



ENVIRONMENT AGENCY WALES RESPONSE TO THE WELSH GOVERNMENT'S CONSULTATION ON INTERNAL DRAINAGE DISTRICTS AND BOARDS WHOLLY OR MAINLY IN WALES

INTRODUCTION

The Environment Agency welcomes the opportunity to respond to the Welsh Government's consultation on the future of Internal Drainage Districts and Boards wholly or mainly in Wales.

We support the Welsh Government's proposal to review these Internal Drainage Districts and Boards (IDDs and IDBs respectively) including those IDD we currently administer. We believe their existing arrangements require significant revision to better reflect the Welsh Government's current policy and legislative agenda, i.e. risk based and ecosystem based.

In summary:

- We believe Welsh Government's decision should be determined by the need to deliver the outcomes of its National Flood and Coastal Erosion Risk Management Strategy for Wales ('the National Strategy') and the Living Wales policy it is currently developing.
- All three options in the consultation document have advantages and disadvantages and we highlight in our response below the main ones in our opinion
- We ask that the Welsh Government considers an additional fourth option - to transfer IDB functions to Local Authorities, given their lead role managing flooding from ordinary watercourses and that, relatively speaking, many Welsh IDD are small in size and don't have complex water and flood management issues
- We believe this fourth option is the most appropriate one for Wales.
- Should the Welsh Government decide to transfer IDB functions to the Single Body:
 - o we believe it imperative that the Single Body be given the same risk based legal and policy framework to manage all sources of flooding within an IDD as it currently has for managing main river and coastal flooding;
 - o appropriate governance arrangements will need to be created that provide local accountability
 - o appropriate resources will be required to deliver its new functions and all relevant statutory duties.
- Regarding the IDD that the Environment Agency administer in Wales, we believe the existing governance arrangements are unsatisfactory and that some IDD may have no long term viability. We wish to address these issues, in consultation with local communities, the Welsh Government and stakeholders, as soon as practicable.

MAIN ENVIRONMENT AGENCY COMMENTS

We support the Welsh Government's proposal to review the IDBs wholly or mainly in Wales and those IDD's that we administer in Wales. We believe the existing arrangements for all these require significant revision to better reflect the Welsh Government's current policy and legislative agenda.

Our comments are arranged into two sections: those concerning the three existing IDBs and those concerning the IDD's that we currently administer in Wales.

1. IDD's governed by Powysland IDB, Lower Wye IDB and Caldicot and Wentlooge Levels IDB

Environment Agency Wales believes the Welsh Government's decision should be based upon which option best delivers the following outcomes:

- i. delivery of the National Strategy outcomes (including the management of flooding on a risk based approach)
- ii. a more integrated approach to managing the natural resources within the IDD's and achieving ecological targets, such as for the Water Framework Directive
- iii. a more integrated approach to managing river catchments and natural habitats that extend beyond the boundaries of the current IDD's
- iv. transparent governance arrangements and clear lines of accountability
- v. appropriate engagement with local communities and landowners
- vi. the most efficient use of financial resources

Whilst we express our views in this response and highlight below the advantages and disadvantages we perceive for each option, we would undertake to work with the Welsh Government to implement whichever option it finally determines.

We believe that different options might be appropriate for different IDD's' individual circumstances rather than a one size fits all approach

Whatever option(s) is chosen, the Welsh Government will need to ensure an adequate level of resource is provided that takes account of all relevant legislative and policy requirements.

The Environment Agency in England is committed to maintaining a close working relationship with the Single Body in Wales and that will include matters regarding the cross border IDD's.

The consultation's options for delivery through existing IDBs 1) in line with current arrangements and 2) with changes to organisational arrangements

In maintaining the existing IDBs in both these options, a degree of consistency and familiarity is maintained. We would support changes to organisational arrangements that would deliver improvements to governance, accountability and overall efficiency. Our support for this type of change also extends to our own IDD's, which we outline later in our response.

However we are not convinced either option would significantly improve efficiency or effectiveness of delivery of either the management of flood risk or of wider natural resources. We believe substantial revision to the existing statutory duties and discretionary powers, plus additional policy guidance from Welsh Government, would

be required in order to achieve the six outcomes above that EAW believes need achieving.

The consultation's option 3) for delivery through the new single body for natural resource management (the 'Single Body')

We recognise that the Single Body could provide a range of opportunities to deliver the Welsh Government's core criteria outlined in their consultation (para. 82). Examples include: the ability to draw on a larger organisational pool of flood risk, water and land management expertise; well established cross border working arrangements within and beyond Wales; UK and international level liaison through which good practice can be identified and applied in Wales.

Were the Welsh Government to choose this option, we believe a more cost effective and efficient service could be delivered if financial and administration arrangements were streamlined rather than simply transferred. For example, removing the need for special levies and precepts by having the services Local Authorities' and the Single Body provide to each other reflected up front in their annual financial settlements from the Welsh Government.

The Welsh Government has stated in its National Strategy that the Single Body would take on all of the responsibilities of the Environment Agency in relation to flood and coastal erosion risk management in Wales. That would entail it continuing to lead the management of flood risk from main rivers and the coast. We continue to support this.

Were the Single Body to be given the functions of the three existing IDBs, one significant disadvantage we foresee is it causing confusion amongst applicants and the public as to who has responsibility for managing flood risk from ordinary watercourses. It runs counter to the principles laid down in the Pitt Review, the Flood and Water Management Act and Flood Risk Regulations.

Across the vast majority of Wales, Local Authorities lead on managing flood risk from ordinary watercourses including consenting and enforcement. Maintaining that approach within the areas currently designated as Internal Drainage Districts would avoid that confusion and ensure there are clear lines of accountability and communication, both for the public, landowners and between existing flood Risk Management Authorities. Therefore we suggest below that the Welsh Government consider a fourth option – transferring IDB functions to Local Authorities.

Notwithstanding our comments above, were the Welsh Government to implement this option then we will take on that role and deliver it as effectively and efficiently as possible.

In order to do so, we believe it imperative that the Single Body is able to manage flooding from any source within an IDD using the same legal framework that it currently has for managing main river and coastal flooding - namely based on a Wales-wide assessment of the level of risk.

Appropriate governance arrangements will also need to be created. Currently the Flood Risk Management Wales committee has no legal role as IDB executive. This is currently exercised by the Environment Agency's Board since the implementation

of the RFCC Regulations in 2011. Appropriate representation will be needed of those communities at flood risk.

The Single Body would also need to be appropriately resourced to deliver its new functions and all relevant statutory duties.

Additional option 4) to transfer IDB functions to Local Authorities and the land and water managed in the same way as the rest of Wales

We strongly suggest that the Welsh Government fully considers a fourth option – delivery of IDB functions through Local Authorities.

We believe this fourth option is the most appropriate one for Wales. We set out our rationale below, given that Local Authorities are:

- the lead authority for managing flood risk from ordinary watercourses;
- the main funder for two of the three IDBs¹;
- closely connected to local communities and having a democratically elected mandate;

and also:

- non-agricultural properties being the main beneficiaries of flood risk management activities;
- it would remove the large administrative burdens of special levies
- the relatively small size of each of the IDBs (taking account of the separate water catchments for the Wentlooge Levels and Caldicot Levels)

This option would address several of the points highlighted earlier in our response, such as the need for local accountability and providing the public with a clear line of sight on all matters regarding flood risk management on any watercourse that's not a main river.

We currently work closely with IDBs and Local Authorities on a range of environmental issues, for example achieving good ecological status under the Water Framework Directive. We are committed to continuing that productive partnership working as part of the Single Body. Were Local Authorities to undertake IDB functions, we therefore do not foresee any problems working in partnership with them on the delivery of the Welsh Government's core criteria. We would be undertaking this work the Local Authorities anyway in the vast majority of Wales where IDBs are absent.

Local Authorities in Wales are working closely together and introducing a shared services approach between them. The opportunity appears to be there to do similarly on delivering IDB functions. It would also mirror the shared services approach the Caldicot and Wentlooge IDB and Lower Wye IDB have already established.

Whilst the Single Body is expected to be the prime agent for delivering the Living Wales policy, we believe the policy's overall delivery can only be achieved with the contribution of other organisations including Local Authorities. As mentioned above we currently work closely with Local Authorities on a range of environmental issues

¹ Given that Local Authorities fund 97% and 85% of Caldicot & Wentlooge IDB and Lower Wye IDB respectively via special levies

and would continue to do so, as part of the Single Body, to implement the Living Wales policy irrespective of whether IDD's currently exist in their area or not.

2. For those IDD's that Environment Agency Wales currently administers

We recognise that existing governance and operational arrangements for the IDD's we administer are unsatisfactory and we wish to address these as soon as practicable.

We are not convinced that maintaining IDD status under EAW's administration for some IDD's is viable in the long term. All 11 IDD's are small in size and are spread out in a range of different locations across North West Wales. Many do not have complex water management issues and consequently our land drainage and flood risk management activities in those particular IDD's are minimal.

We wish to highlight the interest of several local communities in taking over as the IDB for some of the IDD's EAW currently administers. EAW has begun discussions with them and we would wish to see their local views taken fully into account by the Welsh Government.

We are currently conducting an internal review into the viability of the IDD's we currently administer. We intend to fully consult with the local communities, Local Authorities, the Association of Drainage Authorities, Welsh Government and other interested parties on the outcomes of that review. A central part of that consultation will be for us to explore options with them for either the IDD's' continuation, or the transfer of functions to an independent IDB or abolishing IDD status and returning the flood risk management of ordinary watercourses to the relevant Local Authority.

We believe that different options might be appropriate for different IDD's' individual circumstances rather than a one size fits all approach.

There is currently a lack of local accountability in governance arrangements since the IDB executive function passed from our Flood Risk Management Wales committee to the Environment Agency's Board in 2011 as part of the Regional Flood and Coastal Committee Regulations. Should these IDD's come under the administration of the Single Body, we ask that the Environment Agency's IDB executive function be transferred to Flood Risk Management Wales from 1st April 2013

Additional matters for consideration

Should the Welsh Government decide to retain IDBs as a legal and/or operational entity we believe a change in the title would be beneficial to communicating their new purpose and direction. This should reflect their wider remit than drainage, encompassing flood risk management, biodiversity, the natural land and water resources of Wales and public access.

FURTHER INFORMATION

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