's proposal to allow discretion in producing flood maps. Likewise for flood risk management plans, almost ninety per cent of respondents expressing an opinion agreed with the suggested arrangements.

Question 70: Do you agree with the co-ordination arrangements set out as above? If not, what alternative arrangements do you suggest?

Over ninety five per cent of respondents with an opinion supported the Department's co-ordination proposals, with many respondents specifically agreeing that co-ordination should fall to the Environment Agency.

Question 71: Should the first cycle PFRA be brought forward one year, as proposed above, to enable mapping to take up to two years in common with the rest of the mapping and planning cycle?; and

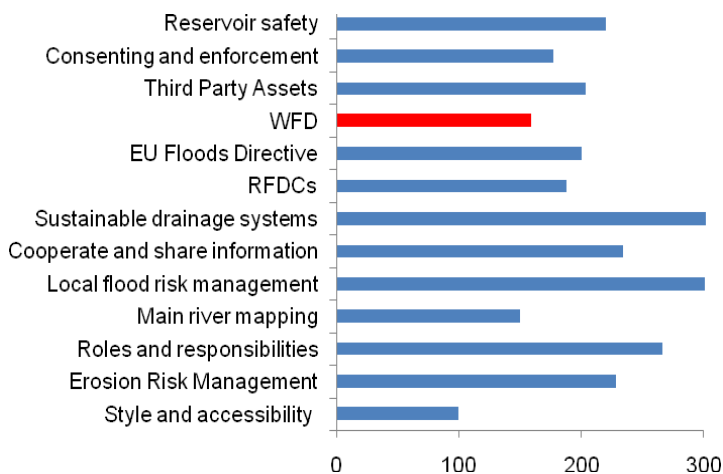
Question 72: Do you agree with the other proposals set out above for reporting and review? If not what alternative arrangements do you suggest?

Ninety per cent of respondents to these questions agreed with the review of preliminary flood risk assessments being brought forward one year. Those who disagreed, felt that more time would probably be needed to complete the first round of reviews.

3.10 Water Framework Directive

Question 73: Do you agree that the duty to act in accordance with Water Framework Directive requirements should apply equally to all flood and coastal erosion risk management authorities?

Over ninety five per cent of those expressing an opinion agreed with the proposal. Those in agreement included the Local Government Association and the majority of local authorities and drainage boards; some of whom thought that the duty already existed and that the question was redundant.



The National Farmers Union suggested that it was sufficient for flood and coastal erosion risk management authorities to ‘have regard to’ the requirements of the Water Framework Directive. A few responses mentioned resources and knowledge as potential concerns and it was observed that, as provided for in the Water Framework Directive, measures to achieve environmental objectives should not cause significant adverse effects on flood protection or other essential uses of the water environment.

Question 74: Do you think this approach provides a satisfactory mechanism for ensuring that the relevant bodies deliver the requirements of the Water Framework Directive?

Just under 80 responses were received to this question. Of these, approximately eighty per cent of respondents agreed that the national strategy provided a satisfactory vehicle for applying this duty to the authorities. There were several general comments suggesting it would depend on how the Environment Agency exercised its functions in relation to the strategy and another considering that the present approach for management of water resources at a catchment level is fragmented.

Around twenty per cent of respondents did not agree that the national strategy provided an effective vehicle for applying the duty. This was due to a variety of reasons; that providing for the duty via the strategy would be unenforceable and not sufficiently explicit, and the words “have regard to the desirability of minimising detrimental effects on [water status]” in this context did not reflect the legal obligations of the Water Framework Directive. The Environment Agency stated that it imposed a weaker duty on the Environment Agency in relation to the Water Framework Directive than applies in relation to its existing flood risk management functions - with the potential to cause significant confusion.

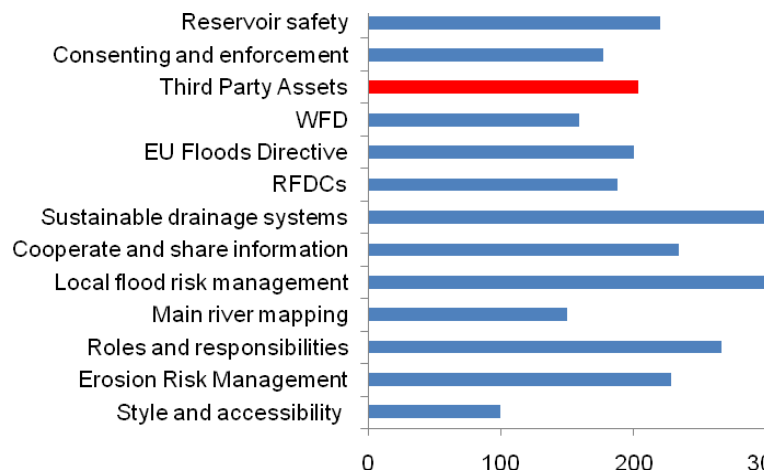
In conclusion, support for the principle that flood and coastal erosion risk management authorities should be required to exercise the relevant functions so as to comply with the Water Framework Directive was overwhelming. However, the support for the proposed means of achieving it was considerably weaker.

3.11 Third party assets

Question 75: Should we introduce a system of third party asset identification and designation?

187 responses included comments on this question. Approximately two-thirds indicated that a system of third party asset identification and designation should be introduced.

All water companies, and the majority of local authorities, insurance bodies and internal drainage boards that responded to this question supported the proposals.



However, a number did have concerns. Local authorities had issues with the practicality of designating features before overcoming the challenge of identifying and mapping features. Some respondents wanted to be clear that a feature would only be designated if it is already performing at a sufficient standard of defence; that funding would be sufficient to meet the administrative burden; and over how any upgrading of features would be resourced.

Network Rail and British Waterways raised reservations about designations. These were primarily in relation to the designation of assets, where an asset was not constructed for the purpose of flood defence. They felt that engagement with stakeholders on this issue would be valuable.

One local authority suggested that providers of infrastructure, such as the Highways Agency, must not be impeded from carrying out their primary function. In contrast to this, representations from regional flood defence committees stressed that whilst an asset may not have been constructed to provide flood/coastal risk management for a community, nonetheless this coincidental function can become important.

One water company suggested that public sewers should not be designated and other water companies suggested that the right of appeal is important, recommending guidance to ensure a consistency of approach and application of the policy. This proposal was supported by internal drainage boards, who also suggested that it may be simpler to designate and have a right of appeal (than to make use of provisional designations first) and queried the apparent absence of 'occupiers' from responsible persons under the provisions.

Question 76: Is there a case for greater powers on third party assets than we have suggested?

135 responses were received to this question, with approximately one third indicating support for greater powers than have been suggested. Several responses suggested that additional powers may be needed to empower the designating authority to act in default of proper

maintenance. Others indicated that this question could only be answered once the initial system had been set up and tested.

Question 77: Are there assets that are not ‘structures or natural/man-made features’ that should also be designated?

102 responses were received to this question, with approximately one third indicating that there may be other types of asset that could be subject to designation. In general, respondents indicated that the definition was sufficiently broad to encapsulate all features that could be subject to designation. However, a number of responses, including some from local authorities wanted further clarification on what the definition may or may not include.

Some responses included specific ‘things’ that could be used to test the definition, such as natural ponds and watercourses. Suggestions included any feature that could lead to impediment through failure, slippage, collapse or silting.

Question 78: Should there be a duty on those responsible for third party assets in England and Wales to maintain them in a good condition?

167 responses were received to this question. Approximately three quarters indicated that there should be a duty on those responsible for third party assets to maintain them in good condition whereas just under a quarter were against.

It was widely recognised that proper maintenance would help to secure the function of features and flood and coastal defences. However, comments suggested the need to either fund people for carrying out maintenance on features that will be of benefit to the wider community and not just the individual, or to require an operating authority to ‘adopt’ such features, or to enable people to charge beneficiaries.

Internal drainage boards in particular suggested that any duty should not distract from existing powers authorities have for the common good. One water company recommended that the function is important and not the feature itself, and that the distinction should be made between third party assets owned by individuals and those owned by large scale operations such as sewerage undertakers.

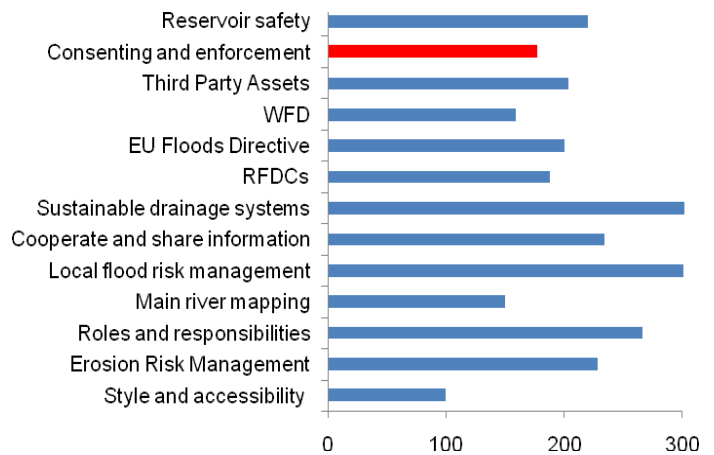
Some offered comments against going further than already proposed, expressing that additional powers and a duty to maintain would not be necessary, because the current proposals should be sufficient to provide additional security to third party assets. One local authority noted that a duty to maintain a feature which provides its flood defence as a secondary function may not be equitable, or practicable. Infrastructure providers showed concern at any suggestion that they would be subject to additional duties to those they already have under their primary functions.

The National Farmers Union was very concerned about placing burdens on farmers and any suggestion that the cost of maintenance could be shifted from the taxpayer to private owners, particularly where there may be third party assets that no-longer provide a benefit to a business but continue to offer general benefit in terms of flood risk management.

3.12 Consenting and enforcement

Question 79: Should regulation of the ordinary watercourse network (where there are no internal drainage boards) transfer to county and unitary authorities? Or should this role in future sit with the district and unitary authorities?

Of those who responded to this question, approximately half supported the proposal that the role should sit with the district and unitary authorities, and around twenty per cent opposed.



The vast majority of internal drainage boards and local authorities was in favour of ordinary watercourse regulation being transferred to the county or unitary authority, as were the Environment Agency, the National Farmers Union, the Local Government Association, and the Home Builders Federation. However, a significant percentage of the respondents felt that although this proposal would allow a more cohesive approach to the ordinary watercourse network, as watercourses normally cross county and unitary boundaries, some guidelines may be needed to ensure partnerships work correctly and discharges into watercourses are monitored.

Question 80: Should it be possible to make consents subject to reasonable conditions?

The vast majority of respondents to this question agreed to the proposal, including all internal drainage board respondents and over three-quarters of local authority respondents.

Respondents felt that it would help support the effective management of flood risk by relevant authorities. There were very few concerns expressed. However, the National Farmers Union expressed their concern that this would mean further resources being allocated to the enforcement function.

3.13 Reservoir safety

A total of 232 responses (excluding the Middle Level Commissioner responses) to the consultation commented on the reservoirs safety clauses in the Bill and the six questions in the consultation paper.

Question 81: Views are sought on whether the minimum volume figure should be 5,000 or 10,000 cu metres or another figure.

Responses from local authorities were evenly split with an approximately equal number of responses supporting a figure of 5,000 cubic metres and 10,000 cubic metres.

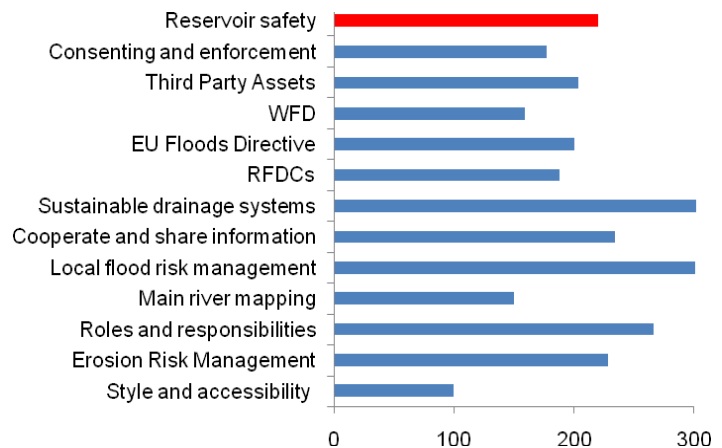
However, some respondents felt that provisions needed to include other reservoirs where a risk is identified and that it may be more appropriate for risk to be assessed first of all, before any figure is adopted; or that risk assessments are needed to test the adequacy of any lower minimum proposed.

Around half of reservoir owners, several water companies, drainage authorities and engineers that responded to this question thought the 10,000 cubic metres figure is adequate. Several water companies, drainage authorities and engineers were also in support of this figure. Those who considered the figure too low felt that the 10,000-25,000 cubic metres band are unlikely to pose a risk to the public.

Question 82: Views are also sought as to whether criteria for inclusion and/or exemption can be based on objective criteria such as embankment height, elevation, type of construction etc.

Responses to this question varied widely. The type of construction was seen by some respondents as being important, such as continuous concrete constructions, whilst others felt that the only determining factors should be the escapable volume of water and the consequences of such escapes. Further comments referred to the need for different regulatory requirements according to:

- embankment height;
- the effects on property;
- an exemption of irrigation reservoirs;
- those structures that are already regulated under other measures (e.g. Mining Waste Directive); and
- the inclusion of reservoirs in cascades. The National Farmers Union suggested a blanket exemption for farm reservoirs under 25,000 cu metres.



Question 83: Do you have a view on what information should be requested at the point of registration to enable a risk-based approach thereafter? How can we design this and the collection process to minimise the burdens imposed by registration?

Suggestions for information to request included:

- Technical details of construction, dimensions, embankment height, elevation etc;
- Inundation maps, with some respondents suggesting that these should be prepared by the Government for smaller reservoirs as is the case with those for larger reservoirs;
- Operational details, such as the maintenance and monitoring regime. Respondents felt that the owner's details are obviously relevant but not financial details.

Overall, respondents wanted details strictly relevant to risk assessment to be included, using the recording and registration requirements under the Reservoirs Act 1975 as the baseline. A number of respondents felt that an on-line system of registration could keep costs down for owners. Some respondents noted that a panel engineer's involvement would be required in some cases, e.g. where capacity was close to the minimum (when it was felt owners should not have to bear the cost).

Question 84: Do you agree the proposed classification is appropriate and that the Environment Agency should have responsibility for classifying all reservoirs under the new regime?

The great majority of responses to this question agreed that the Environment Agency should be responsible for classification.

A number of responses questioned the apparently simplified system of "High" and "Low" risk classification and felt that a category of Negligible risk should be introduced, particularly in circumstances where such water bodies as farm reservoirs were involved. Some responses felt that the present 4-tier system should be retained, particularly as it takes account of potential property damage.

A number of procedural points were raised about the need for an appeal mechanism; the role of panel engineers and local authorities in the process; and the effects of downstream development on a reservoir's classification.

Question 85: Do you believe there might be a role for insurance in improving reservoir safety and, if so, how might this work?

Over forty respondents did not consider insurance to be an alternative to statutory regulation, although a number of these did not discount insurance having some role to play. Over twenty respondents thought that insurance was a viable alternative, subject to certain conditions.

Some respondents felt that insurance could reflect risk, through pricing premiums according to safety measures undertaken by reservoir owners. Others thought that insurers would be unable to do this without some form of agreement with the Government as to what standards should apply and that insurance would tend to deal with impacts rather than prevention. Others felt that reservoir insurance would develop into a niche market, with little competition to keep down costs. Concerns were also expressed about the effects on insurance for property owners downstream of reservoirs.

Some respondents who felt that insurance was not an alternative did recognise that insurance might have a role to play, for example in requiring owners to register their reservoirs as a condition.

Question 86: Do you have a view on whether and how the Government could most fairly keep to a minimum the financial burdens placed on the owners of those reservoirs which are being brought under the regulatory regime for the first time?; and

Question 87: Again, we welcome views as to how to ensure charges within a scheme can be made proportionate.

A variety of views were expressed. Some suggested that costs of inspection should be settled by the owner and the panel engineer, not set by Government. Some took the view that no costs should fall on owners of low risk reservoirs, other than the cost of providing information to the Environment Agency for registration.

There were several suggestions for reducing the financial burden. One was that registration should be free to the owner (which would mean, in practice, that, the costs of employing a panel engineers to settle marginal cases would fall to the Environment Agency).

There were several views on charges. One was that there should be a sliding scale, with no charge for low risk reservoirs. Views on basing charges on volume were completely mixed. Others simply argued for a clear statement of the basis for charges.

Additionally, a number of respondents considered given that owners must already bear directly the costs of employing panel engineers, an annual charge for enforcement would be a disincentive to register and could therefore prejudice safety. Respondents see enforcement of the proposals as part of the Environment Agency's wider flood risk management functions and something to be funded from Defra's Grant in Aid for this purpose.

There were also suggestions for further financial assistance, such as grants, tax breaks or charitable status, particularly for smaller owners. On the other hand, there was some resistance to revealing financial details at the time of registration. Local authorities commonly pointed to the need to fund their operations as reservoir owners.

Question 88: No decision has yet been made about making use of the existing power to give Directions contained in the Reservoirs Act 1975 as amended. Views are sought on whether to proceed ahead of the enactment of the proposals in the draft Bill.

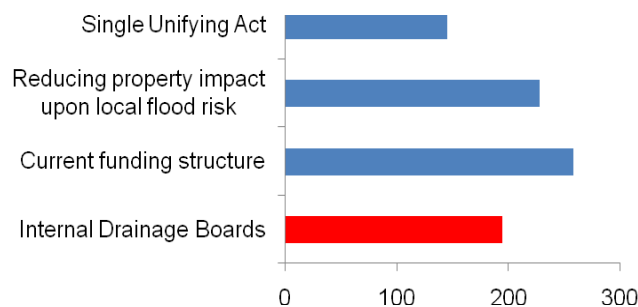
The main point made by the majority was that owners should not be required to pay for off-site planning as the costs are likely to be burdensome and out of the control of the owner. On the other hand, local authorities were concerned that the costs of off-site planning should be fully funded, either by the owner or Government.

Of those who did reply directly to the question, approximately twenty were in favour of proceeding ahead of the Bill's enactment (three of these specifically because they would not be required to bear the costs of off-site planning) and around ten in favour of waiting for the Bill to be enacted.

3.14 Possible reform to the role and governance of internal drainage boards

Question 89: Do you consider that there is a direct conflict or inconsistency between the internal drainage boards' supervisory role and the local leadership role of the county and unitary local authorities?

Of those who expressed an opinion approximately one-third agreed there was a direct conflict or inconsistency and two-thirds, including the majority of internal drainage boards, disagreed.



Of those who agreed, most concurred that the main conflict would be due to the difference between political / local authority boundaries and hydraulic boundaries. There was a general agreement that the internal drainage boards' supervisory role must be maintained due to their experience and knowledge. This view was supported by internal drainage boards, the Association of Drainage Authorities, local authorities, RSPB, National Farmers Union and the regional flood defence committee chairmen.

The Environment Agency acknowledged there may be conflicts between the lead local flood authorities and internal drainage boards. Natural England felt that internal drainage boards will continue to be best placed to deal with flood risk management and said that delegation to them of delivery functions need not be inconsistent with the lead local flood authority's role.

Several individuals felt that it would be beneficial for the supervision role to move to county and unitary authorities to provide a more coordinated approach.

Those who did not think there is a conflict felt that the proposed arrangements would make the process more efficient and easier to administer; this view was supported by the Local Government Association.

Question 90: If the internal drainage boards' supervisory role was repealed, what would internal drainage boards no longer be able to do that they currently can?

Most respondents (including the RSPB and regional flood defence committee chairmen) felt that if the powers the internal drainage boards currently have were repealed, it would severely affect their ability to complete most of their responsibilities. Respondents warned that the right to issue levies would be withdrawn which would in turn lead to a funding issue which could reduce the amount of work internal drainage boards were able to carry out. Therefore, internal drainage boards and local authorities also stated that they expected flooding to increase if the supervisory role was repealed.

Contrary to these views the Environment Agency did not feel that any of the internal drainage boards' current roles would be jeopardised under the new proposal, allowing that they retain all operational and regulatory powers.

Question 91: Should regulation of the entire ordinary watercourse network (including within internal drainage board watercourses) transfer to county and unitary authorities in order to provide a consistent approach?

Of those that answered this question, just over two thirds were against this proposal.

The Association of Drainage Authorities, RSPB, Natural England and National Farmers Union opposed the idea, mainly questioning the cost and resource implications of such a move. They were concerned that internal drainage boards had managed these responsibilities up until this point, had significant expertise and questioned the point of changing it. No internal drainage boards supported the proposal. Internal drainage boards were worried that county and unitary authorities have many different roles and this could mean resources would be diverted elsewhere, leading to an increase in flood risk.

Those who were in favour supported the transfer to county and unitary authorities on the condition that the communication links with the expertise in internal drainage boards remained open to ensure a smooth transition. Approximately forty per cent of local authority responses agreed with the proposal, feeling it would give greater clarity to the process.

The Local Government Association argued that rationalising the number of internal drainage boards and making it easier to alter their boundaries would help, but felt that in an internal drainage board area, the internal drainage boards should keep their responsibilities. The regional flood defence committee chairmen went further to nominate the Environment Agency as an alternative body to take on the regulatory role.

Question 92: Do you think that internal drainage boards should have specific powers to share services and form/participate in consortia?

The majority of those consulted were overwhelmingly in favour of this proposed policy option. This included internal drainage boards (approximately four-fifths), local authorities (approximately three-quarters), the Environment Agency and National Farmers Union. The general feeling from most respondents was that shared services and consortia would improve efficiency, as long as this was on a voluntary basis rather than in response to a regulatory duty.

The Association of Drainage Authorities felt that before this could happen, internal drainage boards would need clear guidelines from Defra. In particular, they would need to highlight what powers internal drainage boards had for consortia arrangements and that they could spend money on all current/future internal drainage board activities.

Of those who opposed this proposal, the predominant concern was that local representation and expertise would be lessened.

Question 93: Do you think that internal drainage boards should have specific powers to form/participate in limited companies/limited liability partnerships for the purposes of sharing services?

Of those that responded to this question, approximately half supported the proposal. Those in support felt that it would create value for money. Internal drainage boards in general (approximately three-fifths) supported the idea, suggesting that it would allow for a more

cohesive approach. Others raised concerns that managing such large organisations would be a drain on resources and could confuse local flood risk management strategy.

The Association of Drainage Authorities supported the proposal but argued that not all internal drainage boards would need such powers. The Environment Agency was also supportive, but wanted further clarification that these new powers would not affect the internal drainage boards' role as a public body in flood and coastal erosion and environmental legislation.

The National Farmers Union supported the proposal, but argued that the fact of having such powers should not mean that they would be forced to use them.

Those against, argued that without the appropriate checks and regulation in place, there could be a risk of internal drainage boards holding a monopoly in certain areas. Approximately sixty per cent of local authority respondents were against the proposal, if it reduced accountability.

Some did agree that forming partnerships could increase the efficiency of the boards, but others raised concerns that it could lead to organisational and procurement issues. The RSPB were concerned that should internal drainage boards create profit making partnerships, this could lead to cross-subsidies flowing from local authorities to agricultural rate payers.

Question 94: What negative impacts might there be from providing internal drainage boards with these specific powers?

Large numbers felt that there would be no negative impacts from such a proposal.

Some respondents felt that ensuring accountability would be the greatest difficulty under these new proposals; in particular, ensuring that the interests of board members were not put ahead of the core responsibilities of the board. Several also stated that arrangements could become overly bureaucratic resulting in a loss of efficiency and speed in dealing with urgent matters.

The Environment Agency noted that a potentially serious impact might be a weakening of existing public body roles with respect to flood and coastal erosion risk management and environmental obligations.

Question 95: Do you agree the proposals outlined are the best way to simplify these procedures? If not, what alternative approaches should be considered?

Just over eighty per cent of respondents to the first question expressing an opinion either way, agreed with the outlined proposals.

About the same number of internal drainage boards and local authorities (approximately two thirds) were supportive. Most were in support of streamlining the amalgamation processes, but very few felt that the Government will meet the 2013 deadline.

Several suggested that whilst they agreed, they felt the county council should have responsibility for these procedures. Concerns were also raised about retaining the current expertise, resources and enthusiasm of internal drainage boards.

Question 96: Do you agree that the title of internal drainage boards should change in the future to reflect the wider approaches that internal drainage boards will undertake now and in the future?

Local authority opinion was split on this proposal with some believing that the name “internal drainage board” is not known widely. Those authorities which did not support the name change, suggested that it does not matter what internal drainage boards are called, as long as people are clear on their role.

The Environment Agency supported the proposal and suggested that a name change needs to convey their triple role as land drainage body, manager of water levels and local flood risk operating authority. The RSPB felt that the name is based on historic legacies and should be changed to reflect current roles. Some respondents pointed out that a few internal drainage boards were already changing their names to reflect the new roles they were undertaking.

A large number of respondents questioned the usefulness of changing the name of internal drainage boards. They argued that it would be a waste of money and that the role of internal drainage boards is not changing significantly enough to warrant such an idea. Only approximately fifteen per cent of internal drainage board respondents supported the proposal, arguing that there was a high level of community understanding of the name “internal drainage board” and to change it could increase confusion.

The Association of Drainage Authorities, regional flood defence committee chairmen, National Farmers Union and Local Government Association all disagreed with the proposed name change.

Question 97: Do you agree that ‘Local Flood Risk Management Board’ is an appropriate new title, or is there a better alternative?

Of those that responded to this question, less than a quarter agreed with the suggested title.

Of the internal drainage boards that responded, approximately seventy per cent disagreed with the suggested title. They were concerned that this title did not reflect the work they do on water level management, that it was too long, and that to change it served no useful purpose.

Many local authorities (over half) were also concerned about the length of the name. They also considered it would lead to confusion over who is in charge of local flood risk management and felt it may detract from the lead local flood authority’s role. Other respondents also felt that the proposed title failed to convey the catchment or sub-catchment management basis of internal drainage boards.

Suggestions for alternative names included: ‘Lowland Flood Risk Management Board’ (or ‘Rural Flood Risk Management Board’) depending where they operate, ‘Local Flood Risk and Water Level Management Board,’ ‘Water Level Management Authority/Board’ or ‘Land and Urban Drainage Board.’

The RSPB felt that the term ‘risk’ could be dropped to reflect that internal drainage boards also manage flooding for a range of purposes which includes biodiversity. The Environment Agency did not expect there to be confusion, but suggested that ‘Local Water Management Boards’ might be a more explicit option.

Question 98: Do you agree that the principles of the Medway Letter should be relaxed allowing internal drainage boards to expand their boundaries beyond their traditional areas?

Most respondents (over two thirds) felt that it was useful to base the boundaries on catchment areas rather than on political borders, and supported the relaxation of powers contained within the Medway Letter.

Over eighty per cent of internal drainage boards agreed with the proposal, although several thought there should be flexibility to operate outside their boundaries when appropriate. The Association of Drainage Authorities agreed with the concern that internal drainage boards must be allowed to maintain flexibility to suit local communities and landscape. Over eighty per cent of local authorities agreed with this proposal. Some suggested that this would also remove the need to claim upland water contributions from the Environment Agency.

Natural England and the RSPB suggested that as long as the internal drainage board can show (either the Environment Agency or the lead local flood authorities, depending on who was leading) that they are able to deliver the full range of flood risk management functions, they saw no reason to limit the internal drainage board's activities. The National Farmers Union agreed with the proposal, but argued that safeguards would be required (including a thorough consultation with key stakeholders).

Question 99: Do you agree that there should be a specific requirement for internal drainage boards to produce an impact assessment demonstrating the cost benefit implications of a boundary expansion?

Almost nine in ten of those respondents who gave an opinion were in support of a specific requirement.

Some though, were keen to ensure that it was not the only factor considered on whether boundary expansions were necessary.

Internal drainage boards were largely concerned that benefits arising from drainage and water level management are often felt across boundaries (e.g. one internal drainage board providing benefits in another internal drainage board's district). They felt that this factor should be accounted for in an impact assessment and that these impact assessments should be approved by the Environment Agency or the regional flood defence committee chairmen.

The Association of Drainage Authorities suggested that the impact assessments are best produced by unitary or county councils with help from the internal drainage boards, as this would enable the impact assessment process to be independent of the internal drainage board, whilst still reflecting local views. The National Farmers Union also felt that the lead local flood authorities were better placed to consider the impact assessments.

The Environment Agency suggested any proposal to expand internal drainage board boundaries should demonstrate to the Government the benefits and costs of the proposed expansion of an internal drainage board's geographical operation, including how this would fit with other flood and coastal erosion risk management operating authorities, and local and national strategies effective in the locality.

Question 100: Do you agree that the future supervision of internal drainage boards would fit better with county and unitary local authorities rather than the Environment Agency in the future?

Just under two-fifths of respondents expressing an opinion were in favour of this proposal.

There were many concerns about the proposed change. Even those that supported the move expressed numerous caveats. The major concerns were a lack of expertise and funding within local authorities, and the fact that internal drainage boards are based around catchment areas, which do not fit with local authority administrative boundaries. Following on from this point, a few respondents were anxious about whether the boundaries would be re-drawn to accommodate such a change.

Approximately three quarters of internal drainage boards were entirely against the move. The Association of British Insurers also felt that the supervision of internal drainage boards should remain with the Environment Agency on a national level, but move to a local authority supervisory basis when considering local internal drainage boards and issues. The National Farmers Union were against the proposed change, arguing that local authorities do not have the expertise to manage internal drainage boards efficiently.

Just over half of local authority responses supported, the idea. However, this support was based on extra funding and more resources being available. The Environment Agency would like to see the future supervision of internal drainage boards managed by the lead local flood authorities.

The Local Government Association did not see any conflict or inconsistency between the supervisory role of internal drainage boards and the proposed lead role for local authorities. They stated the expertise found in internal drainage boards will probably not be found in most local authorities.

Question 101: Do you think that county and unitary local authorities should take over the lead on amalgamation (etc.) schemes from Environment Agency in the future under this supervisory role?

Again, just under two-fifths of respondents expressing an opinion were in favour of this proposal.

The main reasons for disagreeing were extra delays and additional costs to the taxpayer. Many of the responses that disagreed with the proposal, did however state that the processes involved could be simplified and that currently the Environment Agency/ Defra do not provide an efficient enough service to the internal drainage boards on a consultative basis.

Around half of local authority respondents supported the proposal, as long as the requirement for additional funding were made clear at the outset.

Question 102: Do you agree that lifting the bare majority limit on local authority membership of internal drainage boards will allow for fairer representation on boards in the future?

Of those expressing an opinion two-thirds of respondents agreed that this would allow for a fairer representation on boards in future. Those who supported the idea also highlighted the need for consortia / partnership arrangements to provide fair representation.

Two-thirds of internal drainage boards gave neutral responses with approximately a quarter disagreeing. The high level of neutral answers is due to a large number of respondents feeling that the current system works well and that if the bare majority were to be removed in support of the “he who pays, gets a say” approach, then the local knowledge base would need to be maintained.

Over half of local authority respondents agreed with the proposal, and around one fifth disagreed. Local authorities, the National Farmers Union and the regional flood defence committee chairmen appeared to support the “he who pays, gets a say” method of representation. They also felt that if the system was altered, then it is vital to keep local representation and knowledge at the core of the board.

The Association of Drainage Authorities felt that the current system has significant merit and suggested that any departure from this system must ensure a fair balance and local representation.

The Environment Agency and Natural England suggested that the membership of internal drainage boards should include a wide range of local interests and should reflect the expectation of a greater contribution from internal drainage boards toward environmental objectives. The RSPB added that local authorities’ attendance at internal drainage board board meetings tends to be patchy, and this would need to be addressed should the membership alter.

Question 103: Are there other models of membership that you think would be more appropriate?

In general, the respondents felt that the principle of “he who pays, gets a say” should remain. However, some respondents did feel that the requirement to own land to be allowed on the board could be relaxed to gain views from other interested parties.

Natural England would like to see internal drainage board membership reflect local communities, agriculture, business interests, tourism, conservation, recreation and amenity services. The National Farmers Union felt it would seem appropriate for county councils, as lead local flood authorities, to be represented at board meetings on a non-voting basis.

The Environment Agency suggested that local authorities should be able to appoint board members from a wide range of groups, not just elected members. These could perhaps include influential council officers with a particular local expertise, e.g. recreation, green infrastructure, climate change, sustainability, conservation/biodiversity, built environment, etc..

Alternatively, this expertise could be appointed onto boards from external organisations, under a model similar to that for the appointment of regional flood defence committee members, where Defra appoints expertise from academia, the RSPB, Natural England, English Heritage, National Trust and local businesses.

Question 104: Do you agree that the Secretary of State should have powers to determine the size, shape and structure of internal drainage boards in the future?

Of those that responded over half supported of the Secretary of State having powers to determine the size, shape and structure of internal drainage boards.

Those who supported the proposal generally agreed that the Secretary of State needed such powers, but only with rules and regulations laid down detailing the ways he can use them.

It was felt that if the Secretary of State did gain these powers that he should consult on a local basis before making any decision. Respondents also felt that the Secretary of State's input should be a last resort measure, only to be used if a solution cannot be found locally.

Many, including the Association of Drainage Authorities, National Farmers Union and local authorities, were concerned that the proposal would remove powers from the regional flood defence committees and give more power to the Government at the expense of local expertise. One respondent believed the proposal was contradictory to the idea of relaxing the Medway Letter.

Internal drainage boards were divided on the idea. Some agreed that the Secretary of State was in a good position to decide the size, shape and structure of internal drainage boards (with appropriate local consultation). However, others reflected the concerns outlined above.

Question 105: What consultation would need to occur before individual changes in size, shape and structure of internal drainage boards were to take place? What sort of powers would be most appropriate?

Most respondents stated that before any changes were to occur, a full consultation with key stakeholders would need to happen. Some also suggested that an impact assessment would need to be carried out for all cases that required changes in size, shape or structure.

The RSPB recommended a statutory requirement to advertise proposals in local press complemented by announcements on the Defra website and in the London Gazette. They also suggested that consultations should follow current practice for other statutory bodies.

The National Farmers Union felt it is more appropriate for regional flood defence committees to retain their power to recommend changes, in consultation with internal drainage boards, rate and levy-payers and lead local flood authorities, which are then submitted to the Secretary of State for approval.

The regional flood defence committee chairmen felt that the Secretary of State should have powers to use where internal drainage boards are either in default of their obligations or unable to agree with their flood risk management partners. If such powers were then exercised in consultation with the regional flood and coastal committees in their peer review role, this would be an effective means of ensuring that decisions about internal drainage boards were made sensibly.

Question 106: Views are sought on whether the assumptions are reasonable. Can further evidence be made available to improve the analysis? Are the measures proportionate with the scale of benefits assumed?

There was a limited response to this question, and of these the majority considered that the assumptions were not reasonable.

The respondents who felt that the assumptions were reasonable, based their answer on the information provided in the Defra Internal Drainage Board Review published in 2005.

The remainder, who felt that the assumptions were unreasonable argued that it is difficult to accurately predict how the proposals in the document will turn out and therefore cannot be considered as reasonable. A particular concern of those who felt the assumptions were unreasonable was that a 'one size fits all' approach, does not necessarily work and more research was required.

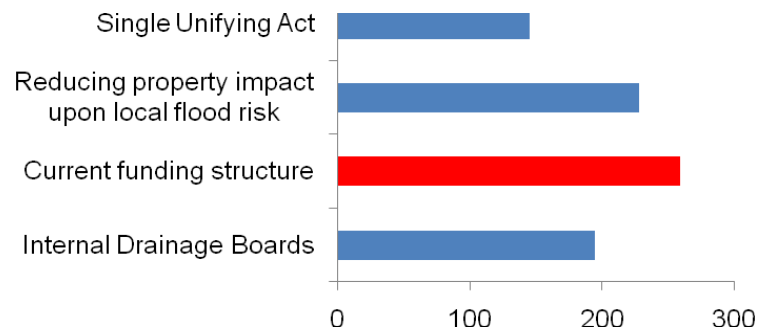
Many internal drainage boards felt paragraph 366 of the consultation document did not accurately reflect how they operate. They argued that they have made significant efforts to operate for wider benefits and not just for the narrow interests of farmers.

Several local authorities argued that there is not enough evidence to provide an answer to this question, the Environment Agency also supported this view. Local authorities also raised concerns that this section of the consultation paper assumed that they are all financially sound and stable, which is not the case.

3.15 Current funding structure

Question 108: Do you agree that there is a case to retain powers for the Environment Agency to levy (a) general drainage charges and for internal drainage boards to retain similar powers to levy (b) agricultural drainage rates in England and Wales?

Approximately three-quarters of respondents to this question broadly agreed with the proposals.



The Association of Drainage Authorities, Local Government Association and National Farmers Union believed that it was vitally important that the regional flood defence committees and internal drainage boards retained their ability to raise funds locally and have powers to levy general drainage charges and agricultural drainage rates in future. They felt that the general drainage charges should be applied nationally across all Environment Agency regions. The Environment Agency, too, agreed with the retention of their and the internal drainage boards' powers.

The Association of Drainage Authorities also wanted a clear and transparent funding stream for environmental works carried out by internal drainage boards.

However, a few local authorities questioned the need for charging mechanisms that are only used in limited circumstances and some queried where the powers should rest (as discussed under Question 110).

Question 109: Do you agree that EA's current powers to levy special drainage charges should be repealed?

The responses to this proposal were somewhat divided, with approximately half agreeing and half disagreeing with the proposal.

Those that agreed (including the National Farmers Union) said that it made sense to repeal the powers if they were unused. Two local authorities said that funding should reflect the responsibilities set out in the Bill.

Those that disagreed mostly argued that it may be useful to retain these powers in the future. These were common arguments posed by the regional flood defence committee chairmen, the Environment Agency, the Association of Drainage Authorities and many of the internal drainage boards.

Question 110: Do you agree that only county and unitary local authorities should be funded for local flood risk management to allow them to prioritise funding based on where beneficiaries would be greatest?

Of those that responded, approximately thirty-five per cent agreed and just less than fifty per cent disagreed with the proposals.

Those that supported the proposal believed this would achieve a better link between responsibility and funding. Some who were supportive added the caveat that funding should be ring fenced to flood risk.

Those that opposed (including the National Farmers Union, the regional flood defence committee chairmen, and the Environment Agency) put forward a range of reasons, many believing that internal drainage boards and districts should continue to receive funding so that they can continue to act consistently and carry out locally agreed delivery plans.

The Environment Agency also felt that as boards manage ordinary watercourses, internal drainage boards should be able to raise funding locally. With a more localised presence they are closer to their customers. All internal drainage boards were opposed to the proposal, their main concerns being the risk of funding being diverted elsewhere over the long term, the certainty of funding would decrease.

The Association of Drainage Authorities opposed the proposal which they believed would not guarantee a consistent pattern of funding to internal drainage boards and other operating authorities as funds would be diverted to other non-flood related activities of higher political priority. They felt that where internal drainage boards were present, county/unitary authorities should make use of their expertise and defer to them on funding.

Some respondents were concerned that money would be diverted or subjected to capping. The RSPB recommended that funding for flood and coastal erosion risk management works through the Revenue Support Grant be phased out and replaced by payments from the national flood and coastal erosion risk management block grant administered by the Environment Agency.

Local authority opinion was divided, with most county councils supporting, and district authorities generally opposing the proposal.

Question 111: Do you think that replacing the internal drainage board special levy in England and Wales with agency or contractual arrangements between internal drainage boards and the relevant local authorities would improve the delivery and prioritisation of local flood risk management?

Of those that responded approximately twenty per cent supported and sixty per cent opposed the proposal.

All internal drainage boards were opposed to this proposal. The Association of Drainage Authorities, National Farmers Union and Environment Agency also disagreed, with their main concerns being a loss of local accountability, unreliable future funding and risk of funds being diverted to other areas determined by political priorities.

A number of local authorities raised concerns that funds would be diverted elsewhere and that contractual arrangements would become more short term. Other respondents feared this would increase complexity and bureaucracy.

Those that agreed wanted further clarification on funding over a reasonable period. One argued that proposed changes to internal drainage boards would improve the situation by eliminating a bias towards agriculture.

Question 112: Are there other arrangements that would remove or reduce the problems associated with the special levy in England and Wales?

The majority of responses to this question were from internal drainage boards. A range of proposals was put forward, the most popular of which were excluding special levies from local authority capping; extending internal drainage board boundaries; or retaining the current system.

The Association of Drainage Authorities proposed removing the majority capping of local authority members on internal drainage boards, extending boundaries to other areas of special water level management/ drainage need and invoicing all householders for provision of local flood risk services through council tax (i.e. abolishing the special levy).

The RSPB recommended phasing out Revenue Support Grant of local authority flood risk management and requiring all local authorities to bid into the flood and coastal erosion risk management block grant administered by the Environment Agency.

The regional flood defence committee chairmen stated that if people started to see internal drainage districts not primarily as areas of agricultural land, but as publicly agreed areas with a greater need to manage flood risk, it would make sense to raise and spend money directly within the internal drainage districts. This would imply some significant alteration to existing internal drainage board boundaries.

Arranging the composition of internal drainage boards to accommodate lead local flood authorities, either in place of, or alongside, district councils, would be an acceptable way to ensure that the leadership of local flood risk management was fully integrated into and consistent with internal drainage board funding and spending objectives.

Question 113: Is there a case to end both internal drainage board highland water charges and the Environment Agency's precept on internal drainage boards in England and Wales?

Of those that responded approximately forty-five per cent agreed and around thirty per cent disagreed with the proposal. Other responses were neutral.

Some of the internal drainage boards that disagreed commented that they recognised the case for this provided that internal drainage board boundaries were changed to the entire catchment boundary. However, for some internal drainage boards this would not be appropriate, and some were net receivers of water and required funding.

They disagreed with the abolition of the Environment Agency precept unless the Environment Agency was fully funded to carry out all activity on main rivers including low priority areas. An alternative was to abolish the precept, and for internal drainage boards/local authorities to take over some main rivers and flood defences from the Environment Agency that were low priority for national funding.

The Association of Drainage Authorities agreed provided internal drainage boards continued to have a say in works; the Environment Agency would still be able to undertake work with available finance; and there was legislation to allow internal drainage board boundaries to be extended to their full watershed, and to remove the need for highland contributions.

The Environment Agency and regional flood defence committees were in support provided that the Medway Letter principles were relaxed. The National Farmers Union wanted to see an impact assessment of funding reforms to understand whether this would place higher costs on landowners.

Question 114: If the Medway letter were retained, would there still be a case to end the payments?

Equal numbers agreed, disagreed and were neutral towards the proposal.

The Environment Agency agreed. It felt that the case to end the payments would be reduced but remained as internal drainage boards would still seek funding to manage water that passes through their districts.

A number of internal drainage boards commented that some of them rely on highland water contributions. Without relaxing the Medway Letter principles they were worried that the funding would cease without the internal drainage board being able to extend its area and retrieve some of the lost funding for work still needed.

Question 115: What additional steps or measures could be taken to make sure developers in England and Wales contribute towards the pressures new developments place on future local and central government budgets?

The most popular proposals were for a ring-fenced component of the Community Infrastructure Levy (CIL) to cover flood risk management and powers to force developers to provide funding for flood risk management measures and to contribute to future works. Potential options put forward for achieving the latter were:

- through a commuted sum set-aside for future maintenance;
- through powers to require payment at a later date; or
- forcing developers to pay compensation for any flooding resulting from a new development (possibly with a time limit of ten years).

A number of proposals were made by internal drainage boards and local authorities for strengthening existing powers by reviewing PPS 25 and section 106 powers. A number commented that drainage authorities should have powers clearly set out in legislation and should not have to rely on bye-laws.

The Environment Agency felt that developers should pay for any increase in flood risk that they create. It is likely that a defended development will affect others in the catchment and developers should fund sufficient mitigation and maintenance to ensure that others in the catchment are not adversely affected.

Legislation could require the payment of commuted sums to cover this and define some basic parameters. This would reduce the vagaries of current negotiated settlements.

Two local authorities noted there had been little success in putting in place commuted sums for the future maintenance of highways and the associated street furniture as a result of resistance from developers, and that this need would be better tackled through the CIL. The regional flood defence committee chairmen responded that many opportunities for additional funding through Section 106 agreements had been lost in the past. This was due to planning officers not considering flood risk as a priority for local funding and late calls for funding having been opposed by developers for making developments uneconomic. They felt that funding for flood risk management projects should be a high priority in the CIL.

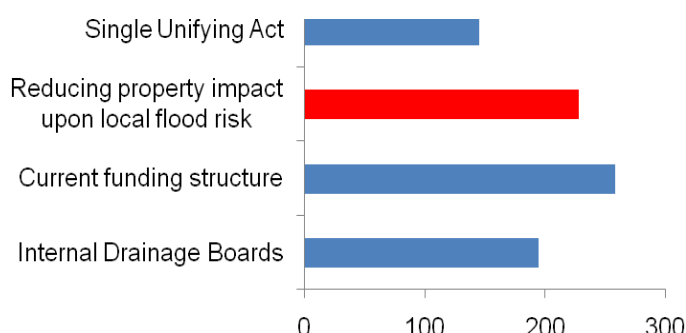
Local authorities were concerned about future escalating costs, in particular from SUDS. One proposal was for a new levy either through the insurance sector or upon purchase price or rent collected from a property. Another was for a levy based on total impermeable area of a property.

Some local authorities commented that restrictions on development on floodplains had been undermined by recent overturning of local authority refusals. The RSPB's overriding concern was that, whatever mechanism is introduced, developers are not given the opportunity to buy out of planning policies designed to protect floodplains from development or override priorities set out in national/local flood and coastal erosion risk management strategies. The National Farmers Union felt it imperative that planning authorities should make maximum use of planning conditions and follow through to ensure that those conditions are respected.

3.16 Reducing property owners' and occupiers' impact upon local flood risk

Question 116: How can people be made aware of their riparian responsibilities when they first buy properties that include riparian land?

There were strong views from respondents that information on riparian ownership should be included in the conveyancing process and home information packs (HIPs).



The Environment Agency believed that the conveyancing process is an ideal opportunity to make potential owners of riparian land aware of what responsibilities this may bring. They felt that appropriate enquiries should be made by the purchaser's solicitors or the vendor.

Some local authorities suggested that there should be a standard enquiry before contract in conveyancing, meaning that the details of the property's exposure to flood risk would be mentioned in the deeds to the house and difficult to ignore.

One local authority pointed out that while a good conveyance should inform the purchaser of their liabilities when they purchase property and land, a lot of drainage apparatus still remains uncharted. The authority felt that riparian ownership questions and answers should be included in home information packs to address the gaps.

Internal drainage boards support the addition of text explaining responsibilities of riparian owners (including local authority / internal drainage board bye-laws) to home information packs or legal searches, thus making it a normal part of house buying and selling procedures.

Another local authority suggested that occasional publicity campaigns may be necessary to address the riparian owners who have forgotten the rights and duties that go with their riparian ownership. The British Insurance Brokers Association suggested that the Environment Agency website could include the appropriate details.

The National Flood Forum welcomed the attempt to clarify a riparian owner's responsibilities in law, rather than relying on the less clear case law in place today.

Question 117: What else could be done to improve existing riparian owners' awareness and understanding of their responsibilities?

Some respondents asked for a more proactive advertising campaign by the Environment Agency and local authorities at both national and local levels, again including information in the home information packs and on the Environment Agency website. A number of local authorities particularly pointed out that information on culverted watercourses may be useful.

Internal drainage boards disagreed with paragraph 449 of the consultation, that the awareness of riparian owners in the case of most designated main rivers does not have implications for

flood risk management. This was in view of the reduction in the Environment Agency's maintenance of many rural systems.

The Environment Agency supported the universal extension of powers under Section 41 of the Yorkshire Water Act 1986 so that consents etc. become a land charge and binding on future owners.

Question 118: What examples are there of strategies that have succeeded in increasing the engagement of riparian owners and improving their contribution to maintenance?

Some local authorities commented that they are not aware of any specific strategies that have succeeded in increasing riparian awareness. They suggested that it normally takes a significant flood event, either locally or nationally, for people to question who should be maintaining certain ditches and watercourses. Internal drainage boards thought riparian owners in internal drainage board districts tend to have a good understanding of their responsibilities because of proactive local engagement by internal drainage boards with their local community.

The British Insurance Brokers Association suggested that risk management for property owners and business resilience are key areas where an insurance broker can advise property owners of risk management and how to reduce or transfer the risks.

The Environment Agency and some county councils supported targeted campaigns such as mail drops. They believed that working with local communities, local councils, and farming organisations should be considered as part of promoting awareness.

Question 119: How could the powers provided to drainage bodies by section 25 of the Land Drainage Act 1991 be improved?

Several respondents suggested that the current powers are long winded and complicated. Therefore the primary concern was to simplify the powers and ensure a better understanding of what is required.

Many respondents felt it would be beneficial to improve the enforcement regulations and make it easier to serve notice. Some local authorities considered it appropriate for the enforcing authority to have powers to act when the riparian owner defaults on its responsibilities to carry out remedial work.

The National Farmers Union believed the current regulations are clear enough. However, they stated that some of its members find these powers less useful when dealing with collective breaches, as opposed to individual cases. The Association of Drainage Authorities also considered the current bye-laws to be sufficient and saw no further need for improvement.

However, the Association of Drainage Authorities offered several suggestions for improvements from its members:

- greater and simplified powers for all appropriate authorities (including internal drainage boards) to enforce removal of non-consented structures and obstructions;
- better public awareness of the consenting requirements;
- ability to apply retrospective enforcement actions on historic non-consented structures; and

- ability for all appropriate authorities (including internal drainage boards) to register a charge on property where work is done or drainage rates are due, and the owner cannot be traced.

The Environment Agency felt that the changes made to the powers within the draft Bill were sufficient and would make it clearer and easier to enforce.

Question 120: Do you agree with the suggestion that Early Neutral Intervention be offered to applicants and respondents in all Agricultural Land Tribunal land drainage cases?

Of those that responded, approximately two-thirds were in support of the proposal.

The National Farmers Union supported the proposal, but their impression from members of the Agricultural Land Tribunal and their own archive of reported cases is that very few applications are made each year. They noted that applications might increase if clause 44 of the draft Bill were implemented as envisaged.

Some respondents (including the Environment Agency) believed that initial informal dispute resolution process before formal tribunal should be provided. It was also suggested that any steps that remove the threat of litigation in relation to watercourse management should be supported.

Some local authorities commented that an Early Neutral Intervention seemed sensible for mediation. Others stated that often, by the time the council gets involved, mediation would be unlikely to solve the problem due to the large caseloads that would be experienced by local authorities and the hurried deadlines of the homebuyers.

The Agricultural Land Tribunal made a number of points. They highlighted the fact that drainage members are not trained mediators and without a considerable degree of expensive training from an organisation such as the Centre for Effective Dispute Resolution (CEDR), drainage members would be unable to conduct effective mediations. Even with mediation training, Agricultural Land Tribunal drainage members are not legally trained and lack the legal knowledge to deal with associated legal issues that would affect any settlements made via mediation.

Agricultural Land Tribunal members are currently unpaid. Mediations could take several days and Agricultural Land Tribunal members would need to be paid to undertake mediations. The drainage member would probably need to make a site inspection, often involving complex biosecurity measures which would have to be repeated if a case went to full hearing. The Agricultural Land Tribunal also pointed out that it is accepted practice that a mediator cannot be a member of a panel that determines an application in the event of a wholly or partially failed mediation.

Question 121: Do you agree with the introduction of a fee for all applications to the Agricultural Land Tribunal that concern land drainage? This would not affect hearings for agricultural tenancies.

Of those that responded, approximately two thirds were in support of the proposal. Approximately seventy per cent of local authorities were in support, as were forty per cent of internal drainage boards.

Some respondents, including the Environment Agency and National Farmers Union, pointed out that as long as it is a sensible amount, they would support the proposal as there should be a mechanism for recovering the administration costs for Agricultural Land Tribunals.

The Agricultural Land Tribunal stated that as it makes no charge under its other jurisdictions it sees no reason why drainage applications should be in a different category. The Agricultural Land Tribunal felt that a fee may discourage certain persons from making applications, thus in the event of a fee being introduced, a waiver would need to be considered.

Question 122: If an application fee were introduced, at what level should it be set?

A large majority of respondents (including the National Farmers Union) felt that £100 was a reasonable amount to set the application fee. However, there was a range of responses from £10 to £750. The Environment Agency felt that this was a matter for the Agricultural Land Tribunal.

The Agricultural Land Tribunal's response to the consultation suggested that no fee should be charged. However, should one be introduced, they felt that it should be set at an amount between £100 and £350.

Question 123: Do you agree that fee should be charged for an Agricultural Land Tribunal hearing on drainage? Should that fee be paid by the losing party or should this be decided by the Agricultural Land Tribunal?

Of those that responded, approximately two thirds agreed a fee should be charged.

However, some respondents advised that this may deter some people from applying and in the context of the Bill make the flooding situation worse. Some also thought it should be decided and charged by the Agricultural Land Tribunal, as there may be multiple contributing factors for the relevant instance of flooding which may not be the responsibility of the losing party.

The National Farmers Union agreed in principle but only in relation to full (rather than directions) hearings. The National Farmers Union felt it should be for the Agricultural Land Tribunal to decide who pays the fee, but there should be a presumption that costs would be made against the losing party unless there are overriding reasons for a different approach (e.g. refusal by the successful party to accept a formal offer of mediation by the losing party).

The Agricultural Land Tribunal did not support charging a fee. However, if it were to be introduced, the Agricultural Land Tribunal suggested it should be paid by the applicant. Any hearing fee should be refunded to the applicant by the respondent in cases where the applicant has acted frivolously or in a vexatious manner during proceedings.

Question 124: If an application fee were introduced, at what level should it be set?

Respondents commonly suggested either a £1,000 fee or that the Agricultural Land Tribunal should decide the level of fee.

The Agricultural Land Tribunal suggested that the estimated average cost of the full hearing of an Agricultural Land Tribunal drainage case of £10,000 is considered an over-estimate and that a hearing fee should not be charged as this would discourage applications. However, if such a charge were introduced, it should be set at a similar level to other first-instance tribunals.

The National Farmers Union felt that the £1,000 suggestion in the consultation document seemed too high. No other amount was given.

Question 125: What cases are you aware of where people might have made use of the Agricultural Land Tribunal had its remit extended beyond ditches and included all ordinary watercourses?

Very few respondents were aware of such situations. Those respondents with experience commented that the process was extremely long winded and complicated (with one respondent commenting that the issue was still not rectified after eight years). Following on from the above, it was suggested that should the remit be extended, the process would need to be overhauled.

The National Farmers Union suggested that the recent case heard by Agricultural Land Tribunal Wales was an example of an unsatisfactory conclusion, partly because the jurisdiction of the Agricultural Land Tribunal does not extend to main rivers.

Question 126: Do you think that it would be a good idea to extend the remit of the Agricultural Land Tribunal to include all ordinary watercourses? Do you think that it should also be extended to cover the main river network?

Of those who did respond, the majority supported the proposal.

They felt that it gave a unified approach to the current system. One internal drainage board felt that there would be a conflict of interests where the Environment Agency could refuse to carry out work in a rural location, should those works affect an urban area downstream.

Other internal drainage boards argued that the Agricultural Land Tribunal should not be needed in an internal drainage board area. Internal drainage boards were generally concerned that the role of the Agricultural Land Tribunal should not interfere with their role. The publication of clear guidelines before the proposal is enacted was suggested as a way to combat this.

The National Farmers Union stated the flow of water does not respect designations which can change over time. They pointed to one recent Agricultural Land Tribunal case (*Morgan v Countryside Council for Wales*, 2008), where a stretch of watercourse that both parties had assumed was within jurisdiction of the tribunal was revealed to be a main river by the independent expert's report. The issue also arose in *Dearnley v Guildford Borough Council* (2008). On balance, the National Farmers Union thought it worth considering extending the Agricultural Land Tribunal's remit to cover all watercourses including main rivers.

The Agricultural Land Tribunal felt it sensible to extend its remit to include either all ordinary watercourses or at least the main river network up to and including main rivers, since the present restriction does not work satisfactorily and inhibits the work of the Agricultural Land

Tribunal. The Environment Agency felt that the Agricultural Land Tribunal's remit should be extended to watercourses, but not to main rivers.

Question 127: In what other ways, if any, could the regulations and processes of the Agricultural Land Tribunal be improved as regards to cases involving drainage issues?

The majority of respondents felt that the regulations and processes of the Agricultural Land Tribunal would benefit from streamlining and making them simpler to understand. Several respondents felt that they were overly bureaucratic.

The National Farmers Union stated that they had not heard any complaints about the processes and regulations of the Agricultural Land Tribunal and suggested that it is actually easier than processing a claim against a neighbour in a county court.

The Agricultural Land Tribunal suggested jurisdiction should be expanded to transfer disputes to the High Court, in particular, in cases in which it appears that an injunction should be granted. However, this should not prevent the Agricultural Land Tribunal having a far wider jurisdiction to make interim orders.

Question 128: Do you think the Agricultural Land Tribunal should be renamed? If so, what name do you suggest?

Of those that responded, just over half supported a name change. Some respondents suggested that if the functions of the Agricultural Land Tribunal were to be broadened (in ways suggested in the consultation), suggestions for name changes included:

- Drainage and Agricultural Land Tribunal;
- Agricultural Land and Drainage Tribunal; and
- Land Issues Tribunal.

The Association of Drainage Authorities commented that the tribunal that is at present the Agricultural Land Tribunal must remain, but the Agricultural Land Tribunal should also administer and operate a "Drainage Tribunal". The Drainage Tribunal would be chaired by a chairman or deputy chairman of the Agricultural Land Tribunal sitting with drainage members of the Agricultural Land Tribunal.

The Agricultural Land Tribunal thought that the rent assessment panels have successfully operated and administered residential property tribunals, rent tribunals, rent assessment committees and leasehold valuation tribunals in a very similar way for the last 40 or 50 years. The Agricultural Land Tribunal added that the idea of an umbrella tribunal is not novel.

The National Farmers Union did not have strong views on this as they thought farmers are generally familiar with the Agricultural Land Tribunal, but they and the wider public may not be aware that the tribunals deal with drainage issues affecting non-agricultural owners.

Question 129: Do you believe that failure to maintain the flow of water through watercourses should be described in law as a statutory nuisance?

Approximately two-thirds of respondents supported this proposal.

However, numerous respondents were concerned that such a statutory nuisance should not apply to activities to regulate water flow, limit flood risk or manage habitats. Concerns were raised as to whether this would be enforceable in practice.

Some local authorities felt that existing powers were sufficient and that statutory nuisance was not an appropriate tool – either because it was unworkable or because it was too costly and time consuming. Concerns were also raised about the possible burden on local authorities.

The National Farmers Union opposed the idea, also feeling that sufficient legal powers exist, the real issue being lack of resources to investigate and enforce. The Environment Agency opposed the proposal, believing that minor changes to existing legislation would be a more effective way of dealing with the problem.

The RSPB wanted riparian owners to be made aware of their biodiversity responsibilities. They feared that tougher legal sanctions could lead to biodiversity impacts.

The Association of British Insurers was supportive and believed the statutory nuisance should be extended to cover other activities that increased flood risk.

Question 130: If a statutory nuisance were created concerning “obstructed watercourses”, should it be administered by the Agricultural Land Tribunal, by district and unitary local authorities or by some other body/bodies?

The overwhelming majority supported administration by district and unitary authorities. A few supported the Agricultural Land Tribunal.

The British Insurance Brokers Association and the National Farmers Union rejected the idea of a statutory nuisance being created at all. However, the National Farmers Union did state that if this were going to go ahead then administration should lie with district and unitary authorities. The Environment Agency felt it should take the administration role.

Question 131: Do you agree that a new statutory nuisance should be created to tackle the risk of run-off flooding?

The majority of respondents supported the suggestion. However, many felt it would be difficult to prosecute in such cases, due to the complex nature of run-off. Some respondents felt that the definition of run-off would have to be clarified.

Internal drainage boards, although mainly supportive of the proposal, felt that clear definitions were needed to ensure that this proposal was actionable. Local authorities supported the proposal, although some did raise concerns that this could see them getting involved in areas from which they had been excluded in the past which would affect budgets.

The National Farmers Union suggested that whilst they agree with the proposal in principle, it may be extremely difficult to prove that the landowner is at fault.

The British Insurance Brokers Association felt that a review to tighten existing planning laws would be more effective than a statutory nuisance. The Environment Agency did not support

the proposal. However, the Agency did support introducing a more specific statutory nuisance on flooding caused by bad agricultural practices.

Question 132: If a statutory nuisance were created for run-off risk, which public bodies should be responsible for its administration and enforcement – the Agricultural Land Tribunal, unitary and district local authorities, or unitary and county local authorities?

The majority of respondents (including many councils, the Association of British Insurers, the National Farmers Union and the Environment Agency) wanted this responsibility to lie with the district or unitary authorities. A few respondents suggested the Agricultural Land Tribunal was well suited, based on their impartiality and expertise.

Local authorities had concerns about what this could mean for their budget and resources if they had responsibility. Internal drainage boards felt that they should be consulted on such a matter, as well as district and unitary authorities.

Question 133: What is the range of costs involved in conducting expert investigations into potential surface run-off statutory nuisance?

Most felt that the costs associated with such a task would vary depending on the size of the investigation area. The general view was that £50 was the lowest cost and suggestions ranged from between £500,000 to many millions for the highest possible costs depending on the area under investigation. Some respondents did mention that as the statutory nuisance would be based on case law, the need for individual investigations would be a rare occurrence.

The Environment Agency stated that costs can vary because there is currently no clear responsibility for surface water and many organisations can become involved. The Agency noted that investigations carried out by Environment Agency staff in the South West dealing with farming and localised flooding take, on average, about three person-days per incident (including field inspections and interviews with landowners and members of the public). There were ten such investigations in the South West last year, based on complaints from the public, which equated to a cost of £1,000 per incident on average.

Question 134: What sized reductions in damages can be expected when run-off risks are eliminated?

Few respondents chose to answer this question, and many suggested that it was too vague or ambiguous to answer accurately. No real figures were given by any respondents, but they did feel that the savings could be significant (depending on the size). The Environment Agency felt that a large reduction in damages can be expected when run-off risks are reduced. It stated that for some houses run-off damage can reach £100,000 per house.

Question 135: Should the owners of properties that cause a surface run-off statutory nuisance have to pay the entire cost of eliminating the nuisance? What would happen if the owner was unable to afford the work? How else could the works be paid for?

Most agreed that the property owner should be charged for the entire cost of eliminating the nuisance. Some respondents suggested that the cost could be registered as a charge on the

landowner's property if they were unable to pay, the local authority in their leadership role were unable to help and a shared cost/payment plan could not be negotiated with the property owner.

Several internal drainage boards (in a co-ordinated response) agreed with the proposal and felt that any monies that could not be paid by the landowner (through payment plans etc.) should be converted into a charge as a last resort. A number of respondents suggested that the local authority could pay for the works to be completed and then collect the monies directly from the landowner, either through increased council tax or through a payment plan agreed with both parties.

Many local authorities suggested that in some rural areas, it would be unfair and impractical for farmers to foot the entire bill for a run-off risk. The Environment Agency considered that the existing local authority practice for dealing with statutory nuisance should be followed, with respect to the affordability of eliminating the nuisance. The Agency felt that costs associated with farmland run-off are not excessive, but involve good agricultural practice and are beneficial to the landowner.

Question 136: Should local authorities be encouraged to make more use of their Article 4 powers to restrict the growth in surface run-off risk?

Of those that responded, approximately seventy per cent agreed and less than ten per cent disagreed with the proposal. Other responses were neutral.

The Environment Agency agreed and suggested information in Strategic Flood Risk Assessments could provide evidence for applying Article 4 powers. Concerns were raised, however, about capacity and difficulties policing and enforcing Article 4.

The Government made changes to permitted development rights in 2008 so that property owners must now apply for planning permission before laying an impermeable surface over a front garden (e.g. a driveway). Some respondents suggested this should go further, to require planning permission for impermeable surfaces in back gardens and on private roads. The Local Government Association supported that approach in areas where the risk of run-off flooding is high.

The RSPB also believed that restrictions could vary, reflecting the local flood risk management strategy.

Some local authorities opposed to the idea suggested that the issue should be tackled at national, not local, level. Others were concerned about the potential burden arising from making more extensive use of their powers.

Question 137: Please tell us of any recent occasions you are aware of in which run-off from farmland caused substantial disruption or damage to neighbouring property.

Natural England, the National Farmers Union, and the Association of British Insurers all confirmed that they are aware of run-off from farmland, but did not give further details.

The Environment Agency went further to state that run-off from farmland is a recurring problem that particularly affects the South West Region. In this region, maize and vegetable crops are commonly grown on steep slopes in high rainfall areas, which can exacerbate flooding. The

soils in the South West are also vulnerable to soil erosion and compaction. Farming practices have intensified in recent years and the scale of run-off can be large - covering up to 30-50 acres of land on a typical 200 acre farm.

Question 138: Do you agree that local authorities should, in areas at high risk of run-off flooding, be given powers to impose restrictions on management practices and oblige landowners to make improvements to drainage in particular portions of land implicated in flooding?

Of those that responded, approximately three-quarters supported and around five per cent opposed the proposal. Other responses were neutral.

However, concerns were raised over the impact on landowners and farmers, and the National Farmers Union in particular was opposed. Some respondents proposed a best practice code either as an alternative or as a route to be pursued before resorting to formal powers.

The Environment Agency welcomed the proposal, but wanted authorities to use a voluntary approach and only use such powers as a last resort.

Those local authorities that opposed the proposal (less than ten per cent) raised varying concerns including a lack of experience within local authorities to set requirements regarding land management, resourcing and enforcement problems, and a preference for a voluntary approach.

Local authorities that supported the proposal (approximately two thirds) added a number of caveats. These included restricting the powers to major problems or where land management had led to floods in the past; granting powers only to require reasonable or minor changes; and ensuring that this did not interfere with the legitimate rights of landowners. It was also noted that in some cases a degree of run-off would be unavoidable.

The National Farmers Union was opposed as they felt that the proposal could create a cumbersome, expensive and blunt mechanism for addressing run-off risks preferring a last-resort statutory nuisance.

Question 139: If you do agree with the above proposition, what land management practices should be included in the national list of possible restrictions?

A number of respondents felt that discussions between the National Farmers Union, Natural England and the Environment Agency would best define such practices.

Natural England stated that it has commissioned research to identify the suite of land management techniques that can contribute to flood run-off reduction and will share these findings with Defra in due course.

The Environment Agency suggested that the following land management practices should be added to the list of possible restrictions:

- keeping cattle next to watercourses during winter;
- compacted tramlines;
- inappropriate land use on high risk land (in extreme cases this may require changes from arable to grassland);

- growing inappropriate crops in high risk locations;
- directing run-off towards roads and watercourses (establishment of on-farm storage ponds);
- cropping soils with low levels of organic matter;
- preparing fine seedbeds on unstable soils;
- leaving compacted soil after harvesting; and
- locating buffer strips inappropriately.

Other high risk practices suggested include those where soil is subject to crusting, where plant rooting depths are low, where bare soil is exposed for long periods during seasons with heavy rainfall and where extensive areas of glass or polythene cover are used.

Question 140: What would be the administration costs of working with a landowner to convince them to change the way they managed their land and support them with doing so?

Respondents felt that the costs could be between hundreds or thousands of pounds depending on the amount of land owned. The RSPB believed that the Government should consider the cost-effectiveness of approaches rather than simply the costs.

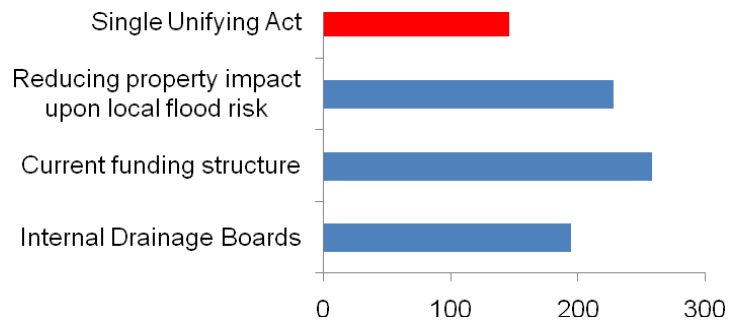
The Association of British Insurers suggested that the Bill needs to enshrine the rights and responsibilities of waterway and land owners to ensure that they are incentivised for ensuring their land and water management activities support local efforts to reduce flood risk.

The National Farmers Union believed that targeted advice provided as part of the cross-compliance regime 10 and environmental stewardship scheme applications has a relatively low cost compared to ad-hoc visits by local authority officials who might not have the knowledge needed. The National Farmers Union also hoped that where there are repeated incidents the Environment Agency would, in the first instance, work with those in the area and advise them about how run-off can be avoided.

The Environment Agency stated that based on the England Catchment Sensitive Farming Delivery Initiative (ECSFDI) which is advising landowners on changes to their land management, the average cost of an ECSFDI officer is £36,000 per annum. They believed that costs could be substantial, but they would depend on the nature of the regulations that support the process.

3.17 Single Unifying Act

Question 141: Do you agree that any proposed changes to the existing legislation, not contained in the draft Bill or covered elsewhere in this consultation document, should be discussed directly with relevant organisations in England and Wales so that changes might be introduced in the resulting legislation, without the need for further general consultation?



Of those respondents that answered this question, approximately half agreed and around a quarter disagreed.

The Environment Agency were in full support of the idea. Local authorities generally supported it too. Some were concerned, though, that there would be no further consultation. One city council felt more clarity was required to deem who was a 'relevant organisation.'

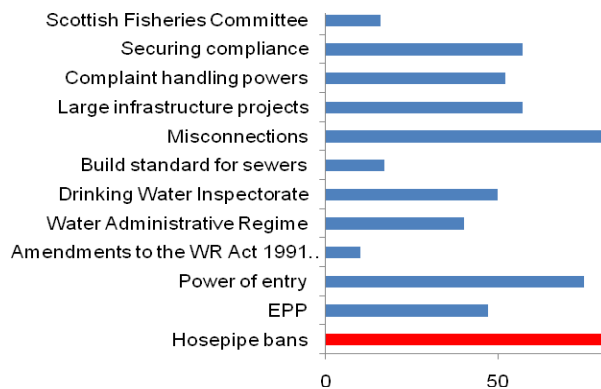
Question 142: If so, are there any particular or general issues on which you would want to be involved in this way?

Local authorities were generally keen to be consulted about changes that would lead to resources and budgetary demands on them. The Environment Agency was especially interested in being involved in future discussion on consenting and enforcement provisions and legislative requirements for flood risk management. Natural England would like to be informed of any legislative changes. In general, internal drainage boards were keen to ensure that any changes made to their regulation, funding or roles and responsibilities should go to consultation.

3.18 Hosepipe bans

A total of 71 responses were received on this section of the consultation.

Respondents generally supported the proposals, whilst identifying concerns that business interests should be protected and that a decision to include new non-essential uses through the order-making power should be based on evidence of the benefits and costs.



Question 143: What non-essential uses of water do you think should be restricted in order to save water in times of drought?

55 respondents commented on this question, revealing overwhelming support for the need to be able to conserve water through such measures. Many respondents considered that the list should be as wide-ranging as possible, flexible to respond to future needs, cover those uses that need most water, and take in commercial activities if necessary to conserve water.

Specifically, there was support (around fifty per cent) for the following non-essential uses:

- filling of domestic swimming pools, paddling pools, hot tubs.
- washing private motor vehicles; and
- watering gardens, parks, lawns and landscaped areas.

Other comments also put forward:

- cleaning patios, drives, paths, pavements, and other similar exterior surfaces;
- operating mechanical vehicle washers;
- cleaning the external surfaces of buildings (including windows);
- all non-essential uses (other than drinking and washing) domestic and commercial; and
- operating ornamental fountains, cascades and other water features.

Respondents noted the need for restrictions to be clear and unambiguous. Suggestions included the need for clear and precise definitions in the legislation or a blanket ban with identified exceptions to provide the most clarity.

A number of respondents raised concerns about the impact on businesses. Suggestions included:

- extending the ban on non-essential uses only to the curtilage of domestic premises;
- maintaining the distinction between a domestic hosepipe ban and a non-essential use ban;
- ensuring that restrictions with an impact on businesses are thoroughly consulted on prior to inclusion in a water company drought plan;
- that water companies have sufficient flexibility to exempt activities;
- development of a clear industry Code of Practice; and
- further work to understand the impacts on the local economy.

Other responses noted the need to make exceptions for health and safety reasons (for example window cleaning with water fed poles), and the need to ensure vulnerable customers are protected.

Respondents welcomed the affirmative resolution process and the further work that will be undertaken to support specific proposals on non-essential uses. One response also suggested that, where non-essential uses are to be banned, advice should be given on alternative, acceptable, practices.

Question 144: For those domestic uses of water which are not covered by the existing hosepipe ban powers, but which may be prohibited as a result of any changes, for example, the cleaning of patios with a hosepipe or pressure washer or filling of domestic swimming pools, how can the cost of inconvenience to the householder be measured? Are you able to provide an assessment of the impacts?

32 respondents commented on this question. Some respondents (approximately a third) considered the cost of inconvenience to be low, unquantifiable or offset by the benefit of avoiding the impacts that might follow if restrictions were not put in place (such as more severe restrictions or impacts on the environment). A further quarter of respondents suggested that the cost of inconvenience was irrelevant at a time of water shortage.

Some respondents identified that customers value unrestricted supply. Thus restrictions should only be imposed when absolutely necessary and not as a precaution. The Consumer Council for Water noted that their research showed customers were not willing to pay more to avoid specific measures such as hosepipe bans but that they were willing to change their behaviour to manage water in a drought.

No respondent had carried out an assessment of the likely cost of the inconvenience to householders of imposing hosepipe bans, although, at a high level, water companies do consider the cost of restrictions when developing their levels of service. Many respondents recognised that further work would be needed to understand the cost of inconvenience to customers and to gather evidence to support a cost-benefit analysis.

Question 145: Some businesses could be affected at an earlier stage in a drought if further uses are prohibited. Are you able to provide any assessment of the likely impact and costs of businesses should they be unable to use water supplied through hosepipe or similar apparatus?

27 responses were received to this question. No respondents provided an assessment of costs. There was a general recognition that further work would be needed to understand the cost impacts on businesses. Two water companies would be able to provide some evidence of the type of impacts to business, though not the costs.

Respondents recognised that costs would be dependent on the nature of the business and the restrictions in place. Costs could be high for businesses that were dependent on water and some respondents suggested impacts should be assessed and taken into account before restrictions were applied. Other respondents however, considered water restrictions to be a risk that should be considered by businesses in their continuity plans.

It was noted that some business sectors such as marinas and boatyards, farming and window cleaning, could be seriously impacted by supply restrictions.

Question 146: Do you agree that the legislation should not set a standard notice period? If not, what period would you suggest?

43 responses commented on this question. Of these, over half believed that there should not be a standard notice period, whilst a third responded that there should be a notice period.

Generally water companies were more concerned at the need for a period of notice, and for receipt of representations, as this builds in delay to their ability to respond quickly to water shortage. Two respondents also suggested that during this period of notice there may be an increased use of water in anticipation of the ban.

Respondents also commented that any notice period must be balanced against the need to:

- take timely action;
- avoid delay which might lead to more severe water use restrictions as water companies take a precautionary approach; and
- progress with the hosepipe ban process in the expectation that restrictions may be needed by the time they come into effect.

A number of water companies raised concerns about the handling of representations and, as this is a new requirement, that the legislation and process lacks clarity (e.g. does not set out a timeframe or how a company must deal with them). They did not believe this change is needed and have concerns that the process is potentially lengthy and complex.

Where respondents have suggested a notice period should be set, it is generally recognised that it should be short (as little as one to three days). Respondents suggested that where commercial activities are impacted, a notice period is important to allow users to assess the affect of restrictions on their business and that it might be longer than any period set for domestic customers.

In addition to the responses to the questions, some respondents made further, more general comments. These welcomed the proposals, but sought greater clarity on the processes, for example, around the order-making power and also on the specific clauses and the interpretation of the effect of the clauses. There were concerns that the proposals would be complex to administer and potentially confusing for customers.

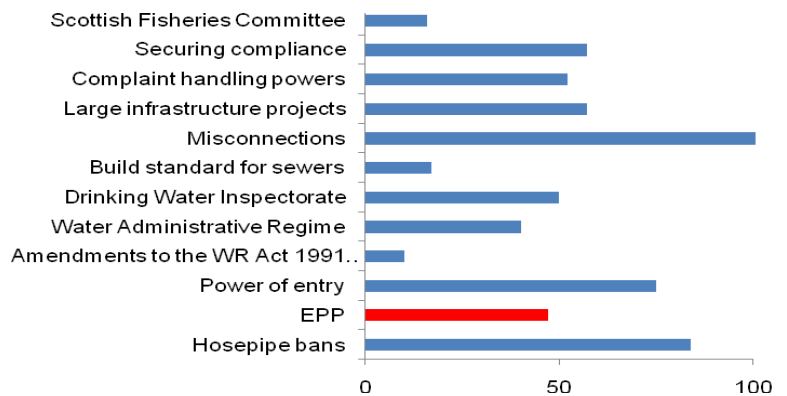
Some concern was raised around the requirement to make a reasonable reduction in charges to customers. Concerns included the administrative burden to deliver a minor charge reduction, the fact that pricing recognises a level of service that includes potential restrictions, and the effect of Ofwat regulation and penalties for a reduced level of service.

Two respondents commented on the water industry voluntary code of practice on water use restrictions. The National Farmers Union stated that we should include in the Bill an express duty to produce the code of practice and have regard to it. The Horticultural Trades Association had a similar view and believed that the code of practice should be based on one they produced with Waterwise.

3.19 Environmental Permitting Programme

Six responses included comments on this section. Half of these supported the Environmental Permitting Programme (EPP) clause set out in the draft Bill, the rest being neutral.

The main issue respondents raised was that more clarity was needed on aspects of how the new power would be exercised when proposed regulations to bring water abstraction and licensing into EPP were put out to public consultation.



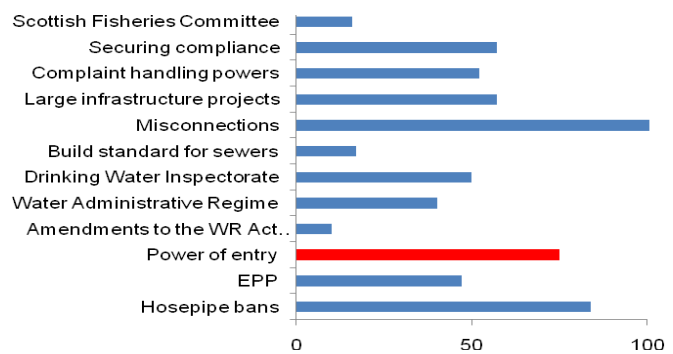
Natural England, the Environment Agency and British Waterways all welcomed the provisions, but added that it was important that the application of the power should be subject to further consultation. One electricity company stressed it did not support the inclusion of water abstraction and impoundment in EPP without assurances that there would be no change to current licensing conditions.

One group of internal drainage boards was cautious of the proposals, suggesting that only 'light touch' regulation was needed and that the purposes of, and reasons for, such transfers and the wider benefits, needed proper assessment.

3.20 Power of entry – water resources functions

Question 147: Do you agree that a power of entry should be introduced to cover the Environment Agency’s functions to measure and manage water resources?

The overwhelming majority (over ninety per cent) supported the proposal to allow the Environment Agency to have power of entry to measure and manage water resources.



Others were supportive provided there was reasonable notice, believing it should only be used as a last resort, and that safeguards such as a provision for compensation for any loss or damage arising from the exercise of the power should be included (already included in the Water Resources Act 1991⁶).

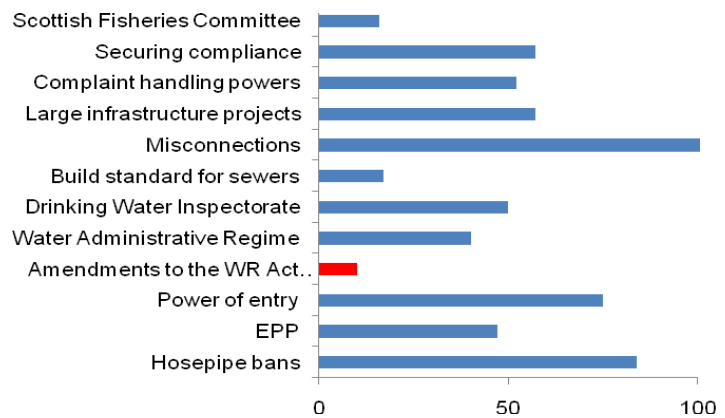
One respondent, though, felt that entry should be achieved through consultation and access agreements between the Environment Agency and landowners/asset owners. Concerns were also raised that local authority and internal drainage board powers should be retained.

⁶ See paragraph 6 of Schedule 20 to the Water Resources Act 1991

3.21 Minor amendments to the Water Resources Act 1991 and Water Industry Act 1991

Ten responses commented on the proposals in this section. There were no objections to the proposals, all responses being generally supportive, though with some concerns expressed.

The technical nature of the amendments may have made them difficult to understand unless they were read in the context of the provisions being amended and resulted in some of these reservations or concerns being misplaced.



The main concerns expressed were about extending the current provision relating to the waste of abstracted water. Most supported the principle, but some felt that clause 255 needed careful wording to ensure that allowing water to run to waste should not prejudice public supply obligations where public health may be at risk in the event of contamination or other operational need such as reservoir maintenance. Another felt that there should be specific exemptions.

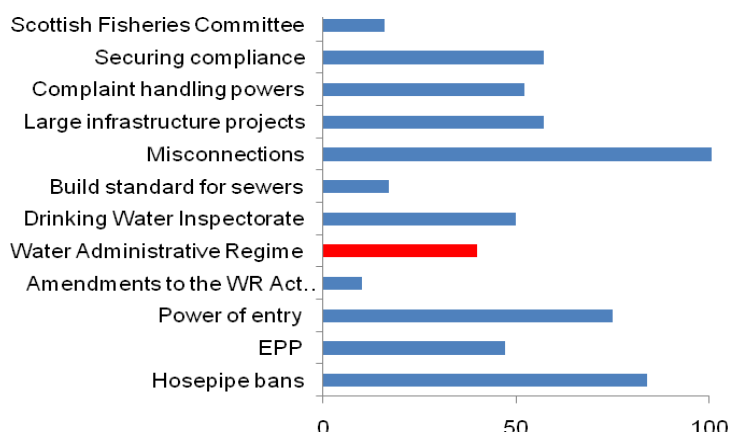
Anecdotal evidence (via a separate consultation) expressed support to extend the special discounted charge arrangements to all forms of irrigation (clause 256), although one response requested clarification of the implications of this change and asked for a full analysis of the costs and benefits to be published.

3.22 Water administration regime

Overall the majority of respondents supported the proposals but some wanted to be more clear about what the Government was trying to achieve and wanted to know potential impacts on the regulation of water companies and the impacts on customers.

The Consumer Council for Water (CCWater) wanted more discussion on special administration, in particular on the overall impact on customers.

Water UK and some companies wanted the Government to place the proposed changes to the regime in the context of other regulatory measures, such as the operation of the substantial effects clause.



Question 148: Should the special administrator be required to pursue the rescue objective for viable water companies that experience financial difficulties?

The majority of respondents thought that this proposal was appropriate on the basis that the rescue objective was a feature of general insolvency. However, there was very little evidence given by respondents to support this view.

Question 149: Should the hive-down provision be available in the water administration regime to make the transfer process more efficient?

The majority of respondents thought that this proposal was appropriate on the basis that a hive-down mechanism was available to other businesses subject to the general insolvency regime. However, there was no evidence given by respondents to support this view.

Question 150: Do you agree that we should remove the right of an undertaker to veto a transfer?

Water UK and the water companies that responded supported the removal of their right of veto, but asked for further clarification of how this will sit with other regimes that use transfer schemes.

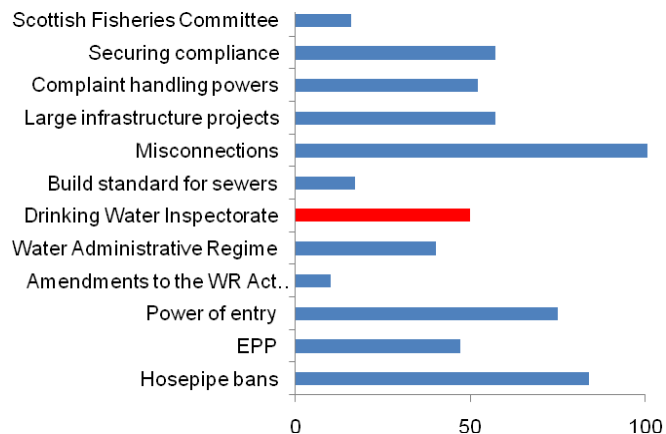
Transfer schemes are also used to transfer assets when water companies are merged or when they agree to transfer part of their area to another water company (e.g. through an inset arrangement). The removal of the right of a relevant third party undertaker to delay or veto a transfer scheme used for mergers or inset arrangements will therefore also be removed.

Some local authorities answered “no” to removal of the right to veto under special administration proposals, but did not say why. Defra officials followed this up with the respondents concerned and one local authority subsequently withdrew its answer. Those that replied thought that undertakers were best placed to judge whether transfer schemes were appropriate or not.

3.23 Drinking Water Inspectorate recovery of charges

Fifty responses commented on this section. The majority agreed with the proposals.

Question 151: Do you agree that DWI should introduce charging to recover the cost of their regulatory activities from water companies and licensed water suppliers in line with other water regulators?; and



Question 152: Do you agree with the principle that charges to individual water companies and licensed water suppliers should be proportional to the relative regulatory burden they represent?

Key issues raised by stakeholders included concerns that customers would still end up footing the bill and are unlikely to see any reduction in their tax burden.

Others suggested that the charging scheme should be based on the five principles of better regulation; i.e. it should be proportionate, transparent, consistent, targeted and accountable; and that the DWI should ensure it operates in the most efficient and cost effective manner to limit the regulatory burden on companies and customers.

Respondents looked for formal confirmation that these proposed 'pay as you use' charges could not perversely encourage water companies to hide their potential problems and failures in an effort to reduce costs.

3.24 Introduction of a mandatory build standard for sewers

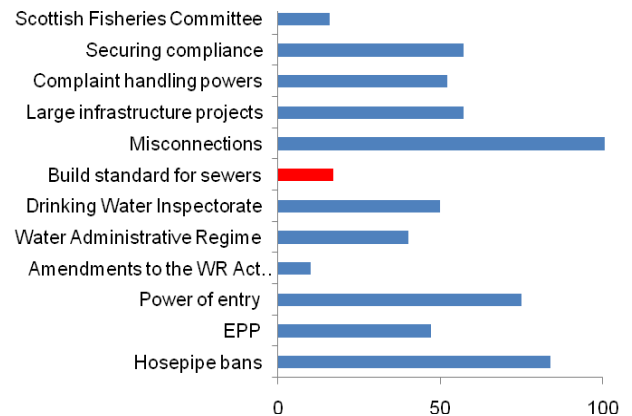
Seventeen responses included comments on this section. As no specific question was asked, comments varied.

Developers wanted clarity on the build standard itself and its wider interaction with other drainage and planning requirements. They also wanted a dispute procedure where, for example, the sewerage undertaker and developer disagreed on whether the standard had been compiled with.

Developers also expressed concern about the levels of bonds that might be required by sewerage undertakers.

Sewerage undertakers wanted clarity on the enforcement powers they will have and how they will be funded for an extended role in preventing connection where they consider they have to.

Developers and sewerage undertakers considered that only amending S106 of the Water Industry Act would not be a practical way of delivering a build standard. They suggested that agreements under S104 of the act should be an integral part of any operational regime.



3.25 Misconnections

Question 153: Do you agree that powers should be given to sewerage companies to require householders to rectify misconnections as described above? Are there alternatives?

Seventy responses included comments on this question. The majority (over ninety per cent) answered “yes” to the question.

Support came predominantly from local authorities, individuals or community groups, water companies and others including Natural England and Ofwat. Only a few responses were negative.

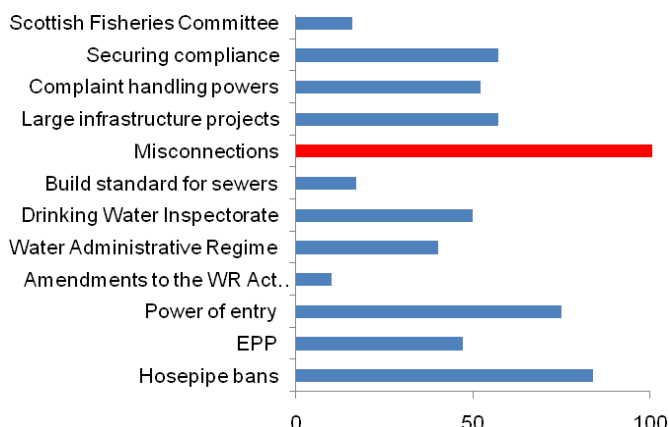
Issues commonly raised included that the proposal would allow water companies to tackle misconnections directly, rather than having to go through the local authority, thus making the process quicker and more efficient. Water companies also felt that it would free up local authority resources for redeployment to fulfil SUDS roles and lead to clearer accountability. They were clear that Ofwat would need to reflect in their price reviews any costs involved.

Ofwat were concerned that the proposals were insufficient to give water companies the power to rectify a misconnection. They agreed with the proposals, but felt that the amendments stopped short of increasing the water companies' powers to require a householder to rectify the misconnection themselves. OFWAT considered that water companies should be a last resort for undertaking the remedial work.

An overwhelming majority of the local authorities who responded to this question were supportive. The main view put forward was that there should be a duty placed on sewerage companies to rectify misconnections. Another local authority asked what arrangements would be put in place to require water companies to locate and repair a misconnection. A number of local authorities stated that the current powers under the Building Act should be extended to Water Companies and Highways Authorities. There were also concerns that there should be allowance in the legislation to account for variances from case to case.

Funding issues were raised by a number of local authorities. One noted that there should be a provision for funding and another that there should be a cap on costs that the householder could incur. A third said that it would be unfair to penalise the householder if they were not at fault and suggested that the Government pay for a misconnection to be rectified. One local authority suggested that the Government should be responsible for funding the repair of misconnections in areas where new surface water systems were being laid.

One local authority said that there was not enough of a link between misconnections and Sustainable Drainage Systems (SUDS) in the draft Bill, saying that over time it is likely that misconnections would become the problem of the SUDS approving body. They suggested SUDS National Standards must include clear requirements for upstream drainage so that the



SUDS approving body will have the power to refuse to adopt SUDS if there is evidence of a misconnection upstream.

Of the two local authorities who did not support the proposal, one insisted that all powers should remain with the local authority and the other that the alternatives could be via a local authority's environmental health or building control functions.

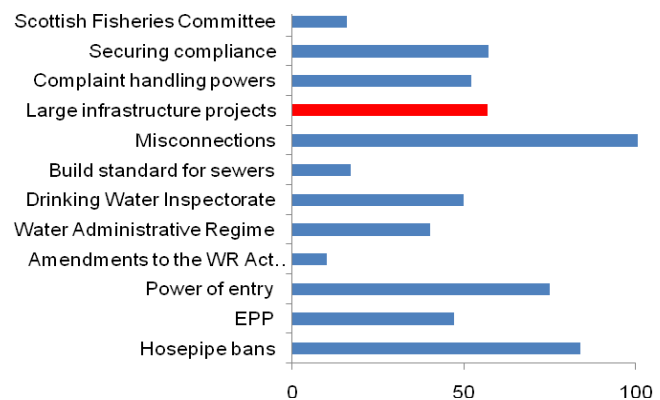
Professional trade associations supported the proposal. One noted that this would result in more transparent responsibilities and that additional costs would be dealt with by Ofwat in their price reviews. Another group believed that in pursuing the person or organisation responsible for the misconnection, the number of misconnections would reduce. The remaining respondent highlighted that once all cracked and damaged drains/sewers are identified and rectified that there will be an increase in the capacity of foul sewer systems.

3.26 Development of a project based delivery approach for infrastructure projects in the water sector

46 responses included comments on this section.

The most detailed responses came from Water Companies, CCWater, the Green Party and the Institute of Civil Engineers.

The key issues raised in response included: the clarity of the provisions and what type of project should the provisions apply to; potential third party ownership complications around liability, quality standards and levels of service; and cost issues – for example, would third parties be able to raise enough capital and would it be cheaper than water companies doing the work?



Question 154: Do you agree that a project-based approach would reveal optimal funding structure?

The water companies were split on this point. Some supported it saying it would work for very large projects whereas others did not think it would. Some of the companies wanted more clarity on the proposals. Some respondents questioned why the current regulatory regime cannot deliver the optimal funding structures. CCWater were cautious this would be the case but saw value in the concept.

A number of respondents recognised that there may need to be a premium in the cost of capital to cover the individual risks of large projects, but this would be the case whatever the delivery model.

Question 155: Are there alternative approaches to securing effective and properly regulated collaborative projects that could be explored?

There were lots of different ideas for alternative approaches to who should manage the procurement process for collaborative projects, some of which were:

- regional water delivery networks e.g. Water Resources in the South East Group;
- the Environment Agency;
- water companies;
- joint ventures with non-water company partners; and
- something similar to the managing agent contracts run by the Highways Agency.

Question 156: Do you agree that consumers would benefit from a project-based approach to suitable large projects?

There was general support for this in principle. Particular issues raised by water companies that needed to be resolved included:

- Customers may be better off in price but could lose out elsewhere;
- ISPs will seek to gain profit just like water companies;
- Provisions would need to be carefully designed so undertakers could continue to fulfil their obligations;
- A view that project over-runs are not allowed in the price review process but in a project based approach this could cost the customer; and
- If an assumed project risk did not play out then there would be no way for customers to get money back but there is at the moment.

Question 157: Do you agree that existing water companies would normally be best placed to manage the procurement exercise?

There was a general agreement between water companies and other organisations that water companies have lots of experience and could be best placed to undertake this role. However, it was noted that the problem with water companies is that there could be a potential conflict of interest. One suggestion was that a third party, such as Ofwat, should manage the procurement exercise.

Water companies questioned their exclusion from the tendering process. They said that if they are not included in the tendering then there could be a potential distortion of competition.

Question 158: What types of projects should be covered by the regime?

There was a general consensus that the provisions suggested would apply to only a limited number of very large projects. However, respondents wanted clarity to pin down the criteria. It was suggested the criteria should not be based on project characteristics such as risk and complexity but instead there should be only a financial threshold when the regime kicks in.

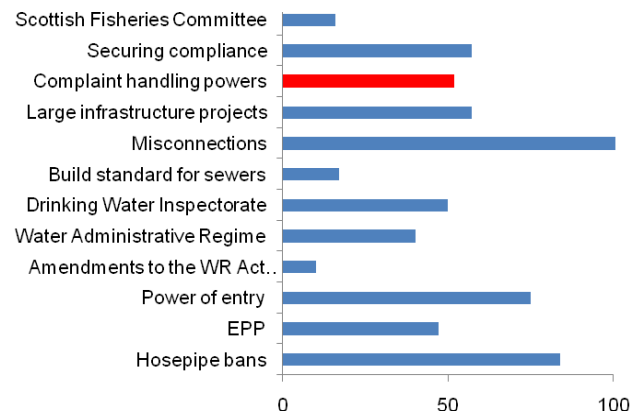
3.27 Complaint handling powers

Question 159: Do you agree that these changes provide for the most appropriate body to handle complaints?

55 responses included comments on this question. The overwhelming majority (around eighty per cent) of respondents supported the suggested changes. A further twenty per cent of responses were neutral.

Water companies commonly expressed reservations about the cost impact of the

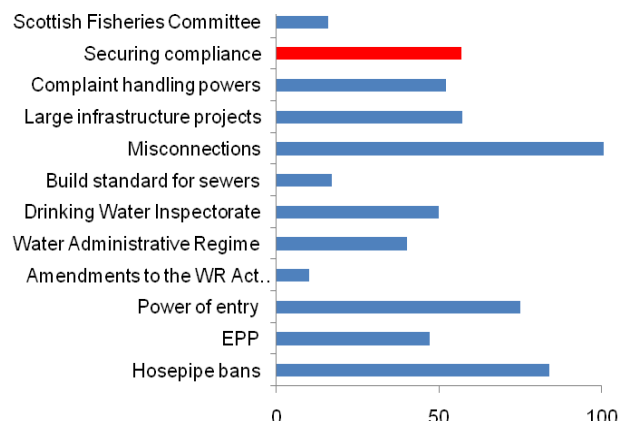
proposals to appoint surveyors in relation to disputes on private land, and who would meet these costs. Further comments by water companies included suggestions that the appointment of arbitrators or surveyors may dissuade some complainants from pursuing the matter on grounds of cost, and that the Royal Institute for Chartered Surveyors would be a more suitable body for complaints covered by Schedule 12 of the Water Industry Act 1991 as most disputes were about monetary compensation.



3.28 Securing compliance

Question 160: Do you agree that these changes will enhance Ofwat’s ability to protect customers?

Fifty five responses included comments on this question. Respondents largely supported the proposed changes. Approximately sixty per cent of respondents (primarily public bodies, individuals and businesses) offered unqualified support for all the proposals.



CCWater and the Environment Agency supported the proposals, noting potential benefits to consumers and the environment. Some appointed water companies identified areas of concern within the draft Bill.

All fourteen of the responses received from the water industry commented on the proposals for standardising conditions of appointment. A significant minority expressed concern at the prospect of a standardisation of conditions. Some commented on the existing mechanism allowing Ofwat to refer proposed changes to the Competition Commission where companies do not agree.

Several offered qualified support. One of these suggested that it might be too early to introduce standard conditions as the structure of the industry is still evolving. Two water companies sought further clarity over how the process for modifying standard conditions would operate. A further two companies welcomed the aim of reducing regulatory burden, but questioned the need for a separate provision, noting that companies would be likely to accept any such change.

Respondents (including the majority of water companies that replied) either supported, or accepted the rationale for, an extension to the time limit for financial penalties. The Consumer Council for Water strongly supported aligning the time limit with the five-year price review period. Some companies questioned the need for a change.

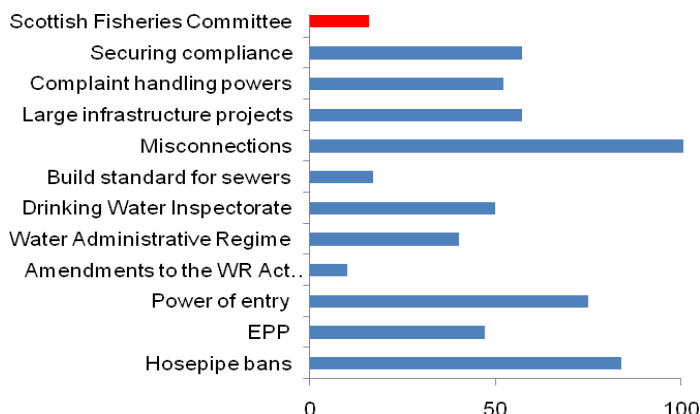
Several companies expressed concerns about the potential financial impact on companies of an extension to the time limit, and some suggested that any change should be accompanied by a review of the appeals mechanism for Ofwat’s enforcement decisions.

The majority of respondents supported the proposal to extend the power to require information. CCWater welcomed it, noting that it would provide Ofwat with the appropriate powers to investigate any contravention. A couple of water companies noted that all companies are likely to fail at least some prescribed standards of performance each year and suggested that the clause should capture only failures to meet the standards to an unacceptable extent.

3.29 Scottish Fisheries Committee

15 responses included comments on this section.

Scottish Renewables stated that the creation of the Fish and Fisheries Advisory Group, chaired by the Scottish Environment Protection Agency (SEPA), gives the industry confidence that the expertise is available for consulting on fish and fisheries issues.



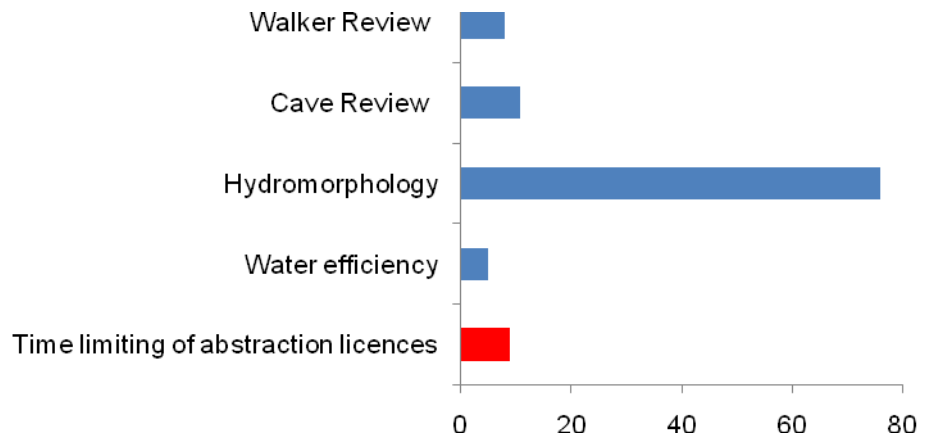
The remaining respondents were Fishery Boards representing the salmon fisheries interests. They were opposed to the inclusion of clause 259. All considered the abolition of the Fisheries Committee to be too soon, as they felt that SEPA is still learning to manage water abstractions and to be conversant with fisheries issues. They also felt that SEPA lack the necessary resources to discharge its functions in relation to fisheries issues.

All respondents questioned whether the continued existence of the Fisheries Committee results in a duplication of regulation. All believed that as the Fisheries Committee provides advice to SEPA, the Committee is helping to make up for SEPA's lack of in-house expertise. There was a general concern that the abolition of the Fisheries Committee will divert SEPA staff from other duties on implementing the Water Framework Directive.

3.30 Time limiting of abstraction licences

9 responses included comments on this section.

These responses were incorporated into the consultation on the proposals for time limiting water abstraction licences. The summary of that consultation was published on 6 November and is available



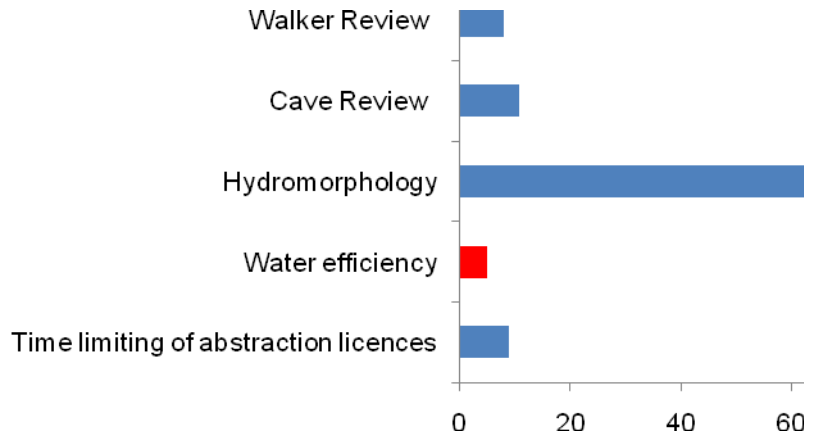
at: <http://www.defra.gov.uk/corporate/consult/water-abstraction/index.htm>

3.31 Water efficiency

5 responses commented on this section.

The responses supported further consideration of a water efficiency commitment.

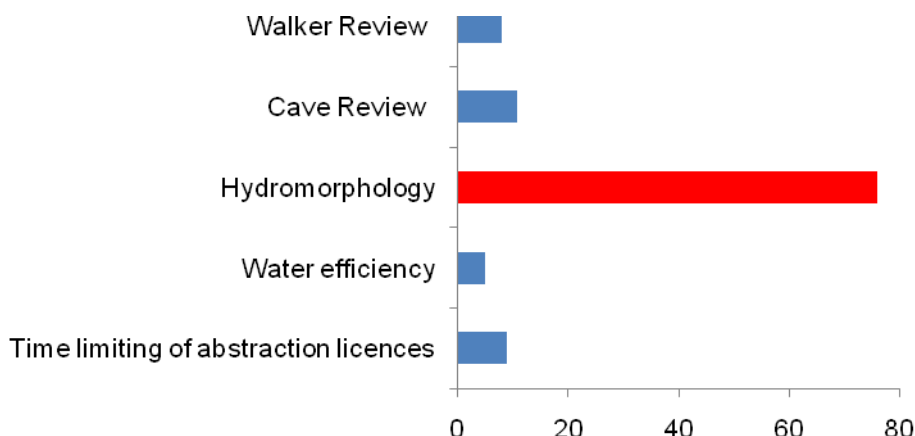
Two responses expressed disappointment that the draft Bill did not include a clause to enable a water efficiency commitment.



One supported the concept of a water efficiency commitment. One requested involvement in future consultation on the topic and one suggested a widening of the water efficiency commitment to public bodies and business.

3.32 Hydromorphology

Question 161: Do you agree that a power to improve the hydromorphological condition of water bodies in England and Wales is necessary to deliver Water Framework Directive requirements on hydromorphology? Please state why.



62 respondents agreed that a power to improve the hydromorphological condition was necessary. Many stressed the need to ensure the Environment Agency has sufficient powers to carry out necessary improvements.

Those who agreed included twenty-five local authorities (none disagreed) and five of the six water companies who responded to the question. All internal drainage boards who expressed a view agreed, as did the one insurance industry response.

A few caveats were mentioned, mainly in relation to ensuring that the power would not be used to exceed the requirements of the Water Framework Directive and should not exacerbate flood risk.

Natural England thought it essential for the power to apply to ordinary watercourses. English Heritage wanted the power to include a mechanism for assessing the impact of proposed works on the historic environment. There was a suggestion that the proposed power might duplicate other provisions.

Four respondents did not support the proposal. While supporting the need to meet Water Framework Directive requirements for hydromorphology, one water company thought that legislation should be a last resort and that existing provisions might be adequate where a legal approach was considered necessary.

One response was not supportive of the Water Framework Directive itself and one academic thought legislation should not be implemented until we had more experience of delivering Water Framework Directive environmental objectives. However, this response supported the criteria for the use of the power.

The National Farmers Union questioned whether there was a significant legal lacuna, but thought that, if a power was necessary, the criteria and conditions outlined for its use were appropriate.

Question 162: Do you agree with these criteria for the use of the power?

60 respondents agreed with the criteria for the use of this power. Some who generally agreed thought that it would be difficult to demonstrate certainty, while one thought that the

Environment Agency should be “certain”, rather than “reasonably certain” that proposed actions were necessary and would deliver the intended results.

Many of those agreeing emphasised the importance of particular elements of the stated criteria, in particular, assessment of costs and benefits and the need for an adequate evidence base. Also mentioned were other requirements such as consultation with interested parties and statutory bodies which, while not specified in detail in the consultation paper, would apply because of requirements on the Environment Agency under existing legislation and statutory guidance such as the Environment Act 1995, the Water Framework Directive Regulations 2003 and River Basin Planning Guidance.

Four respondents disagreed with the recommended criteria. Two of these did not think the safeguards in the criteria sufficient to ensure that the Environment Agency would take proper account of costs and benefits.

The RSPB strongly disagreed with the criteria, believing them to be too restrictive in view of the way the assessment of water status and the river basin planning process had been carried out. They proposed alternative wording which would enable the Environment Agency to act if:

- hydromorphological pressures had been identified as having an impact on Water Framework Directive water status objectives; and
- proposed activities were not disproportionately expensive and were likely to deliver improvements to ecological status.

Question 163: Do you think this proposal provides an appropriate mechanism to enable improvement of hydromorphological conditions?

53 respondents thought that the proposal provided an appropriate mechanism for improving hydromorphological conditions. A number of these noted that effective application of the power depended on funding being made available to the Environment Agency. While supporting the proposition, a marine operator considered that the Environment Agency should be subject to the same consenting regime as other operators when considering works in the marine environment.

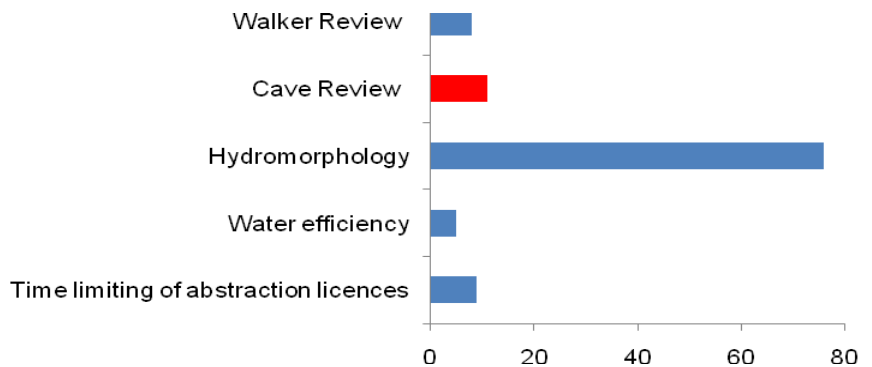
Two respondents thought that the exercise of the power would add to the Environment Agency’s operating costs. One thought there was insufficient information on which to form a view and one thought that the power should be expressed as a duty.

Three respondents disagreed with the proposition. One suggested that action proposed under this power should be subject to challenge at public inquiry. The RSPB envisaged a risk that the power would be used to rectify errors made by statutory bodies making changes to the physical characteristics of water bodies in the course of exercising their functions.

3.33 Cave Review of competition and innovation in water markets

A number of respondents took the opportunity to comment on some of the recommendations of the Cave Review of competition and innovation in water markets. The only negative comments came from Welsh Water who are concerned about how the recommendations would be applied in Wales.

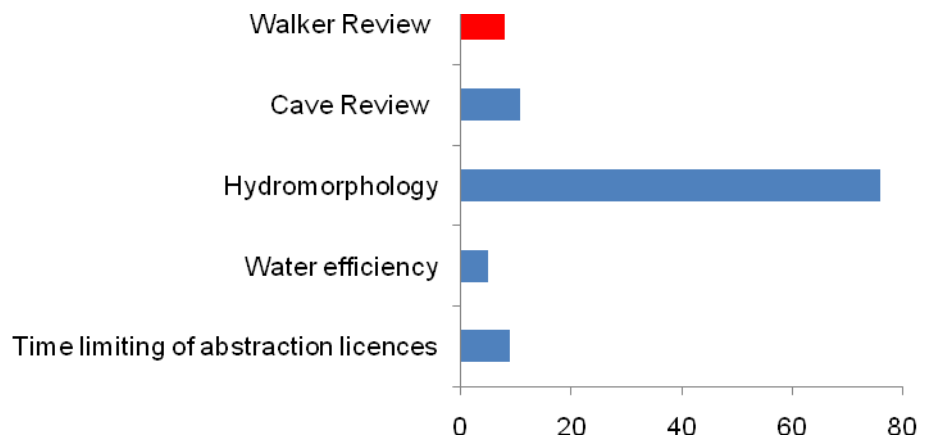
There is currently a separate consultation proceeding on this Review.



3.34 Walker Review of charging and metering for household water and sewerage services

The consultation paper did not ask any specific questions around charging and metering but simply noted that the Government would consider the recommendations from the Walker Review once they are received where new primary legislation is required.

Anna Walker is expected to publish her final report shortly.



Annex A – Consultation questions

1.10 Style and accessibility of draft legislation

1. How far, in general, would you say that the draft legislation is written in a reasonably clear style that is likely to be understood by readers?
2. In general, do you think the individual clauses are too long, too short or about the right length? How far is their overall order in the draft legislation reasonably logical and easy to follow?
3. In general, do you think the individual sentences in the draft are too long, too short or about the right length and is their structure too complex, too simple or about right?
4. Please give examples of anything in the style of the draft legislation that you particularly liked or disliked. Please also give your reasons.
5. Please give examples of provisions that you thought helpfully simple or well expressed or ones that could be made simpler or otherwise improved. Please also give your reasons.
6. Are there any drafting techniques (such as cross-references to other provisions of the draft legislation) that you would like to see used more or less?
7. Please suggest any improvements to the way in which legislation is drafted that you think would make it easier to understand and apply.

2.1 New approaches to Flood and Coastal Erosion Risk Management

8. Are you content with the definitions of “risk” and “risk management” in the draft Bill?
9. Are you content that the draft Bill should enable a wider range of approaches to managing flood and coastal erosion risk than is currently allowed under existing legislation, such as resilience, and that it should be sufficiently flexible to accommodate new approaches which may be developed in future?
10. Does the approach in the draft Bill to flood and coastal erosion risk management adequately cover adaptation?
11. Does the proposed approach to flood and erosion risk management:
 - facilitate and encourage authorities to make effective links between land management and flooding and erosion?
 - enable and encourage authorities to play an appropriate role in the delivery of wider multiple objective projects through the use of their flood and erosion management functions, including projects that are specifically required to achieve environmental, cultural and social outcomes?
12. Are there any approaches to flood and coastal erosion risk management that should be adopted but which the draft Bill would not allow?
13. Should all operating authorities be required to contribute to sustainable development objectives when carrying out flood and coastal erosion risk management?

2.2 Future roles and responsibilities

14. Are the component parts of the Environment Agency strategic overview clear and correct and do they achieve the objectives?

15. If not, what further changes should be made?

16. Do you have any comments on the proposal that the Environment Agency issues a National Strategy for flood and coastal erosion risk management with which all operating authorities will be required to act consistently when delivering their flood and coastal erosion risk management functions?

17. Do you have any comments on the proposal that other bodies would have to have regard to the Environment Agency's National Strategy and guidance? Do you consider that any other bodies should be added to the list in clause 23? In particular, how should the sewerage industry be brought into the new framework?

18. Do you think that the Environment Agency should be required to consult as part of preparing or publishing its strategy?

19. Should the Environment Agency have a regulatory role in relation to coastal erosion risk management, in particular for consenting and enforcement as set out in paragraphs 103-105? What alternative arrangements might be preferable?

20. Should the Secretary of State have the power to direct the Environment Agency to undertake local flood risk management work in default of local authorities, and recover reasonable costs?

21. Should the Environment Agency be able to undertake coastal erosion risk management works concurrently with local authorities where appropriate to support the delivery of the strategic overview role?

22. The Environment Agency is drawing up a coastal map showing which operating authority will exercise flood and coastal erosion risk management powers on each length of coast. Should the Environment Agency maintain this and should the procedure for amending the map be the same as for main river maps, or should it be a non-statutory process?

2.3 Main River Mapping

23. Do you have any comments on the proposed changes to main river maps as set out above?

2.4 Local Flood Risk Management

24. The Government's response to Sir Michael Pitt's Review accepted that county and unitary local authorities should have the 'local leadership' role described above. Does the draft Bill implement this effectively and support the development of effective local flood management partnerships?

25. Do you have any comments on the proposal that the county and unitary local authorities will develop a strategy for local flood risk management and that district local authorities and internal drainage boards would be required to act in a manner which is consistent with that strategy in delivering their flood and coastal erosion risk management functions?

26. Do you have any comments on the proposal that other bodies would have to have regard to the local flood risk management strategy and guidance? Do you consider that any other bodies should be added to the list?

27. Do you think that the county and unitary local authorities should be required to consult the public as part of preparing or publishing their strategy?

28. Further to its duty to investigate flooding incidents, should the county or unitary local authority have powers to carry out works of an emergency nature? If so, what powers would be needed?

29. Do you think that the Environment Agency and county and unitary local authorities should be able to gather information from private landowners and individuals about flood drainage assets related to their respective responsibilities? What if any sanction is needed to ensure information is provided?

30. Should county and unitary local authorities be legally required to produce annual reports on the way that they are managing local flood risk? Should this requirement be annual?

31. Should the Environment Agency provide support and advice to the local overview and scrutiny functions as part of the exercise of its strategic overview role?

32. Should the list of bodies required to co-operate with overview and scrutiny committees be extended to encompass all relevant authorities and as a result pick up internal drainage boards and water companies?

33. Should regional flood and coastal committees (or another body) be involved in peer reviewing any annual reports produced by local authorities?

34. Should district local authorities and internal drainage boards continue to manage flood risk from ordinary watercourses, taking account of Local and National Strategies?

35. Should county and unitary local authorities have powers, concurrent with district local authorities and internal drainage boards, to manage flood risk from ordinary watercourses in their areas? Or should they remain able to act only in default?

36. Should any sea flooding works that a local authority wants to undertake require the consent of the Environment Agency?

37. Should all relevant organisations have the power to undertake any flood and coastal erosion risk management at the request of another body?

38. Should the functions of consenting, and the production and coordination of the strategy (for both Environment Agency and county and unitary local authorities) remain as ones which cannot be carried out by another authority?

39. Are these assumptions reasonable? Is further evidence available to improve the analysis? Are the measures detailed proportionate with the scale of benefits assumed?

2.5 Duty to co-operate and share information

40. As agreed in the Government response to Sir Michael Pitt's Review, there will be a duty on relevant organisations to co-operate and share information. Do you think the list of relevant authorities to whom this applies is comprehensive?

41. Should the Environment Agency and county and unitary local authorities be able to specify the format and standards for information to be shared between organisations?

2.6 Sustainable Drainage Systems

42. Do you agree that national design, construction and performance standards for sustainable drainage of new developments and re-developments should be developed and approved by the Secretary of State and Welsh Ministers?

43. Are there particular issues which must be addressed in the standards to make them effective, that have not been mentioned?

44. Are there examples where this form of approval, for the surface water drainage system associated with a new development, is not appropriate?

45. Does the process for adoption and connection described here provide a clear and workable approach for developers, local authorities and water companies? Do you have any suggestions which would make the process simpler, speedier or lower cost?

46. Are there examples where a communal SUDS should not be adopted by the SUDS approval body?

47. Do you agree with how the envisaged arrangements for replacing the automatic right to connect will work?

48. Can the use of National Standards as a material consideration for the purposes of s115(4) of the Water Industry Act 1991 provide sufficient legal certainty to prevent inappropriate agreements to drain highways to sewer?

49. What is the appropriate balance to enable good SUDS designs that work with the lie of the land, can discharge to watercourse, and can be accessed for maintenance and inspection, whilst protecting the rights of landowners?

50. How wide should the SUDS approval bodies ability to delegate be?

51. Are additional enforcement powers needed – in particular, should the SUDS approval body have an independent power to enforce the approved SUDS? How would this work?

52. Views are welcomed on how best to ensure the maintenance of private SUDS, and ensure that they are not redeveloped.

53. Is there any legal impediment to prevent a SUDS approval body from adopting an existing SUDS?

54. Do you agree that performance management of SUDS maintenance should be included within the local government performance framework, as part of their climate change adaptation function?

2.7 Regional flood defence committees

55. Do you agree that regional flood defence committees should be renamed as regional flood and coastal committees?

56. Should regional flood and coastal committee status be predominantly advisory rather than executive?

57. Should the focus and roles of regional flood and coastal committees be as described in above? If not, do you have any other proposals?

58. Do you agree that the membership of regional flood and coastal committees should be appointed as outlined above in future? If not, do you have any other proposals?

59. Should regional flood and coastal committees' levy-consenting powers be extended to coastal erosion issues?

60. Are there any other issues that you wish to raise in regard to regional flood and coastal committees?

2.8 EU Floods Directive

61. Should flooding from sewerage systems caused solely by system failure be excluded from transposition of the Floods Directive? If not, how might such flooding be integrated?

62. Should the Environment Agency and county and unitary local authorities assume responsibility for implementing the Floods Directive, with the Environment Agency focussing on national mapping and planning and local authorities having specific responsibilities in relation to local flood risk? If not, what other arrangements would you suggest?

63. Should county and unitary local authorities be responsible for delivering PFRAs for local flood risk as described above? If not, who should be responsible?

64. Is this framework a suitable approach for determining 'significant risk' or are there alternative approaches to consider?

65. Should county and unitary local authorities be responsible for determining significant local flood risk (ordinary watercourses, surface water and groundwater)? If not, who should be responsible?

66. Should the proposed selection of 'significant risk' areas by local authorities be moderated along the lines of the arrangements set out above?

67. Do you agree with the proposed mapping arrangements set out above? If not, what alternative arrangements do you suggest?

68. Should the Environment Agency and local authorities have the discretion to determine whether or not to produce flood maps, as described above? If not, what other arrangement should apply?

69. Should the arrangements for FRMPs be as set out above? If not, what alternative arrangements do you suggest?

70. Do you agree with the co-ordination arrangements set out above? If not, what alternative arrangements do you suggest?

71. Should the first cycle PFRA be brought forward one year, as proposed above, to enable mapping to take up to two years in common with the rest of the mapping and planning cycle?

72. Do you agree with the other proposals set out above for reporting and review? If not, what alternative arrangements do you suggest?

2.9 Water Framework Directive

73. Do you agree that the duty to act in accordance with Water Framework Directive requirements should apply equally to all flood and coastal erosion risk management authorities?

74. Do you think this approach provides a satisfactory mechanism for ensuring that the relevant bodies deliver the requirements of the Water Framework Directive?

2.10 Third Party Assets

75. Should we introduce a system of third party asset identification and designation, as set out above?

76. Is there a case for greater powers on third party assets than we have suggested?

77. Are there assets that are not 'structures or natural/man-made features' that should also be designated?

78. Should there be a duty on those responsible for third party assets in England and Wales to maintain them in a good condition?

2.11 Consenting and enforcement

79. Should regulation of the ordinary watercourse network (where there are no internal drainage boards) transfer to county and unitary authorities? Or should this role in future sit with the district and unitary authorities?

80. Should it be possible to make consents subject to reasonable conditions?

2.12 Reservoir safety

81. Views are sought on whether the minimum volume figure should be 5,000 or 10,000 cubic metres, or another figure.

82. Views are also sought as to whether criteria for inclusion and/or exemption can be based on other objective criteria such as embankment height, elevation, type of construction etc.

83. Do you have a view on what information should be requested at the point of registration to enable an effective risk based approach thereafter? How can we design this and the collection process to minimise the burdens imposed by registration?

84. Do you agree the proposed classification is appropriate and that the Environment Agency should have responsibility for classifying all reservoirs under the new regime?

85. Do you believe there might be a role for insurance in improving reservoir safety and, if so, how might this work?

86. Do you have a view on whether and how the Government could most fairly keep to a minimum the financial burdens placed on the owners of those reservoirs which are being brought within the regulatory regime for the first time?

87. Again, we welcome views on how to ensure charges within a scheme can be made proportionate.

88. No decision has yet been made about making use of the existing power to give Directions contained in the Reservoirs Act 1975 (as amended by the Water Act 2003). Views are invited on whether to proceed ahead of enactment of the proposals in the draft Bill. Points to bear in mind are:

- The existing power to give a Direction would apply only to LRRs; and the costs of offsite planning would not be borne by the undertaker.
- The power to give a Direction under the new Bill proposals could apply to all high risk reservoirs above the minimum volume criterion; and could provide for the reservoir manager to meet the costs of off-site planning should a specific emergency response plan be needed. Views are sought on whether the Bill should provide for this.

3.1 Possible reforms to the role and governance of internal drainage boards

89. Do you consider that there is a direct conflict or inconsistency between the internal drainage boards' supervisory role and the local leadership role of the county and unitary local authorities?

90. If the internal drainage boards' supervisory role was repealed, what would internal drainage boards no longer be able to do that they currently can?

91. Should regulation of the entire ordinary watercourse network (including within internal drainage board watercourses) transfer to county and unitary authorities in order to provide a consistent approach?

92. Do you think that internal drainage boards should have specific powers to share services and form/participate in consortia?

93. Do you think that internal drainage boards should have specific powers to form/participate in limited companies/limited liability partnerships for the purposes of sharing services?

94. What negative impacts might there be from providing internal drainage boards with these specific powers?

95. Do you agree the proposals outlined are the best way to simplify these procedures? If not, what alternative approaches should be considered?

96. Do you agree that the title of internal drainage boards should change in the future to reflect the wider approaches that internal drainage boards will undertake now and in the future?

97. Do you agree that 'Local Flood Risk Management Board' is an appropriate new title, or is there a better alternative?
98. Do you agree that the principles of the Medway Letter should be relaxed allowing internal drainage boards to expand their boundaries beyond their traditional areas?
99. Do you agree that there should be a specific requirement for internal drainage boards to produce an impact assessment demonstrating the cost benefit implications of a boundary expansion?
100. Do you agree that the future supervision of internal drainage boards would fit better with county and unitary local authorities rather than the Environment Agency in the future?
101. Do you think that county and unitary local authorities should take over the lead on amalgamation (etc.) schemes from Environment Agency in the future under this supervisory role?
102. Do you agree that lifting the bare majority limit on local authority membership of internal drainage boards will allow for fairer representation on boards in the future?
103. Are there other models of membership that you think would be more appropriate?
104. Do you agree that the Secretary of State should have powers to determine the size, shape and structure of internal drainage boards in the future?
105. What consultation would need to occur before individual changes in size, shape and structure of internal drainage boards were to take place? What sort of powers would be most appropriate?
106. Views are sought on whether the assumptions are reasonable. Can further evidence be made available to improve the analysis? Are the measures proportionate with the scale of benefits assumed?

3.2 Current funding structure

108. Do you agree that there is a case to retain powers for the Environment Agency to levy (a) general drainage charges, and for internal drainage boards to retain similar powers to levy (b) agricultural drainage rates in England and Wales?
109. Do you agree that the Environment Agency's current powers to levy special drainage charges should be repealed?
110. Do you agree that only county and unitary local authorities should be funded for local flood risk management to allow them to prioritise funding based on where benefits would be greatest?
111. Do you think that replacing the internal drainage board special levy in England and Wales with agency or contractual arrangements between internal drainage boards and the relevant local authorities would improve the delivery and prioritisation of local flood risk management?
112. Are there other arrangements that would remove or reduce the problems associated with the special levy in England and Wales, including those referred to above?

113. Is there a case to end both internal drainage board highland water charges and the Environment Agency's precept on internal drainage boards in England and Wales?

114. If the Medway letter were retained, would there still be a case to end the payments?

115. What additional steps or measures could be taken to make sure developers in England and Wales contribute towards the pressures new developments place on future local and central government budgets?

3.3 Reducing property owners' and occupiers' impact upon local flood risk

116. How can people be made aware of their riparian responsibilities when they first buy properties that include riparian land?

117. What else could be done to improve existing riparian owners' awareness and understanding of their responsibilities?

118. What examples are there of strategies that have succeeded in increasing the engagement of riparian owners and improving their contribution to maintenance?

119. How could the powers provided to drainage bodies by section 25 of the Land Drainage Act 1991 be improved?

120. Do you agree with the suggestion that Early Neutral Intervention be offered to applicants and respondents in all Agricultural Land Tribunal land drainage cases?

121. Do you agree with the introduction of a fee for all applications to the Agricultural Land Tribunal that concern land drainage? This would not affect hearings for agricultural tenancies.

122. If an application fee were introduced, at what level should it be set?

123. Do you agree that a fee should be charged for an Agricultural Land Tribunal hearing on drainage? Should that fee be paid by the losing party or should this be decided by the Agricultural Land Tribunal?

124. If a hearing fee were introduced, at what level should it be set?

125. What cases are you aware of where people might have made use of the Agricultural Land Tribunal had its remit extended beyond ditches and included all ordinary watercourses?

126. Do you think that it would be a good idea to extend the remit of the Agricultural Land Tribunal to include all ordinary watercourses? Do you think that it should also be extended to cover the main river network?

127. In what other ways, if any, could the regulations and processes of the Agricultural Land Tribunal be improved as regards cases involving drainage issues?

128. Do you think the Agricultural Land Tribunal should be renamed? If so, what name do you suggest?

129. Do you believe that failure to maintain the flow of water through watercourses should be described in law as a statutory nuisance?

130. If a statutory nuisance were created concerning “obstructed watercourses”, should it be administered by the Agricultural Land Tribunal, by district and unitary local authorities or by some other body/bodies?

131. Do you agree that a new statutory nuisance should be created to tackle the risk of run-off flooding?

132. If a statutory nuisance were created for run-off risk, which public bodies should be responsible for its administration and enforcement – the Agricultural Land Tribunal, unitary and district local authorities, or unitary and county local authorities?

133. What is the range of costs involved in conducting expert investigations into potential surface run-off statutory nuisance?

134. What sized reductions in damages can be expected when run-off risks are eliminated?

135. Should the owners of properties that cause a surface run-off statutory nuisance have to pay the entire cost of eliminating the nuisance? What would happen if the owner was unable to afford the work? How else could the works be paid for?

136. Should local authorities be encouraged to make more use of their Article 4 powers to reduce the growth in surface run-off risk?

137. Please tell us of any recent occasions you are aware of in which run-off from farmland caused substantial disruption or damage to neighbouring property.

138. Do you agree that local authorities should, in areas of high risk of run-off flooding, be given powers to impose restrictions on management practices and oblige landowners to make improvements to drainage in particular portions of land implicated in run-off flooding?

139. If you do agree with the above proposition, what land management practices should be included in the national list of possible restrictions?

140. What would be the administration costs of working with a landowner to convince them to change the way they managed their land and support them with doing so?

3.4 Single Unifying Act

141. Do you agree that any proposed changes to the existing legislation, not contained in the draft Bill or covered elsewhere in this consultation document, should be discussed directly with relevant organisations in England and Wales so that changes might be introduced in the resulting legislation, without the need for further general consultation?

142. If so, are there any particular or general issues on which you would want to be involved in this way?

4.1 Hosepipe bans

143. What non-essential uses of water do you think should be restricted in order to save water in times of drought?

144. For those domestic uses of water which are not covered by the existing hosepipe ban powers, but which may be prohibited as a result of any changes, for example the cleaning of patios with a hosepipe or pressure washer or filling of domestic swimming pools, how can the cost of inconvenience to the householder be measured? Are you able to provide an assessment of the impacts?

145. Some businesses could be affected at an earlier stage in a drought if further uses are prohibited. Are you able to provide any assessment of the likely impact and costs for businesses should they be unable to use water supplied through a hosepipe or similar apparatus?

146. Do you agree that the legislation should not set a standard notice period? If not, what period would you suggest?

4.2 Power of entry – water resources functions

147. Do you agree that a power of entry should be introduced to cover the Environment Agency's functions to measure and manage water resources?

4.5 Water Administration Regime

148. Should the special administrator be required to pursue the rescue objective for viable water companies that experience financial difficulties?

149. Should a hive-down provision be available in the water administration regime to make the transfer process more efficient?

150. Do you agree that we should remove the right of an undertaker to veto a transfer?

4.6 DWI Recovery of Charges

151. Do you agree that DWI should introduce charging to recover the cost of their regulatory activities from water companies and licensed water suppliers in line with other water regulators?

152. Do you agree with the principle that charges to individual water companies and licensed water suppliers should be proportional to the relative regulatory burden they represent?

4.8 Misconnections

153. Do you agree that powers should be given to sewerage companies to require householders to rectify misconnections as described above? Are there alternatives?

4.9 Development of a project based delivery approach for large infrastructure projects in the water sector

154. Do you agree that a project-based approach would reveal optimal funding structures?

155. Are there alternative approaches to securing effective and properly regulated collaborative projects that could be explored?

156. Do you agree that consumers would benefit from a project-based approach to suitable large projects?

157. Do you agree that existing water companies would normally be best placed to manage the procurement exercise?

158. What types of projects should be covered by the regime?

4.10 Complaint handling powers

159. Do you agree that these changes provide for the most appropriate body to handle complaints?

4.11 Securing compliance

160. Do you agree that these changes will enhance Ofwat's ability to protect customers?

5.3 Hydromorphology powers

161. Do you agree that a power to improve the hydromorphological condition of water bodies in England and Wales is necessary to deliver Water Framework Directive requirements on hydromorphology? Please state why.

162. Do you agree with these criteria for the use of the power?

163. Do you think this proposal provides an appropriate mechanism to enable improvement of hydromorphological conditions?

The policy position in Wales

Flood and Coastal Erosion Risk Management

164. Should all operating authorities be required to contribute to sustainable development objectives when carrying out flood and coastal erosion risk management?

165. Is the proposed allocation of an enhanced oversight role to the Environment Agency in Wales appropriate?

166. Will the scope of the proposed role allow the Environment Agency in Wales to adequately support the Welsh Assembly Government in driving forward a single overarching approach to flood and coastal erosion risk management?

Understanding the Local Risk

167. Is there a need for an enhanced understanding of all local flood risks in Wales, and if so which risks should be included?

168. Do we need to produce Local Surface Water Management Plans in Wales? If so, what form should they take and what should be included?

169. Do you agree that local authorities are best placed to lead on local flood risks and specifically surface water flood risk management?

170. How might different maps work and plans for addressing different sources of flood risk be best integrated?

Roles & Responsibilities

171. Is the split of responsibility between the key operating authorities appropriate?

172. Does the suggested split of responsibilities make it easy to understand which operating authority is responsible for which risks of flooding?

173. Will the suggested split of responsibilities ensure that the gaps in coverage of the current systems are addressed and filled?

Flood Risk Management Wales

174. Should the role and remit of Flood Risk Management Wales remain limited to the risks of flooding from main rivers and the sea regardless of the role and remit of the Environment Agency?

175. If the remit of the Committee is to be changed then what should be the extent of the Committee role?

176. If the role and remit of Flood Risk Management Wales is extended, how often should the Committee meet?

177. Should Flood Risk Management Wales remain an executive committee of the Environment Agency, or should it become an advisory committee and why?

178. Should Flood Risk Management Wales' existing levy raising powers in respect of flood risk management be extended to encompass coastal erosion risk management.

Risk Management Planning

179. Do you agree that local authorities should be responsible for the production of PFRAs for local flood risks?

180. Subject to your views in relation to Surface Water Management Plans in paragraphs 23 to 26 above, do you consider them to be a suitable format for the completion of PFRAs in respect of local flood risks?

181. If there is no requirement to produce Surface Water Management Plans in Wales, what should be done to meet the requirements of the Floods Directive in respect of local flood risks?

- We would be interested in your responses to the questions posed in Section 2.8 as well as the ones below.

182. Do you agree that local authorities should be responsible for the production of maps for local flood risks?

183. Subject to your views in relation to Surface Water Management Plans in paragraphs 23 to 26 above, do you consider them to be a suitable format for the mapping required in respect of local flood risks?

184. If there is no requirement to produce Surface Water Management Plans in Wales, what should be done to meet the mapping requirements of the Floods Directive in respect of local flood risks?

Sustainable Drainage Systems

186. Which is the most appropriate organisation to take responsibility for adoption and management of SUDS in Wales:

- local authorities;
- sewerage undertakers; or
- another body (please specify)?

187. Should there be flexibility within the system to appoint different organisations as SUDS Adopting Bodies in different areas?

188. Should the automatic right to connect to a public sewer be amended for new sites and redevelopments as proposed in Section 2.6 above?

Annex B – List of respondents to the consultation

- 1 Private Individual
- Action with Communities in Rural England (ACRE)
- Agricultural land tribunal Wales
- ALGAO
- 2 Private Individual
- Ancholme Internal Drainage Board
- 3 Private Individual
- Anglian (Central) Regional Flood Defence Committee
- Anglian Water
- Angling Trust
- AquaSpira Limited
- Archaeology Forum (the)
- 4 Private Individual
- 5 Private Individual
- Arun District Council
- ARUP
- Ashford Borough Council
- 6 Private Individual
- 7 Private Individual
- Associated British Ports
- Association for Consultancy and Engineering
- Association of British Insurers
- Association of Drainage Authorities
- Association of Electricity Producers
- Association of Salmon Fishery Boards
- Association of Thames Drainage Authorities
- Atkins Limited
- 8 Private Individual
- 9 Private Individual
- Aviva
- AXA UK
- 10 Private Individual
- Aylesbury Vale District Council
- 11 Private Individual
- Barnsley Metropolitan Borough Council
- 12 Private Individual
- BAWAG
- Bedale & Upper Swale Cod Beck, Lower Swale & River Wiske Internal Drainage Boards
- Bedford Borough Council
- Bedford Group of Drainage Boards
- 13 Private Individual
- 14 Private Individual
- Birmingham City Council

- Bisham Parish Council
- Black Sluice Internal Drainage Board
- Blackburn With Darwen Borough Council
- 15 Private Individual
- Blenheim Palace
- 16 Private Individual
- Blueprint for Water
- 17 Private Individual
- 18 Private Individual
- Borough Council of Kings Lynn and West Norfolk, and the North Norfolk & Suffolk Coastal District Councils
- 19 Private Individual
- Bournemouth Borough Council
- Bovis Homes Group PLC
- 20 Private Individual
- 21 Private Individual
- Bracknell-Forest District Council
- Bristol City Council
- British Dam Society
- British Insurance Brokers' Association
- British Marine Federation
- British Plastics Federation Plastic Pipes Group
- British Property federation
- British Standards Institution (BSI)
- British Water
- British Waterways
- 22 Private Individual
- 23 Private Individual
- 24 Private Individual
- Buckinghamshire County Council
- 25 Private Individual
- 26 Private Individual
- 27 Private Individual
- 28 Private Individual
- 29 Private Individual
- Burnt Fen Internal Drainage Board
- 30 Private Individual
- Broads (2006) Internal Drainage Board (the)
- BSP Consulting
- Caerphilly District Council
- Calderdale MBC
- Cambridge City Council
- Cambridgeshire County Council
- Canterbury City Council
- Capita Symonds Structures
- Carmarthenshire County Council
- 31 Private Individual
- 32 Private Individual

- 33 Private Individual
- 34 Private Individual
- Cawdle Fen Internal Drainage Board
- CCPR
- Center Parcs (Operating Company) Ltd
- Central Association of Agricultural Valuers
- Central Bedfordshire Council
- CEPOG
- CH Consultancy Ltd
- Chairman of Coastal Group Chairmen of England and Wales
- Chapel St Leonards Parish Council
- 35 Private Individual
- 36 Private Individual
- Chartered Institute of Environmental Health
- Chartered Institute of Plumbing and Heating Engineering (CIPHE) (the)
- Chartered Institute of Water and Environmental Management
- Chertsey Society
- Chichester District Council
- Chief Fire Officers Association (CFOA) South East Water Group
- 37 Private Individual
- Chiltern District Council
- Christchurch Borough Council
- Church Legislation Advisory Service
- CIRIA's Water Advisory Panel & Local Authority Network on Flood Risk Management
- City of Bradford Metropolitan District Council
- City of London Corporation
- City of York Council
- 38 Private Individual
- 39 Private Individual
- 40 Private Individual
- Coal Authority (the)
- Community Matters
- Concrete Pipeline Systems Association
- Consumer Council for Water
- 41 Private Individual
- 42 Private Individual
- 43 Private Individual
- 44 Private Individual
- Cornwall Council
- 45 Private Individual
- Country Land & Business Association
- CPRE
- 46 Private Individual
- 47 Private Individual
- 48 Private Individual
- Cumbria County Council
- Derbyshire District Council
- Devon County Council

- 49 Private Individual
- 50 Private Individual
- 51 Private Individual
- 52 Private Individual
- 53 Private Individual
- Don Catchment Action Alliance
- Don District Salmon Fishery Board
- Doncaster Council
- 54 Private Individual
- 55 Private Individual
- 56 Private Individual
- Downham Market Group of Internal Drainage Boards
- 57 Private Individual
- Drax Power Ltd
- 58 Private Individual
- Dudley MBC
- 59 Private Individual
- Durham County Council
- East Cambridgeshire District Council
- East Herts Council
- East Riding of Yorkshire Council
- East Suffolk Internal Drainage Board
- East Sussex County Council
- Eastbourne Borough Council
- EDF Energy
- 60 Private Individual
- 61 Private Individual
- English Golf Union
- English Heritage
- Entec UK Ltd
- Environment Agency
- Environment Agency Thames Region Committees
- Environmental Industries Commission
- Epping Forest District Council
- Esk District Salmon Fishery Board
- Essex County Council
- 62 Private Individual
- Exeter City Council
- 63 Private Individual
- Ely Group of Internal Drainage Boards (the)
- 64 Private Individual
- Fenland District Council
- 65 Private Individual
- Filey Town Council
- 66 Private Individual
- 67 Private Individual
- Flintshire County Council
- Flood Guards

- Folkestone Hythe and Romney Marsh
- 68 Private Individual
- Forest Heath District Council
- 69 Private Individual
- 70 Private Individual
- 71 Private Individual
- The Fire Brigades' Union
- 72 Private Individual
- 73 Private Individual
- Gloucester City Council
- Gloucestershire County Council
- 74 Private Individual
- 75 Private Individual
- 76 Private Individual
- 77 Private Individual
- Great Yarmouth Borough Council
- Green Party of England and Wales
- 78 Private Individual
- 79 Private Individual
- 80 Private Individual
- Halcrow Group Limited
- Halton Borough Council
- Hammersmith and Fulham Council
- Hampshire Association of Local Councils
- Hampshire County Council
- 81 Private Individual
- 82 Private Individual
- Hart District Council
- 83 Private Individual
- 85 Private Individual
- 86 Private Individual
- Hastings Borough Council
- Havant Borough Council
- Hedon Town Council
- Helmsdale Salmon District Fishery Board
- Herefordshire Council
- Hertfordshire County Council
- 87 Private Individual
- 88 Private Individual
- 89 Private Individual
- Highways Agency
- 90 Private Individual
- Hilson Moran
- Hinckley & Bosworth Borough Council
- 91 Private Individual
- 92 Private Individual
- 93 Private Individual
- 94 Private Individual

- 95 Private Individual
- 96 Private Individual
- Home Builders Federation
- Homes and Communities Agency
- 97 Private Individual
- 98 Private Individual
- 99 Private Individual
- Horticultural Trades Association (the)
- 100 Private Individual
- 101 Private Individual
- HR Wallingford
- 102 Private Individual
- 103 Private Individual
- 104 Private Individual
- 105 Private Individual
- Hull City Council
- 106 Private Individual
- 107 Private Individual
- 108 Private Individual
- Huntingdonshire District Council
- Hurley Parish Council
- 109 Private Individual
- Hydro International Stormwater Division
- Inexus Group Limited
- Infrastructure Design Studio
- Institute of Historic Building Conservation.
- Institution of Civil Engineers (ICE)
- Interpave
- Ipswich Borough Council
- Irriplan
- 110 Private Individual
- JBA Consulting
- 111 Private Individual
- 112 Private Individual
- 113 Private Individual
- 114 Private Individual
- 115 Private Individual
- 116 Private Individual
- 117 Private Individual
- Kent County Council
- 118 Private Individual
- 119 Private Individual
- 120 Private Individual
- Kings Lynn Internal Drainage Board
- Kingston Seymour Parish Council
- 121 Private Individual
- Knowsley Metropolitan Borough Council - Drainage Section
- 121 Private Individual

- Lakenheath Internal Drainage Board
- 122 Private Individual
- Lancashire County Council
- Lancaster University
- Landmark Information Group
- 123 Private Individual
- Law Reform Committee of the Bar Council
- 124 Private Individual
- Leeds City Council
- Leicester City Council
- Leicestershire County Council
- Lewes District Council
- Lincolnshire Branch of the Association of Drainage Authorities
- Lincolnshire County Council
- Lincolnshire Partners
- Lindsey Marsh Drainage Board; Isle of Axholme Internal Drainage Board; Gainsborough, Armthorpe, Rivers Idle & Ryton, Tickhill and Everton Internal Drainage Boards
- Littleport & Downham Internal Drainage Board
- Local Government Association Group
- Local Government Flood Forum
- Local Govt Association (Coastal Areas, Special Interest Group)
- London Assembly
- London Borough of Bexley
- London Borough of Bromley
- London Borough of Tower Hamlets
- London Councils
- 125 Private Individual
- 126 Private Individual
- Lower Aire and Don Drainage Consortia of Drainage Boards
- Lower Ouse Internal Drainage Board
- Lower Severn Internal Drainage Board
- 127 Private Individual
- 128 Private Individual
- Maldon District Council
- 129 Private Individual
- Manhood Peninsular Group
- 130 Private Individual
- March & Whittlesey Internal Drainage Board
- 131 Private Individual
- Marina Projects Ltd
- Market Weighton Drainage Board
- Marston Vale Surface Waters Group
- Marston Vale Trust
- 132 Private Individual
- 133 Private Individual
- 134 Private Individual
- 135 Private Individual
- 136 Private Individual

- Meadfleet
- 137 Private Individual
- Merseyside Fire & Rescue Service
- Micro Drainage Limited
- Mid and West Wales Fire and Rescue Service
- Mid Sussex District Council
- Middle Fen & Mere Internal Drainage Board
- Middle Level Commissioners
- Middlesbrough Council
- Mildenhall Internal Drainage Boards
- Miller Homes Limited
- Milton Keynes Council
- Mineral Products Association
- Ministry of Defence
- 138 Private Individual
- Mott McDonald
- Mouchel
- 139 Private Individual
- National Trust Wales
- 140 Private Individual
- North Devon Council
- North East Lincolnshire Council
- North East Planning Body's (NEPB) Development Board
- North East Thames Surface Water Alliance (NETSWA)
- North Level District Internal Drainage Board
- North Lincolnshire Council's
- North Norfolk District Council
- North Somerset Council
- North Somerset Internal Drainage Board
- North Wales Police
- North West Regional Flood Defence Committee
- North Yorkshire County Council
- North Yorkshire Fire and Rescue
- Northampton Borough Council
- Northamptonshire County Council
- Northumberland County Council
- Northumbria Regional Flood Defence Committee
- Northumbrian Water
- 141 Private Individual
- National Flood Forum (the)
- National Trust (the)
- Ofwat
- Old West Internal Drainage Board
- Ordnance Survey
- 142 Private Individual
- Oxford City Council
- Padnal & Waterden Internal Drainage Board
- 143 Private Individual

- 144 Private Individual
- Panel Engineers Consultative group
- 145 Private Individual
- 146 Private Individual
- 147 Private Individual
- 148 Private Individual
- 149 Private Individual
- 150 Private Individual
- Peter Brett Associates LLP
- 151 Private Individual
- 152 Private Individual
- Pickering Flood defence
- 153 Private Individual
- Plandescil ltd
- 154 Private Individual
- 155 Private Individual
- Portsmouth City Council
- Portsmouth Water Ltd
- Powis Castle
- Powysland Internal Drainage Board
- 156 Private Individual
- 157 Private Individual
- 158 Private Individual
- 159 Private Individual
- 160 Private Individual
- Projects Abroad
- Prudential Property Investment Managers
- 161 Private Individual
- 162 Private Individual
- Ramsey Internal Drainage Board
- RBS Insurance
- Regional Flood Defence Committee Chairman
- Regional Flood Defence Committee for Wales
- Regional SUDS Group for Somerset
- Reigate and Banstead Borough Council
- 163 Private Individual
- 164 Private Individual
- 165 Private Individual
- 166 Private Individual
- 167 Private Individual
- Rio Tinto Alcan Lynemouth Smelter and Power Station
- 168 Private Individual
- River Annan District Salmon Fishery Board
- River Deveron District Salmon Fishery Board
- River Doon Fishery Board
- River Girvan District Salmon Fishery Board
- River Lugg Internal Drainage Board
- River Stour(Kent) Internal Drainage Board

- River Ugie District Salmon Fishery Board
- 169 Private Individual
- 170 Private Individual
- 171 Private Individual
- 172 Private Individual
- 173 Private Individual
- 174 Private Individual
- 175 Private Individual
- 176 Private Individual
- 177 Private Individual
- 178 Private Individual
- 179 Private Individual
- Rother District Council
- Rotherham Borough Council
- 180 Private Individual
- Royal Borough of Kensington and Chelsea
- Royal Borough of Windsor & Maidenhead
- Royal Haskoning
- Royal Institution of Chartered Surveyors (RICS)
- Royal Parks (the)
- Royal Town Planning Institute
- RSA
- RSPB
- Runnymede Borough Council
- RWE npower
- RYA
- 181 Private Individual
- Salford City Council
- Salmon & Trout Association
- Scarborough Borough Council
- 182 Private Individual
- 183 Private Individual
- SCOPAC
- 184 Private Individual
- Scottish and Southern Energy
- Scottish renewable
- Scout Association (the)
- Sedgemoor District Council
- Severn & Avon Valley Combined Flood Group
- Severn Trent Regional Flood Defence Committee
- Sheffield City Council
- Shire Group of Internal Drainage Boards
- Shropshire Council
- 185 Private Individual
- 186 Private Individual
- 187 Private Individual
- 188 Private Individual
- 181 Private Individual

- 182 Private Individual
- SLR Consulting Ltd
- 183 Private Individual
- 184 Private Individual
- 185 Private Individual
- 186 Private Individual
- 187 Private Individual
- 188 Private Individual
- Society of British Water & Wastewater Industries (SBWWI)
- Somerset County Council
- Somerset Drainage Boards
- Somerset Water Management Partnership
- South Cambridgeshire District Council
- South East County Leaders
- South East Water
- South Gloucestershire Council
- South Holland District Council
- South Holland Internal Drainage Board
- South Norfolk Council
- South Northamptonshire Council
- South Somerset District Council
- South Tyneside Council
- South West Regional Flood Defence Committee
- South West Water Limited
- Southern Regional Flood Defence Committee
- Southern Water
- 189 Private Individual
- Spey Fisheries Board
- St Edmundsbury Borough Council
- Staffordshire County Council
- Stephen Daykin Consulting Ltd
- 190 Private Individual
- 191 Private Individual
- Stockton on Tees Borough Council and Tees Valley Flood Risk Management Group
- Story Construction Ltd
- Strine Internal Drainage Board
- Suffolk Coastal District Council
- Suffolk County Council
- Suffolk Flood Risk Management Partnership
- Surfers Against Sewage (SAS)
- Surrey County Council
- Surrey Heath Borough Council
- Swaffham Internal Drainage Board
- Swale Borough Council
- Swavesey Internal Drainage Board)
- 192 Private Individual
- Tay District Salmon Fisheries Board
- Taylor Wimpey

- 193 Private Individual
- Teignbridge DC
- Telford & Wrekin Council
- Thames awash
- Thames Water
- Thatcham Town Council
- 194 Private Individual
- 195 Private Individual
- Tonbridge and Malling Borough Council
- Torbay Council
- Torridge District Council
- Town and Country Planning Association
- Transport for London
- 196 Private Individual
- Tunbridge Wells Borough Council
- Tweekwsbury Borough Council
- Tyne Rivers Trust
- UK Roads Board (part of the UK Roads Liaison Group)
- UKELA Water Working party
- UNISON
- United Utilities
- Upper & Lower Medway Internal Drainage Board
- Upper Witham Internal Drainage Boards
- Urr District Salmon Fishery Board
- 197 Private Individual
- 198 Private Individual
- 199 Private Individual
- 200 Private Individual
- 201 Private Individual
- 202 Private Individual
- Wales Environment Link
- Wandsworth Borough Council
- Warboys, Somesham and Fidley IDB
- 203 Private Individual
- Warrington Borough Council
- 204 Private Individual
- Warwickshire County Council
- Water Management Alliance
- Water UK
- Waterbeach Level Internal Drainage Board
- Waterwise
- 205 Private Individual
- 206 Private Individual
- Waverley Borough Council
- Wealden District Council
- Weetwood Environmental Engineering
- Welland & Deepings Internal Drainage Board
- Welsh Water

- Wessex Water
- West Devon Borough Council
- West Dorset District Council
- West Lancashire Borough Council
- West Mendip Internal Drainage Board
- West Midlands LA Chief Engineers and Planning Officers Group
- West Sussex County Council
- 207 Private Individual
- Western Isles Salmon Fisheries Board
- Western Power Distribution
- Whittlesey Internal Drainage Board
- 208 Private Individual
- 209 Private Individual
- 210 Private Individual
- Wildfowl & Wetlands Trust
- Witham Fourth District Internal Drainage Board (the)
- Witham First District Internal Drainage Board (the)
- Witham Third District Internal Drainage Board (the)
- Woodland Trust
- Worcestershire County Council
- 211 Private Individual
- Wothing and Adur Councils
- WPD - Llanishen Reservoir
- Wraysbury Parish Council
- 212 Private Individual
- 213 Private Individual
- Wychavon District Council
- Wycombe District Council
- Yorkshire and Humber Regional Flood Task and Finish Group
- Yorkshire Regional Flood Defence Committee
- Yorkshire Water
- Zurich Insurance Plc