

To: Business Committee

From: Carwyn Jones AM
Minister for Environment, Planning and Countryside

EXPLANATORY MEMORANDUM

LAND DRAINAGE (ENGLAND AND WALES)

THE NORTH-WEST, SEVERN-TRENT AND WELSH REGIONAL FLOOD DEFENCE COMMITTEES (BOUNDARIES ALTERATION) ORDER 2005

Summary

The new flood defence arrangements in Wales, announced by the Minister for Environment, Planning and Countryside in Plenary on 29 June 2004, will comprise of a single tier flood defence committee structure, whose Eastern boundary accords with the administrative boundary between Wales and England.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The North-West, Severn-Trent and Welsh Regional Flood Defence Committees (Boundaries Alteration) Order 2005, in accordance with Standing Order 25 (Section 3).
2. A copy of the proposed Instrument is submitted with this Memorandum.

Enabling power

3. The powers enabling this Instrument to be made are contained in section 14 of, and paragraph 1, sub-paragraphs (1) and (3) of Schedule 4 to the Environment Act 1995. In this case, because the area of the Committee covers both England and Wales, these powers are exercisable jointly by the National Assembly for Wales and the Secretary of State for Environment, Food and Rural Affairs. Assembly functions in relation to Wales have been delegated to my portfolio as Minister for Environment, Planning and Countryside.

Legislative procedures

4. Schedule 4 to the Environment Act 1995 outlines the detailed procedures required to make an Order to change the boundary of a flood defence committee in Wales. These procedures include supplementary procedures, which have to be undertaken before and after the Assembly and the Secretary of State for Environment, Food and Rural Affairs make the Order, and before it comes into force.
5. In accordance with these supplementary procedures the draft Order must be advertised and a notice sent to all relevant and interested parties, which could be affected by the Order.

6. Once made, the Assembly and the Secretary of State must serve notice of the making of the Order on certain persons who may have previously raised objections, allowing them 28 days to respond with a counter notice of their intention to maintain their objections.
7. If no objection is received then the Order will be laid before Parliament, where it will be subject to annulment by either House over a period of 40 days.
8. Objections sustained by counter notice in relation to the Order may trigger special parliamentary procedures, which are set out in Statutory Orders (Special Procedure) Act 1945, as amended. These procedures require the Order to be laid before Parliament and the consideration of petitions against the Order by the Chairmen of the Ways and Means Committee and the Lord Chairman of Committees. If the petition is considered to be proper it is then laid before parliament who can then consider whether to annul the Order or to refer the petition to a joint committee of both Houses of Parliament. If Parliament does not make a resolution to annul or to refuse to refer the petition, a joint committee of both Houses of Parliament will then consider the Order and the petition, and may approve (with or without amendments) or annul the Order. Further procedures may follow dependent on the outcome of the committee's decision.
9. Whether and when the Order comes into force will depend on the outcome of the above.

Effect

10. The intended effect of the Order is to alter the boundary of the Welsh Regional Flood Defence Committee (Welsh RFDC) so as to align its area with the area of Wales. The Order will also alter the boundaries of the neighbouring Severn-Trent Regional Flood Defence Committee (Severn-Trent RFDC) and the North-West Regional Flood defence Committee (North-West RFDC).
11. The composition of the Welsh RFDC will be amended by removing the representatives of those parts of England that were previously within the area of the Committee (i.e. Cheshire, Wirral, Shropshire, and Herefordshire, Worcestershire and Gloucestershire). This means that the number of local authority appointees will be reduced to nine. This is to ensure that the composition of the Welsh RFDC continues to reflect the balance set out in section 16(7) of the Environment Act 1995, which requires that an order made under section 16(5) must ensure that the number of local authority appointees to the Committee exceed, by one, the number of Assembly and Agency appointees, the total numbers of the Welsh RFDC will consequently be reduced from twenty-one to seventeen. This consequential amendment is not a statutory requirement in this case, since the order will not be made under section 16(5), but instead it reflects a policy decision to maintain the current balance between the categories of appointees.
12. This Order has distinct Welsh provision, because it alters the area of the Regional Flood Defence Committee in Wales to align it with the area of Wales. It will be the only Flood Defence Committee in Wales and England based on administrative boundaries, rather than catchment areas. All the other Flood Defence Committees are based on catchment areas.

Target Implementation

13. It is intended that the proposed Instrument be made on 20 September 2005 and will come into force on 1 April 2006. Should the draft Order be subject to special parliamentary procedures, it is possible that the proposed coming into force date of 1 April 2006 may be missed.
14. If the Order does not come into force by 1 April 2006 the boundary change will be delayed and result in:
- delays with the progress on the Order to make changes to the composition of the regional committee;
 - continued possibility of different standards being applied to people across Wales; and
 - continued levy setting by the Environment Agency's Severn Trent RFDC in England affecting Powys CC.

Financial Implications

15. There are no additional financial implications on the Assembly, the Department for Environment, Food and Rural Affairs (Defra), or the local authorities as a result of amending the RFDC areas and the arrangements arising from the enactment of this Order.
16. Powys County Council is currently in receipt of approximately £22k from the Assembly to support the residual flood defence levy imposed by the Severn-Trent RFDC on local authorities in its area. Once the Committee boundaries are altered Powys will not be subject to a levy, and this support will be removed and provided directly to the Environment Agency as part of grant in aid.
17. The creation of a single committee on the administrative boundary will facilitate a more consistent prioritization of actions and expenditure across the whole of Wales ensuring equality of treatment.
18. There are no cost impacts on businesses, or external bodies arising from the making of this Order.

Regulatory Appraisal

19. As the Regulations fall outside the definition of Assembly general subordinate legislation in section 58 of the Government of Wales Act 1998, a Regulatory Appraisal is not required to be undertaken.

Consultation

With Stakeholders

20. A consultation on 'options for change in Wales', entitled 'Flood defence arrangements in Wales The Future' was undertaken by the Assembly between 22 September 2003 and 5 December 2003. The consultation was sent to 42 organisations, including all local authorities in Wales and those who were likely to be affected in England. It was also sent to the Environment Agency and the

Internal drainage boards in Wales and its borders. A full list of those consulted is attached at Annex A.

21. A report on this consultation exercise was published following my announcement in Plenary on 29 June 2004 and a copy is attached at Annex B.
22. A majority of those who responded to the consultation favoured retaining the existing committee catchment boundaries, as this would in their view ensure consistent operational catchment management policies. However, I decided that a single committee for Wales based on a political boundary and directly funded by the Assembly would be the most appropriate arrangement. This would provide clear accountability with respect to the strategic policy and funding, and the ability for works to be considered and prioritised on an all Wales basis. The need to manage on a catchment basis would be delivered operationally by the Environment Agency, which serves both England and Wales.
23. A consultation was also carried out by Defra during October 2004 with those local authorities and organisations in England who might be affected. There were no significant objections raised during this consultation period.
24. In line with the requirements of Schedule 4 to the Environment Act 1995, notice of the intention to make the Order has been advertised in the press, and the draft Order made available for inspection for a 28-day period. Furthermore, all local authorities in Wales and those in England who are affected by the change, the Welsh Local Government Association and other stakeholders, such as the Environment Agency and internal drainage boards in Wales, were served notice of the draft Order.
25. Ceredigion County Council objected on the grounds that there would be inadequate opportunity for local authority representation on the single Regional committee. An argument that they had put forward against the revocation of the local committees, and which I considered at the time. The substance of the objection did not raise any issues that had not been previously taken into account and I therefore determined to proceed with the Order unchanged.
26. The Flood Prevention Society based on the lower Dee area 'protested most strongly' about the proposal expressing concern that splitting the catchment would result in loss of control over works on the river. The Environment Agency will retain operational management on a catchment basis, and deliver its service as at present through existing Area structures. The Society were advised of the arrangements.

With Subject Committee

27. The Environment, Planning and Countryside Committee considered the draft Order at its meeting on 25 May 2005 (EPC(2)07-05(p.2)). The Committee recommended approval of the draft Order without amendment.

Recommended Procedure

28. Subject to the views of the Business Committee, I recommend that this Order proceed to Plenary under the Standard procedure, to give Assembly Members an opportunity to further debate this Order.

Compliance

29. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 Section 120);
- be compatible with the Assembly's scheme for sustainable development (Section 121);
- be compatible with Community law (Section 106)
- be compatible with the Assembly's human rights legislation (Section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (Section 108).

30. The information in this Memorandum has been cleared by the Directorate of Legal Services and by the Assembly Compliance Officer.

31. Drafting Lawyer: Sean Bradley, Ext 3202.

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CARWYN JONES
MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE

JUNE 2005

Annex A

List of Consultees

Local Authorities - Chief Executives
Assembly Members
Members of Parliament
Welsh Local Government Association
Local Government Association
Welsh Flood Defence Committees
English Flood Defence Committees
ADA - The Secretary
Internal Drainage Boards
Association of National Park Authorities
Wales Association of Community & Town Councils
National Association of Local Councils
Commission for Racial Equality Wales Office
All Wales Ethnic Minority Association
Equal Opportunities Commission
Wales Women National Coalition
Wales Disability Rights Commission
Stonewall Cymru
Voluntary Sector Assembly Centre
Engineering Employers Association
CBI. Wales
Federation of Small Businesses
South Wales Chamber of Commerce & Industry
North Wales Chamber of Commerce
Wales TUC Cymru
Chartered Institute for Environmental Health
RICS Wales
Chartered Institution of Water & Environment Management
British Waterways
Welsh Development Agency
Institute of Directors
Groundwork Wales
House Builders Association
South East Wales Economic Forum
South West Wales Economic Forum
Mid Wales Partnership
North Wales Economic Forum
Welsh Development Agency
Environment Agency Wales
Countryside Council for Wales
North Wales Pollution Group
County Land & Business Association
Farmers Union of Wales
NFU Cymru
ADAS
Friends of the Earth Cymru

RSPB
Campaign for the Protection of Rural Wales
Health Promotion Wales
ICE Wales
Wales Coastal Groups
ABI – Association of British Insurers
Association of Larger Local Councils
North Wales Town Councils Association



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

FLOOD DEFENCE ARRANGEMENTS IN WALES

THE FUTURE

**A report on the outcome of a consultation on
options for change in Wales**

Welsh Assembly Government January 2004

**REPORT ON THE RESPONSE TO THE CONSULTATION ON THE FLOOD
DEFENCE ARRANGEMENTS IN WALES
THE FUTURE.**

EXECUTIVE SUMMARY

INTRODUCTION

- i. This report summarises the views expressed in the 42 responses received on the consultation on the Flood Defence Arrangements in Wales –The Future.

Committee Boundaries

- ii. There was no significant support for the adoption of a political boundary for the Eastern side of the flood defence committee(s). The views expressed considered that catchment boundaries were the most appropriate and that to disconnect the operational boundary from the administrative boundary would not lead to an effective arrangement for the management of the cross border catchments
- iii. The Environment Agency(EA) and its committees argued against the political boundary highlighting cost and cross border funding issues.
- iv. The responses indicate a strong preference for committee boundaries based on catchments, with the arrangements shown on the maps in the consultation generally accepted.

Option 1: A single committee funded by block grant.

- v. The support for a single committee was split .Organisations such as the Association of British Insurers(ABI), the Met office CCW and the Environment Agency (EA) (who indicated its support for this option was based upon the linkage of the option to block grant for both capital and revenue work) were supportive ,
- vi. The local authorities, Welsh Local Government Association (WLGA), and the Internal Drainage Boards(IDBs) including their overarching body the Association of Drainage Authorities (ADAs) were firmly against the single committee on the grounds of loss of local knowledge accountability, and input.
- vii. Whilst most responses supported direct funding of a single committee the WLGA was firmly opposed to any levy raising powers being retained by the committee without a local authority majority on the committee.
- viii. It was suggested that the membership be determined through consultation with the EA and the WLGA. The predominant local authority view was that the composition of the committee should contain a majority of local authority members. Others suggested a variety of skills and competencies were required with a committee size of 15 to 23 being suggested. The ADA response suggested the need for members to understand their role and executive powers.
- ix. Alternative arrangements for allowing the local public to influence flood defence plans were through EA stakeholder groups, local members on the flood defence committees and other such fora

Option 2: Three regional flood defence committees funded primarily by local authorities via a levy with Assembly Government grant support for capital works through a single block grant.

- x. The concept of three regional committees in Wales based upon catchment boundaries was the preferred option for the majority of respondents. It was seen as being locally accountable, but there was recognition that the strategic role of a single committee would not be available.
- xi. The majority of respondents also indicated that their preferred arrangements would be direct funding by the Assembly Government. If a levy were retained it was suggested that capital works be fully funded by block grant.
- xii. The membership of such committees was thought to require a majority of local authority members particularly if a levy were to be raised. This would ensure that issues such as local accountability and democracy were addressed. The actual membership again being determined in consultation with the EA and the WLGA.

Critical Ordinary watercourses

- xiii. Whilst not the subject of a specific question in the consultation a number of respondents commented on this matter. The EA were of the view that these should be transferred to them with appropriate funds to undertake maintenance etc. There was opposition to this view from the IDB's who were confident that they maintained these water courses well and cost effectively.
- xiv. Concern was expressed about the implications of the transfer on local authority staff resources to deal with other flood defence and emergency response matters.

INTRODUCTION

Conclusions of the Flood and Coastal Defence Funding Review (FCDFR)

1. The FCDFR was announced in July 2000 with a remit to consider the most appropriate means of delivering the flood and coastal defence services in England and Wales. It concluded that funding and the institutional arrangements for the delivery of flood and coastal defence services are inextricably linked, and made recommendations on institutional arrangements as well as funding mechanisms. It further concluded that a consultation be undertaken based upon the conclusions and recommendations of the review.
2. Based upon responses to that consultation, consideration of legislative processes and the findings of the FCDFR, the Welsh Assembly Government concluded the following broad principles :
 - The flood defence service should continue to be funded primarily by the Welsh Assembly Government, both directly and indirectly via its support for local authorities.
 - The Environment Agency (the Agency) should continue to be the prime body in Wales with responsibility for delivering flood defence services in Wales.
 - There should be no change in responsibility for coast protection service in Wales with this service remaining the responsibility of the maritime local authorities.
3. They also agreed the following specific changes which impact largely on the Environment Agency and its Flood Defence Committees :
 - A move from the present two-tier structure of Flood Defence Committees to a single tier committee structure.
 - A move to Assembly Government block grant to be paid to the Agency for its flood defence capital works and, dependent upon the chosen committee structure, its revenue works.
 - Local Authorities(LA's) and Internal Drainage Boards(IDBs) should continue to have flood defence and land drainage responsibilities
4. To implement any significant changes to the institutional arrangements would require major changes to primary legislation. Minor changes could be delivered through amendments to the Water Bill, which was being progressed through Parliament.
5. In March 2003 Ms Sue Essex, the then Minister for Environment, made a public announcement which confirmed the above. It generally welcomed the main findings of the FCDFR, but in particular welcomed the opportunity to replace existing administrative structures with modern arrangements capable of addressing the growing challenge of climate change. The Minister went on to explain that, in consultation with relevant authorities, consideration would be

given to various options for change before deciding the final arrangements for flood and coastal defence in Wales.

Consultation

6. To aid the consideration of the options a consultation document was prepared which described the Welsh Assembly Government's conclusions from the Flood and Coastal Defence funding review and set out the general principles and options for the future arrangements for the delivery of the service in Wales. The consultation sought views on two models for flood defence committee structures and associated funding arrangements for Wales; it was issued on the 22nd of September 2003. Responses were due by the 5th December 2003.
7. The general principles on which the consultation is based are
 - In Wales the flood defence service will continue to be provided primarily by the Environment Agency through a single tier Flood Defence Committee structure
 - Funding of the Committee(s) will depend upon the chosen Committee structure
 - The Agency should continue to provide Committee(s) with technical and operational advice on all flood defence matters.
 - The Agency will provide Committee(s) with programmes of maintenance and capital work with associated estimated costs for their consideration and approval
 - The Committee will approve these programmes and monitor the activities of the Agency in terms of delivering these programmes of work and the implementation of the Welsh Assembly Government's policy aims and objectives
 - The funding of the Committees flood defence work would be streamlined by moving to block grant where appropriate
 - Operating authorities such as IDB's and LA's should be encouraged to transfer to the Environment Agency those rivers that present the greatest flood risk.
 - The Welsh Assembly Government will continue to support initiatives being undertaken by local authorities to address flooding problems but encourages their transfer to the Agency.
8. Based on the above, two options and associated funding arrangements for committees were outlined in the consultation ,

Option 1 - A single regional committee funded primarily via block grant by the Welsh Assembly Government.

9. Under this option there would be one committee covering the majority of Wales. It would be based upon the current river catchment boundary of the existing regional flood defence committee and funded both for its revenue and capital work through a block grant from the Welsh Assembly Government. The Welsh Assembly Government would bring proposals for the membership of the committee forward.

10. The benefits of this option were explained as reductions in servicing costs, reduced risk of policy variations across Wales, flexibility of budget management to all Wales priorities, and the ability to focus on strategic as opposed to local matters. The loss of local input was identified as the main concern.
11. This option creates arrangements in Wales that are compatible with those in England in terms of committee size and funding. The cross border financial arrangements and policy matters could be dealt with more effectively with fewer bodies involved.
12. The following four questions were asked in relation to this option.
- Q1.** Do you agree that a single committee covering the majority of Wales would be an appropriate structure for Wales?
- Q2.** Do you agree that the Assembly Government should fund the committee's revenue and capital works in Wales via a single block grant? If not what alternative funding arrangements would you consider appropriate?
- Q3.** What do you consider would be an appropriate composition for a single committee wholly funded by the Assembly Government / Defra?
- Q4.** Can you suggest any alternative arrangements for allowing the local public to influence the development of local flood defence work programmes and plans?

Option 2 - Three regional committees funded primarily by local authorities via a levy with Welsh Assembly Government support for capital works through a single block grant.

13. The adoption of this option would mean that there would be three regional committees covering the majority of Wales based upon catchment boundaries, and with geographical areas based on those of the operating areas of Environment Agency Wales. Because of the smaller geographical coverage, and the local accountability of the committees, the preferred option for funding would be a levy on the constituent local authorities and direct block grant for capital works from the Welsh Assembly Government. Cross border arrangements would have to be managed in both North and South East Wales to deal with the differing financial arrangements from those in England.
14. The role of the three committees would be similar to that of the single committee but they would have a greater direct local influence. As with the previous option the Welsh Assembly Government would bring forward proposals for the appropriate composition of the committee.
15. The strength of these committees is in the local democratic input and accountability that their members would have. The size of the budgets would be smaller and as at present would be set each year via the levy meetings. Delivery

of a consistent policy across Wales would be more difficult and the flexibility to allocate funds to priorities within Wales could be restricted.

16. The following questions were asked in relation to this option

Q5. What are your views on the appropriateness of three committees covering the majority of Wales?

Q6. Do you agree that such committees should be funded primarily by local authorities via a levy system supported by a single block grant from the Assembly Government? If not what alternative funding arrangements would you consider appropriate?

Q7. What do you consider would be an appropriate composition for regional flood defence committees covering a part of Wales and funded primarily by LA's supported by a single block grant from the Assembly Government?

Q8. What views do you have on the proposed boundaries of the three-committee option as shown in Map 2? What, if any, alternatives do you favour?

Regional Flood defence committee boundaries

17. In addition views have been sought on aligning any new flood defence committees' Eastern boundary on the England /Wales border. This question was asked as the adoption of the political boundary as the border for the regional flood defence committee(s) would remove the need for cross border financial arrangements with England, it would align with devolution in Wales, and it would facilitate the delivery of a consistent policy in Wales. The proposal would however break the strong principle of catchment management although the operational work and the administration of the committee could still be delivered using a catchment-based approach.

18. The following question was asked

Q9. Subject to the Environment Agency continuing to be responsible for delivering the flood defence service in England and Wales and to continue to manage flood defence on the basis of whole catchments, what are your views on the adoption of the Wales/England border as the eastern boundaries of Welsh flood defence committees?

RESPONSE

19. The consultation document was issued on the 22nd of September 2003 with a closing date for returns of Friday the 5th December 2003. The consultation was sent to those bodies and organisations with interests in flood defence activities. This included all 22 local authorities in Wales together with those local authorities in England who currently receive a service from the existing regional flood

defence committee. It was also sent to the Environment Agency, the Internal Drainage Boards in Wales and CCW, Assembly Members and Welsh MPs were also consulted. The document was placed on the Welsh Assembly Government's Internet site.

20. A full list of those consulted is attached at appendix 'A'. A list of those who responded with a indication of their response is attached at appendix 'B', a more detailed summary is attached at appendix 'C', and a copy of their full response is in the attached file. It should be noted that appendix B contains a very condensed summary of respondents views. Many of the answers were provided with qualification.
21. In total 42 responses to the consultation were received from organisations or individuals some corresponding more than once to clarify their response.
22. In their response Carmarthenshire Fishermens federation expressed their concern that throughout the consultations conducted by the Welsh Assembly Government and Defra, the views of fishing interests had not been sought.

General view.

23. There was support for the rationalisation of the Flood Defence Committee structure in Wales and the creation of single tier committees.
24. The overriding view from the operating authorities in Wales, i.e. the Internal drainage Boards (IDB's), local authorities and the Agency, is that an option where the three regional committees were organised on catchment boundaries and funded primarily by block grant from the National Assembly for Wales would provide the best arrangement. The Country Side Council for Wales (CCW)in their response also pointed out that they would be more supportive of three smaller committees, which would be able to operate in a more strategic, flexible and consistent way, if they were to receive their funding directly from the Assembly Government. The Agency choice of a single committee was made on the basis that government would directly fund it.
25. The country landowners association (CLA) expressed the view that flood and coastal defence infra structure is a public service and that the majority of the costs of locating and funding new defences and maintaining existing structures should be classed as a social cost and paid for by the government. They acknowledged the impact of climate change and need for proper planning and funding of the service.
26. The Agency in their response clearly stated that the administration of the service will need to be such that decision making on priorities and programmes can be strategic on an all Wales basis and sufficiently flexible to target resources where flood risk is greatest. They were also firmly of the view that all critical ordinary watercourses should be transferred to them with an appropriate level of funding.

27. A view was also expressed that the service is under funded to meet the challenge of climate change and that by the provision of direct funding from the Assembly, a more reliable source was available which would facilitate longer term planning.
28. The membership of the committee(s) should comprise a majority of local authority members. The argument put forward for this model is based upon local input and knowledge and accountability. It was suggested that a working group comprising Agency, Assembly and WLGA meet to agree membership arrangements.
29. Other organisations with a nation wide perspective such as the ABI, Institution of Civil Engineers (ICE), and the Met office supported the concept of a single committee recognising the strength that this structure would provide to a strategic approach in Wales and the consistent application of policy.
30. There was little support expressed for the political boundary forming the Eastern most boundary of the committee(s) the preferred option is for catchment based committees, with executive, administrative and operational activities aligned.
31. One Assembly member and three MPs also responded in support of the submission made by Caldicott and Wentlooge IDB.

SPECIFIC RESPONSES

Option 1: A single committee funded by block grant.

Q1. Single regional committee for Wales.

32. The response from Powys CC makes the point that this option, based on catchment boundaries, would result in two RFDCs servicing the needs of Wales and the Agency would have to ensure that the policy and strategy for flood defence required by the National Assembly is implemented in Wales. Powys will still be served by two regions of the Agency one with influence from Defra; Powys was however opposed to a political boundary preferring the catchment boundary.
33. In their response the Agency, ABI, CCW, ICE and the Met Office supported a single committee, as did three out of the 17 local authorities who responded. The ABI pointed out that they were keen to see streamlined administrative arrangements consistent with local democratic input, with funding targeted to urban areas to maximise economic return. They believe in democratic accountability being shown through targets for delivery and performance and supported this approach in England. CCW recognised and supported the ability of a single committee to act and think on a strategic basis, which they felt would be important when having to deal with climate change, and decisions which might be locally unpopular but nationally important. The ICE were firmly of the view that this was the best option, and this ability to make strategic all Wales decisions was also firmly supported in the Met Office response.

34. The Agency's submission recognises the advantages set out in the consultation for a single committee but expresses concern about the loss of local input. It does however suggest that it could build on its current local stakeholder consultation arrangement to ensure effective local engagement. They suggest that the committee would also hold its meetings across Wales and not just in Cardiff. This arrangement for committee meetings was suggested in submissions from some local authorities as part of improvements to public awareness. The Agency's choice of this option was influenced by its belief that the three-committee option would not attract block grant for revenue and capital works from the Assembly.
35. In their response the Agency's regional flood defence committee for Wales whilst understanding the advantages identified in the consultation for a single committee expressed a strong preference for three committees funded by block grant from the Assembly. They saw the single committee as lacking in local input and accountability. Their submission however included a recommendation that if a single committee were adopted then three advisory committees should also be established to retain local influence through local authority representation.
36. The WLGA and a majority of local authorities that responded were firmly against the single committee because of the loss of local knowledge and accountability. This view was supported by comments in the responses from ADA and the three IBD's in Wales who additionally expressed concern about the ability of such a committee to demonstrate its independence from the Assembly. The IDB argued for a closer relationship between the officers delivering the service and the membership of the committee, to facilitate understanding, something not possible with a large single committee. The English cross border local authorities also expressed their opposition to a single committee with Hereford in particular identifying the importance of smaller committees, but funded as in England, with block grant for capital and revenue work and a local authority majority membership.
37. The size and geographical nature of Wales was also quoted as a reason for not adopting a single committee. The diversity of catchments across Wales was highlighted and the benefit of applying a consistent strategy to all was queried, using this argument as a reason for rejecting the single committee in favour of three.

Q2. Funding

38. If the single committee option were adopted it's funding by direct block grant of capital and revenue work from the Assembly was clearly supported.
39. The Agency and others suggested that the committee should retain the ability to raise a local levy as applies in England, this would help to protect its VAT status and facilitate the ability of the committee to spend on local matters as opposed to the national priorities. The Agency also identified the need for an increase in funding and for it to be more predictable on a year by year basis.

40. The local authorities and WLGA were firmly opposed to any form of levy raising on the grounds of the lack of a majority local authority membership, and argue for significant local government representation on the committee, or the removal of the levy raising powers from the Agency. If a single committee were adopted block grant for capital and revenue work was the preferred option.
41. The retention of Levy raising powers was also highlighted in the response from Caldicott and Wentlooge IDB. They highlighted its retention as a safety net should funding from the Assembly begin to dry up. They also identified that they pay a levy to the EA for work within the Boards area, which would continue after the implementation of any changes. Consequently the potential loss of representation on the committee was of concern to them. The Agency also recognised that there are issues to be addressed with the IDB's, particularly in North Wales, which would have to be rationalised in the new structure. ADA expressed the view that the number of committees should not influence the way in which the service is funded.

Q3. Membership

42. The submission from ADA highlighted the following issues, which they considered important when considering the role and membership of Committees.
- A balance is required between democratic representation and knowledge of the service including conservation
 - Owners of the infra structure should be adequately represented
 - Appointments should be made by seeking broad experience covering the wide range of interests upon which flood defence has an impact
 - The Committees are executive and members must understand their role.
 - To retain good members they need to feel that they are making a contribution and not being driven
 - Local authority members must recognise that they have a wider role to play than protecting their authorities interests
 - The introduction of block grant may create an external view that the EA will be exercising bureaucracy and central control. The establishment of new committees provides an opportunity to demonstrate commitment to local democratic involvement and acknowledging that at point of delivery flood defence is a service to local people.
43. They also acknowledged that an executive body of about 15 could act effectively but would find it difficult to claim to represent local interests across Wales.
44. The suggestions from respondents for the membership of a single regional committee included local authority, technical or chief officer attendance, local authority member, Assembly Member or appointees, local business representatives and members with expertise in flood risk management. Some suggested a 50:50 split of elected and Assembly appointments with an Assembly Member as chair.
45. The importance of communication between the Agency its committees and local authorities was highlighted. A very strong view was expressed that the committee should be composed of members who have local expertise and knowledge and

are in a position to represent the people who need to benefit from the actions of the committee. Others recognised the importance of landscape planning on the engineered structures that form flood defences.

46. WLGA and local authorities argued for local members to allow local perspectives and concerns to be fed into schemes and work programmes.
47. Powys County Council recommended that grouping the membership and hence rotational membership should be avoided as this reduced involvement and consistency. ABI suggested a mixture of expertise and geographical representation, Assembly appointees and elected representatives.
48. Flintshire were concerned that the membership of the single committee if adopted should be very much along existing lines, which would retain the democratic input. They expressed the view that any moves towards an Assembly appointed committee would appear too much like a Quango. They argued that regardless of the mechanism the committee must have members with local knowledge and represent the people who need the service. Other LA's argued that because they were so interlinked in the provision of front line flood defence services and emergency response to flooding that they should be strongly represented on any committee structure which might be chosen.
49. Other suggestions commented on committee sizes from eleven members including the Chair up to a maximum of twenty one or twenty three; the smaller committee being comprised of representatives from rural, farming, water companies, technical, and academics and the larger committee numbers being achieved by including local authority members with the former.
50. The concept of a balance of Assembly appointees and local authority members resulting in a committee of 40 was thought to be unmanageable.
51. Both the Agency and the WLGA suggested that advice be sought from them on determining membership whichever option is chosen.

Q4. Public Influence/Consultation mechanisms

52. Local consultation facilitated through elected representatives on the committees, or local fora, and focus groups were suggested by many respondents. The Agency indicated that a strengthening of its local stakeholder groups could be undertaken. The Dee and Clywyd LFDC responded to a single committee option with the suggestion of consultative regional committees covering catchment areas similar to the current structure meeting perhaps twice yearly.
53. CCW identified a role for River basin management stakeholder groups to deal with a number of current issues such as flood management, water abstraction, diffuse pollution, Water framework Directive and river basin planning; arguing that these groups could provide a focus for local consultation of flood defence matters, although their remit would be somewhat wider. Alternatively the publication of six-year management plans would allow local input and could link to the development of river basin management plans.

54. Some local authorities identified that local residents look to their local councillor to have knowledge of and input to the priorities and decisions that impact in their community, a strengthened consultation system was therefore required. This could include the attendance of technical officers at the committee meetings or the presentation on an annual basis of the work of the Agency and its committees to the Council.
55. ADA referred to local consultative fora and the problems of confusion of role and accountability that such bodies might cause. They expressed the view that local authority members of the flood defence committee could represent stakeholders.
56. Other suggestions included a people's forum, and high quality up to date web sites.

Option 2-Three committees funded by levy and block grant.

Q5 Three committees.

57. The support for this choice was split between those who saw this option as retaining a strong local input and accountability and those who thought that it would weaken the strategic approach.
58. The majority of local authorities, the WLGA, ADA, NFU Cymru and the IDBs all supported the concept of three committees as did the responses from the regional flood defence committee in Wales and the Dee and Clywd LFDC arguing that this option provided the opportunity for local input and influence on local problems. It was also argued that this option suited the mountainous nature of Wales, which divides the country.
59. The Agency chose the single committee on the basis that it would have block grant as the basis of its funding, but would have preferred three committees because of the local accountability. CCW indicated that if block grant for both capital and revenue work were provided that this would reduce the potential for variation in policy, however they felt that if three committee structure were adopted a formal and representative all Wales group would be needed to ensure consistency of approach throughout Wales on issues such as climate change.
60. Other respondents such as the Met office, ICE and the ABI view this as a second best and less attractive option, with scope for inconsistent policies and a weakened strategic approach, a view reiterated in the response from Torfaen County Borough
61. Most respondents however were of the view that three committees would enable local priorities to be addressed and this option was seen as a more democratic solution. There was however a strong caveat attached to this view by the inclusion of block grant from the Assembly for both revenue and capital.

Q6.Funding

62. Direct funding by the Assembly for both revenue and capital work was the overwhelming preferred option (34 out of 41 response) for funding of the three committees.
63. An argument was put forward by the Agency and some local authorities to retain a small levy raising capability with the Committees, so that the funding arrangements in England and Wales were the same. The WLGA argued that without a majority of local authority members the Agency should not retain any levy raising powers. The ABI and CCW considered that direct funding would streamline the arrangements and reduce the potential for variation. It would also permit some prioritisation of expenditure.
64. The point was made that the variety of coastal defence and flood protection work throughout Wales would cause some LA's to consider any levy for less work or no work as an imposition. An argument made in support of block grant.
65. Other points raised include ;
- The importance of ensuring that maintenance is regarded as important as capital and the funding of both by government would remove any preference to undertake capital at the expense of maintenance.
 - The creation of new sources of funding was important e.g. Developer contributions.
 - The need for a system that allowed contributions from owners directly affected by floods to contribute towards flood defence works and influence the priority of a scheme in the programme.
66. ADA suggested that the Assembly Government could consider a block grant for capital improvement works to the Agency enabling such works to be assessed and promoted in accordance with priorities across the whole of Wales. The Powysland IDB suggested that the ability to raise a small local levy would keep the Local Authority member's interest in flood defence in the area, a point supported in the response from the Dee and Clwyd LFDC.

Q7. Membership

67. In line with the arguments for local democracy and input the majority of Local authorities, the WLGA and the IDB's supported a membership comprising a majority of local authority members and in some cases the strengthening of this group. These LA members would be supplemented by other members who would have various business, landowner /riparian interests, technical or scientific backgrounds. Social, economic and environmental expertise would also be important. Support was also expressed for greater technical officer input to the committee meetings.
68. The local authorities again highlighted the other flood defence activities such as incident response, local and wider environmental issues and in planning control as an important role to which members can input.

69. Other criteria include geographical representation, and the location of flood risk. Opposition to sharing or rotation of membership was also expressed.
70. One respondent suggested that if three committees were adopted one member from each of the local authorities would be appropriate with Cheshire and Hereford also having one member each. The chairperson of each committee and optionally some of the members might be Assembly Members. Whilst another suggested that there should be two LA members per authority within the area.
71. ADA expressed the view that Stakeholder interests can be adequately represented through those elected members of the local authorities, who are members of the committee. Powysland IDB considered a membership of 15 –17 would be appropriate, comprising a majority of LA members, with a conservation member and others being appointed by the Assembly. They also made the point that an Assembly appointee should be made to the Midlands RFDC and a Defra appointee made to the Welsh RFDC to represent the Upper Severn catchment in Wales, and Hereford, Wye catchment, in England. The Assembly appointee to the Midlands committee would be in addition to the Council representative, which is currently shared with Shropshire.

Q8. Committee boundaries

72. If three committees were selected as a preferred way forward, the boundaries shown on the consultation map were acceptable to the majority of respondents. One minor change was suggested to reflect the membership arrangements and reduction of duplication between Southeast and SouthWest Wales in the Glamorgan committee area.
73. Where a view was expressed the clear preference for catchment based committees was expressed.

Q9. Political boundary

74. The majority (38 out of 41) of respondents supported the maintenance of catchment boundaries as opposed to political boundaries.
75. The response from Powys a Local Authority served by two regions of the Agency recognised the advantage of the adoption of the political border, providing a more transparent and effective arrangement for the Assembly to deliver solutions and standards applicable to all Wales. The suggested however that It would lead to service and public interface difficulties that outweigh the advantages.
76. Shropshire county council recognised the administrative advantages to the Assembly but was concerned about the equity of funding particularly on rivers that meander along the boundary; quoting the 85% grant provided by the Assembly compared to the 45 % provided by Defra.
77. It was also pointed out that, as the Committees are executive and can approve expenditure plans, the Agency is therefore not fully in control, and decisions

taken by one committee on a cross border catchment could seriously affect others in the same catchment on the other side of the border.

78. The Agency response which was supported by the submission from the RFDC clearly set out the view that the decoupling of operational and executive arrangements are untenable and that flood defence Committee(s) in Wales should continue to be on a catchment basis. The arguments put forward for this view include:
- The impact on catchment management
 - Funding arrangements to take account of upstream work on down stream communities
 - The split of the executive function from the operational activity.
 - The need to develop administrative arrangements such as a contract, memorandum of understanding, operating agreement etc between committees operating either side of the border.
 - Complex reporting and differing committee funding arrangements.
79. ADA supported the maintenance of a catchment-based approach on the basis that it has worked for many years. Powysland IDB recognised that it had received excellent service from Midlands Region over the years with more money being spent in Wales than is raised. They observed that the Upper Severn catchment does not fit in with the proposed three RFDC's. It has different management problems being isolated on three sides by the Radnor hills to the south, the Berwyns to the north, and Plynlimon to the west. They wished to continue with current arrangements with the Midland upper Severn area, but acknowledged the need for the Assembly to be consulted and control any decisions affecting Upper Severn area in Wales to defend properties in England. With similar arrangements in the Wye and Dee areas.
80. Taking a wider perspective the response from the ICE suggested that should the Welsh Assembly Government regard itself as the custodian of the Water Resource in Wales and create a Wales wide Welsh Water Management Agency taking both flood defence and water resource management from the Agency the adoption of a political boundary would be appropriate.

CRITICAL ORDINARY WATERCOURSES (COW's)

81. This matter was not the subject of a specific question in the consultation, however a number of responses made reference to them and expressed views which are reported below.
82. The Environment Agency considers that all rivers creating the greatest flood risk should become the responsibility of the Agency, with the contracting back of maintenance operations to those operating authorities that are willing and able to do so. The transfer should be accompanied with adequate funding. The Agency's Regional Flood defence committee in Wales supported this view
83. CCW also supported the transfer of all watercourses at risk of flooding to the EA but suggested that where local authorities and Internal Drainage Boards are

already providing a satisfactory service that they remain responsible for the delivery of the service through service agreements.

84. Flintshire expressed the view that if just COW's are transferred to the Agency this will weaken the ability of the council to respond to other responsibilities such as, problems with other ordinary watercourses, surface water run off problems, ground water and drainage related planning matters. They were also concerned that the level of funding and priority, which the Agency would apply to problems in Flintshire, would not be as much as at present thereby reducing the levels of service to the residents in Flintshire.
85. The Welsh RFDC would welcome the transfer of COW's provided a suitable level of funding accompanied them. They also expressed the view that as the standards of maintenance of the watercourses in the IDB area was high that these should not be transferred to the Agency. The RFDC's views were supported by the NFU. CYMRU.
86. In its submission Caldicott and Wentlooge IDB expressed strong opposition to the transfer of COW's, seeing the consequences as increasing costs, loss of control and maintenance and as taxation without representation. They suggested that they could extend the maintenance work that they currently perform and deliver a better and less costly service to the area.

OTHER MATTERS

87. Flintshire referred to the earlier consultation on the flood and coastal defence funding review and the confusion which existed in the public's mind about who was responsible for the flood risk management, and argued that the bringing together of all of these roles in one organisation would remove this confusion. .
88. Cross border IDB's identified concerns about arrangements concerning planning enquiries.
89. Neath Port Talbot confirmed support for a flood defence service being delivered through a strong partnership between EA, local authorities and stakeholders.
90. Caldicot and Wentlooge IDB raised the matter of foreign Water payments from the EA suggesting that the review should provide an opportunity to change the current arrangements.

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