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**Date:** *17 July 2009*

## **NOTIFICATION OF PORTFOLIO HOLDER DECISION(S)**

On 17 July 2009, Cllr E J Heron, the Environment Portfolio Holder, made the following decision. Any member of the Council, who is not a Portfolio Holder, who considers that this decision should be reviewed should give notice to the Monitoring Officer (Grainne O'Rourke) (in writing or by e-mail) to be received **ON OR BY 24 JULY 2009**.

Details of the documents the Portfolio Holder considered are attached.

### **DECISION:**

The content of the response to the Government's recommendations following the Pitt Report on how to improve the response to flooding incidents. The proposed response is attached to this decision.

### **REASON(S):**

It is important that this Council, which has acknowledged expertise in the field on land drainage, gives a constructive response to Government to influence future policy and Regulations.

### **ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:**

As set out in the response.

### **CONFLICTS OF INTEREST DECLARED:**

None declared

### **For Further Information Please Contact:**

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**Draft Flood and Water Management Bill****1. Introduction**

- 1.1 Following the floods in summer 2007 the Government set up a Flooding Lessons Learned Review led by Sir Michael Pitt, to examine the emergency response and how to reduce flood risk and impact. Pitt published his final report in June 2008, which contained 92 recommendations.
- 1.2 The Government published its response to the Pitt review in December 2008, accepting all of the 92 recommendations. At the same time the Government announced its intention to publish a draft Bill in Spring 2009, which would give legislative effect to the Government's response to Sir Michael Pitt's recommendations.
- 1.3 On April 29 2009 the Government published the Draft Flood and Water Management Bill for consultation, which sets out the powers and duties that each organisation needs for managing flood risk, and introducing a requirement on all parties to cooperate and share information. A consultation paper accompanying the draft Bill seeks comments on the Bill by means of 188 questions of which about one third are not relevant to district local authorities.
- 1.4 Examination of the draft Bill and drafting of a response to those questions relevant to NFDC has been undertaken by Council's land drainage and coastal engineers, who have consulted and taken advice from the Technical Advisors Group, the Local Government Association and a number of other local authorities. Progress was reported to the Environment Review Panel on 11 June 2009, where a recommendation was made that the Council's formal response to the draft Bill should take the form of a Portfolio Holder's decision.

**2. Response to the draft Flood and Water Management Bill**

- 2.1 The response is attached to this report in the form of a table containing answers to the questions posed in the consultation document that are relevant to a district local authority.

**3. Environmental Implications**

- 3.1 None arising directly from this report but the main thrust of the Flood and Water Management Bill is to substantially improve flood risk management through coordinated action to deal with all sources of flooding, better flood resistance and resilience for property at risk, tighter planning controls in flood risk areas and more robust leadership of response and recovery operations.

**4. Financial Implications**

- 4.1 None at the moment but there may be financial implications for the Council arising from the final Bill. Until the Government decides how funding of the new proposals contained in the Bill will be distributed it is impossible to predict what these may be.

**5. Crime And Disorder Implications**

- 5.1 None.

**6. Recommendations**

- 6.1 The Council should formally respond to the consultation paper accompanying the Draft Flood and Water Management Bill.
- 6.2 The table of comments attached to this report should form the Council's formal response.

**Portfolio Holder's Endorsement**

I agree the recommendations as set out in paragraphs 6.1 and 6.2 of this report.

Signed..... &/ / 5 ( - + ( 5 2 1 .....

Date of Decision..... 17<sup>th</sup> July 2009 .....

Date on which notice given of this Decision: 17 July 2009

Last date for call-in: 24 July 2009

**FLOOD AND WATER MANAGEMENT BILL – APRIL 09**  
**RESPONSE BY NEW FOREST DISTRICT COUNCIL**

<b>Style and accessibility of draft legislation</b>		
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?	Legislation is difficult to draft in a simple style but the draft Bill should be understood by its target audience.
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?	There is no absolute standard for clause and sentence length, nor would it be easy to obtain a consensus on what's 'right'. However, it's clear that considerable effort has gone into making the Bill as readable and comprehensible as possible.
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?	See 2.
4.	Please give examples of anything in the style of the draft legislation that you particularly liked or disliked. Please also give your reasons.	Nothing stands out.
5.	Please give examples of provisions that you thought helpful simple or well expressed or ones that could be made simpler or otherwise improved. Please also give your reasons.	No comment
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?	Cross-referencing is a useful and time-saving technique for navigating through legislation.
7.	Please suggest any improvements to the way in which legislation is drafted that you think would make it easier to understand and apply.	No comment
<b>New approaches to Flood and Coastal Erosion Risk Management</b>		
8.	Are you content with the definitions of 'risk' and 'risk management' in the draft Bill?	Yes. They correspond to definitions widely accepted in the FCRM community.
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 may be developed in future?	Yes. Integrated and adaptive management is required to minimise flood and erosion risk.

10.	Does the approach in the draft Bill to flood and coastal erosion risk management adequately cover adaptation?	Uncertainties about the quantum and impacts of future climate change make adaptation a moving target but, as currently understood, the Bill covers it adequately.
11.	Does the proposed approach to flood and erosion risk management: <ul style="list-style-type: none"> <li>• facilitate and encourage authorities to make effective links between land management and flooding and erosion?</li> <li>• 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?</li> </ul>	(i) Yes – with the amendment or addition to clause 81 to allow for a reduction in the quantity of water being passed to the ground where it is likely to increase erosion or flooding elsewhere.  (ii) Ref. page 26, point 82. in addition to meeting environmental objectives and encourage land management practices to reduce run-off or reduce flood risk, there may also be a requirement for managed realignment purely in order to create compensation habitats to meet Habitat Regulation requirements. This may be alluded to through the references to land management but is not explicitly stated.
12.	Are there any approaches to flood and coastal erosion risk management that should be adopted but which the draft Bill would not allow?	Nothing obvious at the moment but the Bill may have to be re-assessed in the future in light of developing tools and techniques.
13.	Should all operating authorities be required to contribute to sustainable development objectives when carrying out flood and coastal erosion risk management?	Yes. Sustainability should be one of the cornerstones of FCERM.
<b>Future roles and responsibilities</b>		
14.	Are the component parts of the EA strategic overview clear and correct and do they achieve the objectives?	The components are clear but only time and experience will show whether these achieve the objectives.
15.	If not, what further changes should be made?	See 14.
16.	Do you have any comments on the proposal that the EA issues a National Strategy for FCERM with which all operating authorities will be required to act consistently when delivering their FCERM functions?	Agree that a National Strategy is necessary to ensure consistency but it will have to allow for local FCERM strategies to reflect fairly wide variations in local circumstances.
17.	Do you have any comments on the proposal that other bodies would have to have regard to the EA's National Strategy and guidance? Do	Not sure whether Crown Estates and MoD are included in relevant authorities under cl. 23(2)(a), but

	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?	they both need to have regard to the National Strategy.
18.	Do you think that the EA should be required to consult as part of preparing or publishing its strategy?	Yes. Essential for the National Strategy to be widely acceptable and credible.
19.	Should the EA 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?	Within the central south coast of England a number of LA Districts have developed significant experience in undertaking schemes and studies to manage coastal erosion risk, and are actively involved in coastal protection and management. The EA should consult with the LA Districts to determine those that would wish to continue to undertake the coastal erosion risk management role. LA Districts have considerable local knowledge and experience regarding coastal processes on their frontages and adjacent stretches of coastline; in addition, they have developed important working relationships with landowners, contractors, stakeholders, etc. Coastal monitoring data underpins cost effective and sustainable adaptive management. The democratic process is fundamental within the LA District framework approach when developing sustainable and adaptive plans, strategies and schemes.
20.	Should the Secretary of State have the power to direct the EA to undertake local flood risk management work in default of local authorities, and recover reasonable costs?	Yes, but only as last resort. Given clear responsibilities for local FCRM upper tier local authorities should always be capable of ensuring that local FCRM work is undertaken effectively.
21.	Should the EA be able to undertake coastal erosion risk management works concurrently with local authorities where appropriate to support the delivery of the strategic overview role?	Yes, in partnership with those LA Districts that wish to continue to provide the coastal erosion risk management role.
22.	The EA is drawing up a coastal map showing which operating authority will exercise FCERM powers on each length of coast. Should the EA 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	This should clearly indicate public/govt bodies, and privately maintained defences. It would be useful to subdivide the public/govt bodies by type, e.g. LA District, LA County, MOD, Highways Agency etc.

	process?	Amendment procedure should be the same as for main river maps.
<b>Main River mapping</b>		
23.	Do you have any comments on the proposed changes to main river maps as set out above?	Agree with proposals
<b>Local Flood Risk Management</b>		
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?	<p>We accept that upper and lower tier Local Authorities should work in partnership with the Environment Agency, water companies, sewerage undertakers and other relevant organisations to develop and deliver local flood risk management strategies that take account of all sources of flooding.</p> <p>However, we believe that successful outcomes will depend on all partners committing to real collaborative working, delivering plans and programmes within defined timescales and the willingness of the Government to fully fund local flood risk management. Without such a commitment the Bill's key objectives will not be achieved.</p>
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 IDBs would be required to act in a manner which is consistent with that strategy in delivering their FCERM functions?	<p>Would agree with this only with the proviso that active District LAs can input to the strategy and there should be an appeal procedure if they cannot agree.</p> <p>Existing District LA Strategic Flood Risk Assessments and flood response strategies should be taken into account.</p>
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?	<ul style="list-style-type: none"> <li>• National Farmers Union (ref water off of fields)</li> <li>• Forestry Commission</li> <li>• National Park Authority</li> </ul>
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?	<p>Businesses in flood risk zones should be consulted to support business continuity planning. Owners of domestic property at risk should be consulted to raise awareness of flood warning systems, flood resilience techniques etc. Draft document could be made available for general public comment in public</p>

		offices, libraries etc. before publication.
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?	Powers to enter private land to remove blockages, undertake inspections and arrange diversion of flows.
29.	Do you think that the EA 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?	Yes, very much so. This Council collects data whenever the opportunity arises and input it onto a database linked GIS for future reference.  We have found that most people are willing to provide information in the knowledge that it will be recorded on our database without the threat of any legal sanctions.
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?	Yes. Pitt regards LAs as the natural leaders of local FRM because they are democratically accountable. Annual reporting is a key element of this and widely regarded as good practice.
31.	Should the EA provide support and advice to the local overview and scrutiny functions as part of the exercise of its strategic overview role?	Yes. Overview and scrutiny would benefit from high level strategic support to provide a clearer and more independent view of the operational effectiveness of local FCRM partnerships.
32.	Should the list of bodies required to cooperate with overview and scrutiny committees be extended to encompass all relevant authorities and as a result pick up IDBs and water companies?	Yes. Again it has the possibility of giving overview and scrutiny relevant information at the right level to support its function.
33.	Should Regional Flood and Coastal Committees (or another body) be involved in peer-reviewing any annual reports produced by local authorities?	It's proposed that the reorganised RFCCs should provide a scrutiny function for the EA Board so they would appear to be the most appropriate body to peer-review LA's annual FCRM reports.
34.	Should district local authorities and IDBs continue to manage flood risk from ordinary watercourses, taking account of Local and National Strategies?	District local authorities should continue to manage flood risk from ordinary watercourses as, in general, they have the most experience in doing so.  Difficult to comment on IDBs as we



		have no experience of them.
35.	Should county and unitary local authorities have powers, concurrent with district local authorities and IDBs, to manage flood risk from ordinary watercourses in their areas? Or should they remain able to act only in default?	<p>Built into the Government's response to the Pitt Review, and so implicit in the draft Bill, is the assumption that upper tier LAs are better resourced and more experienced in FCERM than district LAs, but there is no evidence for this view.</p> <p>Traditionally county authorities have only dealt with highway flooding whereas district LAs generally have experience of responding to flooding from a variety of sources. Whilst it's clear that district LA resources and expertise are quite variable across the country, and some district LAs may not be able to manage flood risk from ordinary watercourses effectively in their area, there's no evidence that upper tier authorities can do any better without recruitment of experienced staff.</p> <p>In the circumstances upper tier authorities should only be able to act in default of lower tier authorities to manage flood risk from ordinary watercourses, and for some time to come it is doubtful whether they could even manage to do that without help from 'expert' lower tiers LAs.</p>
36.	Should any sea flooding works that a local authority wants to undertake require the consent of the EA?	Yes. Must ensure that such works are properly designed and that environmental impacts have been properly assessed and, if necessary, mitigated.
37.	Should all relevant organisations have the power to undertake any flood and coastal erosion risk management at the request of another body?	Yes, if resources and expertise are available to do so, but the work must still be properly consented.
38.	Should the functions of consenting, and the production and coordination of the strategy (for both EA and county and unitary local authorities) remain as ones which cannot be carried out by another authority?	Yes, otherwise responsibilities become blurred which is what Pitt and the draft Bill wish to avoid.
39.	Are these assumptions reasonable? Is further evidence available to improve the analysis? Are the measures detailed proportionate with the scale of benefits assumed?	Don't have enough background information on the basis of these assumptions to comment..

<b>Duty to cooperate and share information</b>		
40.	As agreed in the Government response to Sir Michael Pitt's Review, there will be a duty on relevant organisations to cooperate and share information. Do you think the list of relevant authorities to whom this applies is comprehensive?	Forestry Commission, National Park, National Farmers Union
41.	Should the EA and county and unitary local authorities be able to specify the format and standards for information to be shared between organisations?	<p>Yes a minimum should be set and accepted universal general standards must be agreed.</p> <p>Suggested formats should be a Microsoft Access database, an Excel spreadsheet and for GIS a recognised exchange format for all versions (i.e. shapes format) as a minimum.</p>
<b>Sustainable Drainage Systems</b>		
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 State and Welsh Ministers?	Only in outline or a performance minimum specification. The design even within our area is different in different areas. A minimum soakage design standard could be Building Research Establishment 365 soakaway designed for a 1 in 10 year storm.
43.	Are there particular issues which must be addressed in the standards to make them effective, that have not been mentioned?	<p>Yes, ground conditions, ground make-up, slopes, soakage etc..</p> <p>The Council's land drainage engineer examines all Planning Applications because ground conditions are variable across the district. For example some developments are in areas where water soaks away well and others are not. Generally our policy is not to allow any additional flows to watercourses as they are either at capacity locally or downstream.</p> <p>Currently, we are already ensuring that developers install appropriate sustainable drainage systems on their development sites. We ask for details of who will be carrying out the future maintenance at the planning stage.</p>
44.	Are there examples where this form of approval, for the surface water drainage	Not aware of any.

	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 and sewerage companies? Do you have any suggestions which would make the process simpler, speedier or lower cost?	Yes. Building control could be the supervising body as they are already on site, though many developers do not use the Council's building control service.
46.	Are there examples where a communal SUDS should not be adopted by the SAB?	Possibly on small 'exclusive' developments where the residents have the desire, ability and resources to arrange proper management and maintenance of all aspects themselves.
47.	Do you agree with how the envisaged arrangements for replacing the automatic right to connect will work?	No. The sewerage undertakers have no interest in preventing flooding from the watercourse into which the public surface water sewer discharges. Most of the surface water sewers in New Forest discharge to watercourses already at capacity so the planning authority must have a say in what is permitted to be connected and flow rates.  We have managed to stop developers putting any more water to a public surface water sewer where an increase in flow would increase flooding downstream from the watercourse but it has been a struggle.
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?	More appropriate for the highway authority to answer.
49.	What is the appropriate balance to enable good SUDS designs that work with the lie of the land, can discharge to watercourses, and can be accessed for maintenance and inspection, whilst protecting the rights of land-owners?	Planning Authority drainage engineers should assess all Planning Applications. These engineers must have a good knowledge of historical flooding and the general geology and topography of the area. The design limits can then be specified by the engineer / planning authority and the final details of the sustainable drainage system negotiated with the developer.

50.	How wide should the SABs ability to delegate be?	SAB should not be able to delegate the adoption of the sustainable drainage systems as this could result in large variations of standards throughout a County area. There will always be some differences between district authorities but there should be as much uniformity as possible in adoption standards across the County area.
51.	Are additional enforcement powers needed – in particular, should the SAB have an independent power to enforce the approved SUDS? How would this work?	Make it a planning condition that sustainable drainage systems must be adopted before completion of the penultimate dwelling. Because of the nature of some sites it is necessary to have the sustainable drainage systems in place early to minimise the risk of flooding.
52.	Views are welcomed on how best to ensure the maintenance of private SUDS, and ensure that they are not redeveloped.	One problem that needs to be addressed is that riparian rights allow a landowner with a watercourse crossing his land to bypass a previously constructed SUDS in order to drain directly to the watercourse.
53.	Is there any legal impediment to prevent a SAB from adopting an existing SUDS?	Only if it does not own the land. The SAB will need to be the owner of the land and the land containing the outfall pipe to the watercourse, if any. So the land will need to be transferred to the SAB, just as adopted pumping stations were/are.
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?	Possibly, but would need to see how performance is to be measured.
<b>Regional Flood Defence Committees</b>		
55.	Do you agree that Regional Flood Defence Committees should be renamed as Regional Flood and Coastal Committees?	Yes, if their role is to be changed as suggested in the draft Bill.
56.	Should RFCC status be predominantly advisory rather than executive?	Yes.
57.	Should the focus and roles of RFCCs be as described in above? If not, do you have any other proposals?	Yes.

58.	Do you agree that the membership of RFCCs' should be appointed as outlined above in future? If not, do you have any other proposals?	Yes, because it maintains democratic credibility.
59.	Should RFCCs' levy-consenting powers be extended to coastal erosion issues?	Not sure of all the implications of this proposal so can't comment.
60.	Are there any other issues that you wish to raise in regard to RFCCs?	No.
<b>EU Floods Directive</b>		
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?	Depends whether the failure is systemic or a result of an emergency. Systemic failure really ought to be included.
62.	Should the EA and county and unitary local authorities assume responsibility for implementing the Floods Directive, with the EA focusing 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?	Yes, remember also that the Environment Agency deals with flooding from main rivers.
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?	Yes
64.	Is this framework a suitable approach for determining 'significant risk' or are there alternative approaches to consider?	It appears to be suitable. There may be viable alternative approaches but we're not aware of any .
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?	Yes, but many district LAs, such as New Forest, have comprehensive long term records and expertise in flood risk assessment so must be involved in the process. All district LAs should at least have a flood response plan and a Strategic Flood Risk Assessment.
66.	Should the proposed selection of 'significant risk' areas by local authorities be moderated along the lines of the arrangements set out above?	The proposed local flood risk partnerships will involve all relevant local and regional organisations, including the EA, in the assessment of significant risk, so it is questionable whether moderation is

		needed. However, if moderation is deemed necessary it requires a much lighter touch than the heavy handed and bureaucratic procedure suggested in the proposed arrangements.
67.	Do you agree with the proposed mapping arrangements set out above? If not, what alternative arrangements do you suggest?	The arrangements appear to be satisfactory. There may be viable alternative arrangements but we're not aware of any .
68.	Should the EA 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?	Yes, discretion is needed to allow LAs and the EA to deal proportionately with local circumstances when developing FRMPs.
69.	Should the arrangements for FRMPs be as set out above? If not, what alternative arrangements do you suggest?	Yes, but see comments under 67
70.	Do you agree with the co-ordination arrangements set out above? If not, what alternative arrangements do you suggest?	Satisfied with arrangements as set out.
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?	Not appropriate for 2 <sup>nd</sup> tier authority to comment.
72.	Do you agree with the other proposals set out above for reporting and review? If not, what alternative arrangements do you suggest?	Not appropriate for 2 <sup>nd</sup> tier authority to comment.
<b>Water Framework Directive</b>		
73.	Do you agree that the duty to act in accordance with WFD requirements should apply equally to all FCERM authorities?	Yes, otherwise Britain could be in violation of the Directive.
74.	Do you think this approach provides a satisfactory mechanism for ensuring that the relevant bodies deliver the requirements of the WFD?	Not appropriate for 2 <sup>nd</sup> tier authority to comment.
<b>Third Party Assets</b>		
75.	Should we introduce a system of third party asset identification and designation, as set out above?	Yes, but note that a great deal of data is already held on the EA's NFCDD and on district LA databases.

76.	Is there a case for greater powers on third party assets than we have suggested?	Yes. For instance it appears that the EA don't have the powers to enforce the operation of some third party assets (e.g. hatches) to aid flood alleviation.
77.	Are there assets that are not 'structures or natural/man-made features' that should also be designated?	Nothing stands out.
78.	Should there be a duty on those responsible for third party assets in England and Wales to maintain them in a good condition?	Yes, but there could be an expenditure limit beyond which public funding would be available to reflect the wider public benefits of maintaining private FRM assets in good order.
<b>Consenting and enforcement</b>		
79.	Should regulation of the ordinary watercourse network (where there are no IDBs) transfer to county and unitary local authorities? Or should this role in future sit with the district and unitary authorities?	Should be with district and unitary authorities as, currently, they have the best experience. See answer to question 35.
80.	Should it be possible to make consents subject to reasonable conditions?	Yes
<b>Reservoir safety</b>		
81.	Views are sought on whether the minimum volume figure should be 5,000 or 10,000 cubic metres, or another figure.	Don't have enough knowledge to comment usefully.
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.	Don't have enough knowledge to comment usefully.
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?	Don't have enough knowledge to comment usefully.
84.	Do you agree the proposed classification is appropriate and that the EA should have responsibility for classifying all reservoirs under the new regime?	Don't have enough knowledge to comment usefully.
85.	Do you believe there might be a role for	Don't have enough knowledge to

	insurance in improving reservoir safety and, if so, how might this work?	comment usefully.
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?	Don't have enough knowledge to comment usefully.
87.	Again, we welcome views on how to ensure charges within a scheme can be made proportionate.	Don't have enough knowledge to comment usefully.
88.	<p>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:</p> <p>The existing power to give a Direction would apply only to LRRs; and the costs of off-site planning would not be borne by the undertaker;</p> <p>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.</p>	<p>Don't have enough knowledge to comment usefully.</p> <p><i>NOTE: Although not really relevant to these questions we believe that the number of dwellings or people at risk downstream of the dam should be posted with the reservoir name and other information at the site, which would provide flood responders with a quick appreciation of the potential scale of the problem if the dam failed.</i></p>
<b>Possible reforms to the role and governance of Internal Drainage Boards</b>		
89.	Do you consider that there is a direct conflict or inconsistency between the IDB's supervisory role, with the local leadership role of the county and unitary authority?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
90.	If the IDBs supervisory role was repealed, what would IDBs no longer be able to do that they currently can?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
91.	Should regulation of the entire ordinary watercourse network (including within IDB watercourses) transfer to county and	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.



	unitary authorities in order to provide a consistent approach?	
92.	Do you think that IDBs should have specific powers to share services and form/participate in consortia?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
93.	Do you think that IDBs should have specific powers to form/participate in limited companies/limited liability partnerships for the purposes of sharing services?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
94.	What negative impacts might there be from providing IDB's with these specific powers?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
95.	Do you agree the proposals outlined are the best way to simplify these procedures? If not, what alternative approaches should be considered?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
96.	Do you agree that the title of IDBs should change in the future to reflect the wider approaches that IDBs will undertake now and in the future?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
97.	Do you agree that 'Local Flood Risk Management Board' is an appropriate new title, or is there a better alternative?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
98.	Do you agree that the principles of the Medway Letter should be relaxed allowing IDBs to expand their boundaries beyond their traditional areas?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
99.	Do you agree that there should be a specific requirement for IDBs to produce an impact assessment demonstrating the cost benefit implications of a boundary expansion?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
100.	Do you agree that the future supervision of IDBs would fit better with county and unitary local authorities rather than the EA in the future?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
101.	Do you think that county and unitary local authorities should take over the lead on amalgamation (etc.) schemes from the EA in the future under this supervisory role?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.

102.	Do you agree that lifting the bare majority limit on local authority membership of IDBs will allow for fairer representation on boards in the future?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
103.	Are there other models of membership that you think would be more appropriate?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
104.	Do you agree that the Secretary of State should have powers to determine the size, shape and structure of IDBs in the future?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
105.	What consultation would need to occur before individual changes in size, shape and structure of IDBs were to take place? What sort of powers would be most appropriate?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
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?	Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.
107.	Blank	
<b>Current funding structure</b>		
108.	Do you agree that there is a case to retain powers for the EA to levy (a) general drainage charges, and for IDBs to retain similar powers to levy (b) agricultural drainage rates in England and Wales?	Concerns agricultural rates and charges. Don't have enough knowledge to comment usefully.
109.	Do you agree that EA's current powers to levy special drainage charges should be repealed?	Concerns agricultural rates and charges. Don't have enough knowledge to comment usefully.
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?	Definitely not. In order to form and operate successful local flood risk management partnerships upper tier authorities will have to rely heavily on the accumulated knowledge and expertise of lower tier authorities. Also, the public will still expect district LA staff to deal with local flooding/drainage complaints, visit site, give advice and respond in times of flood emergency. Lower tier authority FRM staff will, therefore, continue to require direct secure

		<p>funding through RSG or a similar mechanism. Negotiating local funding agreements with upper tier authorities would not provide the required degree of confidence and security to retain experienced staff.</p>
111.	<p>Do you think that replacing the IDB special levy in England and Wales with agency or contractual arrangements between IDBs and the relevant local authorities would improve the delivery and prioritisation of local flood risk management?</p>	<p>Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.</p>
112.	<p>Are there other arrangements that would remove or reduce the problems associated with the special levy in England and Wales?</p>	<p>Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.</p>
113.	<p>Is there a case to end both IDB highland water charges and the EA's precept on IDBs in England and Wales?</p>	<p>Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.</p>
114.	<p>If the Medway letter were retained, would there still be a case to end the payments?</p>	<p>Concerns the operation of IDBs. Don't have enough knowledge to comment usefully.</p>
115.	<p>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?</p>	<ul style="list-style-type: none"> <li>• Include watercourses on property deeds to clarify riparian responsibilities (and also show watercourses on searches).</li> <li>• Make developers responsible for dealing with flooding of new developments for a specified period after completion – say 10 years.</li> </ul>
<p><b>Reducing property owners' and occupiers' impact upon local flood risk</b></p>		
116.	<p>How can people be made aware of their riparian responsibilities when they first buy properties that include riparian land?</p>	<p>Make sure watercourses are shown in the property deeds as land in their ownership and point out riparian maintenance responsibilities. Most riparian owners deny responsibility because the watercourse isn't shown in the deeds.</p>
117.	<p>What else could be done to improve existing riparian owners' awareness and understanding of their responsibilities?</p>	<ul style="list-style-type: none"> <li>• At New Forest we distribute technical fact sheets setting out riparian responsibilities.</li> <li>• Land registry could attach a watercourse to a particular piece of land.</li> </ul>

118.	What examples are there of strategies that have succeeded in increasing the engagement of riparian owners and improving their contribution to maintenance?	<ul style="list-style-type: none"> <li>• Distributing technical fact sheets setting out responsibilities</li> <li>• Visiting properties and explaining riparian responsibilities</li> <li>• Putting information on the Council's website.</li> </ul>
119.	How could the powers provided to drainage bodies by section 25 of the Land Drainage Act 1991 be improved?	Enable notices to be served on utilities that are unreasonably causing impediment to flow e.g. BT ducts and gas pipes that cross watercourses. Environment Agency could tackle this as a structure in a watercourse.
120.	Do you agree with the suggestion that ENI be offered to applicants and respondents in all ALT land drainage cases?	Yes, could be very useful. The two cases that New Forest has suggested should be referred to an ALT were long-running disputes.
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).	Yes.
122.	If an application fee were introduced, at what level should it be set?	Difficult to say, £100 should deter frivolous applications.
123.	Do you agree that a fee should be charged for an ALT hearing on drainage? Should that fee be paid by the losing party or should this be decided by the ALT?	Yes, decided by ALT.
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 ALT had its remit extended beyond ditches and included all ordinary watercourses?	There is no material difference between an ordinary watercourse and a ditch. In fact a ditch is an ordinary watercourse. An ordinary watercourse is any watercourse that is not main river (by definition).
126.	Do you think that it would be a good idea to extend the remit of the ALT to include all ordinary watercourses? Do you think that it should also be extended to cover the main river network?	The local authority should do everything in its power to get problems with ordinary watercourses resolved, but if this proves impossible it could go to the ALT. All neighbour disputes should be passed to the ALT.
127.	In what other ways, if any, could the regulations and processes of the ALT be	See above.

	improved as regards cases involving drainage issues?	
128.	Do you think the ALT should be renamed? If so, what name do you suggest?	Land Drainage & Agricultural Land Tribunal so as not to confuse with foul drainage.
129.	Do you believe that failure to maintain the flow of water through watercourses should be described in law as a statutory nuisance?	No. Failure to maintain flow does not necessarily create a flood risk, nor does partial obstruction of a watercourse. This proposal opens up the possibility of endless dispute about what constitutes a an obstruction to flow, for instance does it include ephemeral gravel shoals?
130.	If a statutory nuisance were created concerning 'obstructed watercourses', should it be administered by the ALT, by district and unitary local authorities or by some other body/bodies?	Probably district and unitary local authorities but, leading on from above degrees or scales of obstruction would have to be specified in the legislation.
131.	Do you agree that a new statutory nuisance should be created to tackle the risk of runoff flooding?	No, because people have very different perceptions about what constitutes a nuisance, and legislation that is divisive and not well understood is difficult to enforce.
132.	If a statutory nuisance were created for run-off risk, which public bodies should be responsible for its administration and enforcement – the ALT, unitary and district local authorities, or unitary and county local authorities?	Probably district and unitary local authorities, but it could create a great deal of extra work and cost and cause confusion about who is ultimately responsible for local FRM.
133.	What is the range of costs involved in conducting expert investigations into potential surface run-off statutory nuisance?	Average costs for New Forest: <ul style="list-style-type: none"> <li>• Single visit, including updating database and GIS - £150</li> <li>• Meetings with neighbours, advice and attempted mediation £300 to £1000</li> <li>• Phone calls and letters without site visit - £100 to £150</li> </ul>
134.	What sized reductions in damages can be expected when run-off risks are eliminated?	Impossible to calculate with any degree of confidence.
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	Assuming that surface run-off becomes a statutory nuisance then it must be the responsibility of the property owner to eliminate the nuisance and bear the full costs.

	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?	Yes
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.	There have been several recent incidents where water run-off from fields has caused flooding of property. It's a regular cause of flooding in New Forest and also an issue for the county council in terms of highway flooding which affects road safety, highway surface deterioration and sub-base stability.
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?	Disagree with this proposal. There is a general right for an uphill landowner to drain onto lower land and for the downhill landowner to protect his property, even if he floods another in doing so. This is finely balanced and care must be taken if it is changed.  Local authorities have very little experience or knowledge of farming practices and therefore are not well suited to impose and enforce restrictions on agricultural management practices.
139.	If you do agree with the above proposition what land management practices should be included in the national list of possible restrictions?	Don't agree. See answer to 138.
140.	What would be the administration costs of working with landowners to convince them to change the way they managed their land and support them with doing so?	New Forest DC has no experience of this so the costs of 'working with landowners' is unquantifiable.
<b>Single Unifying Act</b>		
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?	Yes.

142.	If so, are there any particular or general issues on which you would want to involve you in this way?	<ul style="list-style-type: none"> <li>• Changes to Land Drainage Act.</li> <li>• Changes to planning legislation.</li> <li>• Possibly changes to Water Resources Act</li> </ul>
<b>Hosepipe bans</b>		
143.	What non-essential uses of water do you think should be restricted in order to save water in times of drought?	<ul style="list-style-type: none"> <li>• Garden watering</li> <li>• Sports pitch irrigation</li> <li>• Car cleaning &amp; car washes</li> <li>• Boat washing-off</li> <li>• Swimming pools</li> </ul>
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?	Don't have enough knowledge to comment usefully
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?	Don't have enough knowledge to comment usefully
146.	Do you agree that the legislation should not set a standard notice period? If not, what period would you suggest?	Don't have enough knowledge to comment usefully
<b>Power of entry – water resources functions</b>		
147.	Do you agree that a power of entry should be introduced to cover the EA's functions to measure and manage water resources?	Yes, robust powers of entry are needed for all public bodies involved in collecting data about third party FRM assets.
<b>Water Administration Regime</b>		
148.	Should the special administrator be required to pursue the rescue objective for viable water companies that experience financial difficulties?	Don't have enough knowledge to comment usefully
149.	Should a hive-down provision be available in the water administration regime to make the transfer process more efficient?	Don't have enough knowledge to comment usefully
150.	Do you agree that we should remove the right of an undertaker to veto a transfer?	Don't have enough knowledge to comment usefully

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?	Don't have enough knowledge to comment usefully
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?	Don't have enough knowledge to comment usefully
153.	Do you agree that powers should be given to sewerage companies to require householders to rectify misconnections as described above? Are there alternatives?	Don't have enough knowledge to comment usefully
<b>Development of a project based delivery approach for large infrastructure projects in the water sector</b>		
154.	Do you agree that a project-based approach would reveal optimal funding structures?	Don't have enough knowledge to comment usefully
155.	Are there alternative approaches to securing effective and properly regulated collaborative projects that could be explored?	Don't have enough knowledge to comment usefully
156.	Do you agree that consumers would benefit from a project-based approach to suitable large projects?	Don't have enough knowledge to comment usefully
157.	Do you agree that existing water companies would normally be best placed to manage the procurement exercise?	Don't have enough knowledge to comment usefully
158.	What types of projects should be covered by the regime?	Don't have enough knowledge to comment usefully
<b>Complaint handling powers</b>		
159.	Do you agree that these changes provide for the most appropriate body to handle complaints?	Don't have enough knowledge to comment usefully
<b>Securing compliance</b>		
160.	Do you agree that these changes will enhance Ofwat's ability to protect customers?	Don't have enough knowledge to comment usefully
<b>Hydromorphology powers</b>		



161.	Do you agree that a power to improve the hydromorphological condition of water bodies in England and Wales is necessary to deliver WFD requirements on hydromorphology? Please state why.	Don't have enough knowledge to comment usefully
162.	Do you agree with these criteria for the use of the power?	Don't have enough knowledge to comment usefully
163.	Do you think this proposal provides an appropriate mechanism to enable improvement of hydromorphological conditions?	Don't have enough knowledge to comment usefully
<b>The policy position in Wales</b>		
164.	Should all operating authorities be required to contribute to sustainable development objectives when carrying out flood and coastal erosion risk management.	Not relevant.
165.	Is the proposed allocation of an enhanced oversight role to the EA in Wales appropriate?	Not relevant
166.	Will the scope of the proposed role allow the EA in Wales to adequately support the Welsh Assembly Government in driving forward a single overarching approach to flood and coastal erosion risk management?	Not relevant
167.	Is there a need for an enhanced understanding of all local flood risks in Wales, and if so which risks should be included?	Not relevant
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?	Not relevant
169.	Do you agree that local authorities are best placed to lead on local flood risks and specifically surface water flood risk management?	Not relevant
170.	How might different maps work and plans for addressing different sources of flood risk be best integrated?	Not relevant

171.	Is the split of responsibility between the key operating authorities appropriate?	Not relevant
172.	Does the suggested split of responsibilities make it easy to understand which operating authority is responsible for which risks of flooding?	Not relevant
173.	Will the suggested split of responsibilities ensure that the gaps in coverage of the current systems are addressed and filled?	Not relevant
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?	Not relevant
175.	If the remit of the Committee is to be changed then what should be the extent of the Committee role?	Not relevant
176.	If the role and remit of Flood Risk Management Wales is extended, how often should the Committee meet?	Not relevant
177.	Should Flood Risk Management Wales remain an executive committee of the EA, or should it become an advisory committee and why?	Not relevant
178.	Should Flood Risk Management Wales' existing levy raising powers in respect of flood risk management be extended to encompass coastal erosion risk management.	Not relevant
179.	Do you agree that local authorities should be responsible for the production of PFRAs for local flood risks?	Not relevant
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?	Not relevant
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	Not relevant

	respect of local flood risks?	
182.	Do you agree that local authorities should be responsible for the production of maps for local flood risks?	Not relevant
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?	Not relevant
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?	Not relevant
185.	Do you agree that the legislation should include flexibility to change the planning and mapping requirements over time to take account of future developments?	Not relevant
186.	In addition to the questions in Section 2.6 Welsh Ministers are seeking views on the following questions, which are specific to Wales Which is the most appropriate organisation to take responsibility for adoption and management of SUDS in Wales: <ul style="list-style-type: none"> <li>• local authorities;</li> <li>• sewerage undertakers; or</li> <li>• another body (please specify)?</li> </ul>	Not relevant
187.	Should there be flexibility within the system to appoint different organisations as SUDS Adopting Bodies in different areas?	Not relevant
188.	Should the automatic right to connect to a public sewer be amended for new sites and re-developments as proposed in Section 2.6 above?	Not relevant