



Eich cyf/Your ref
Ein cyf/Our ref

Darren Millar
Chair, Public Accounts Committee

11 December 2013

Internal Drainage Boards – Response to PAC Report

I thank the Committee for the report. As you will be aware, I have recently announced my intention to transfer the functions, assets and staff of the three Internal Drainage Boards (IDB) which are wholly or mainly in Wales to Natural Resources Wales. This will provide entirely new Governance arrangements for these functions, to a standard consistent with that which we would all expect from public bodies. It will also address the issues raised in relation to interrelationships between bodies.

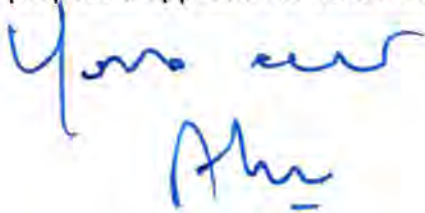
I attach a response to each of the individual recommendations at Annex 1. However as a general comment, I am not persuaded that issuing further guidance – either to Internal Drainage Boards or other bodies – is a solution in itself. As you will see from the response to recommendation 1, clear guidance on accountability and audit arrangements was in place for the Caldicot and Wentlooge Levels Internal Drainage Boards, and had been given statutory force through a National Assembly regulation. Moreover detailed implementation guidance is, and was, available to Association of Drainage Authority members on their website, including templates for governance and other documents. Caldicot and Wentlooge Internal Drainage Board are active members of the association.

The real issue underlying this is individual behaviour, compounded by the lack of checks and balances that are available in a larger body. Ultimately we expect all those serving the public to act with integrity, and sadly, but rarely, this expectation is not always met.

Finally, I would like to draw the Committee's attention to the fact that the National Assembly recently rejected my Legislative Consent Motion (NDM5259) on the Local Audit and Accountability Bill. I understand and agree with the desire of the National Assembly and the Committee to ensure that these cross border IDBs are subject to the Welsh audit regime.

This, and many of the other recommendations in this report, will be addressed by the transfer of IDB functions to Natural Resources Wales.

As set out in my written statement I intend to make this change from April 2015, and I attach an outline timetable for the order. The Committee should however note that in light of the National Assembly's decision to reject the Legislative Consent Motion, there is no contingency for ensuring an audit regime for the two cross border IDBs should we be unable to give effect to the change by April 2015. I therefore trust that the Committee will support the proposed approach to reforming IDB and the timetable for change.



Alun Davies AC / AM
Y Gweinidog Cyfoeth Naturiol a Bwyd
Minister for Natural Resources and Food

SF-AD-4121-13 Annex 1

Response to the Public Accounts Committee

Caldicot and Wentlooge Internal Drainage Board

General

I thank the Committee for their report. As they will be aware, I have recently announced my intention to transfer to Natural Resources Wales the functions, assets and staff of the three Internal Drainage Boards which are wholly or mainly in Wales. This will provide entirely new governance arrangements for these functions, to a standard consistent with that which we would all expect from public bodies. It will also address the issues raised in relation to interrelationships between bodies.

I have addressed the individual recommendations within this context (see below).

Recommendation 1. We recommend that the Welsh Government publish clear guidance regarding the accountability of Internal Drainage Boards operating wholly or mainly in Wales.

Accept in principle.

I agree that such guidance is necessary, and is already in place.

For the Caldicot and Wentlooge Levels Board, the "Governance and Accountability in Internal Drainage Boards in England: A Practitioners Guide 2006" is provided for in the Accounts and Audit (Wales) Regulations 2005, which were approved by the National Assembly. This is clear on what constitutes proper practice and has a statutory basis. Further detailed guidance on what constitutes proper practice, including example documentation is available to members on the Association of Drainage Authorities website. Caldicot and Wentlooge Levels Internal Drainage Board is an active member of the Association of Drainage Authorities and since the Wales Audit Office report they have taken steps to work toward these standards.

Under present arrangements, accountability is to the individual Board of the Internal Drainage Board, whose members are appointed by landowners and local authorities as set out in legislation. Welsh Government does not have direct powers in this regard, other than powers to legislate to change the arrangements. As above we have stated our intention to use these powers and the new arrangements will provide an appropriate and robust governance framework.

Recommendation 2. We recommend that the Welsh Government set out a clear framework for joint working between Internal Drainage Boards, and other organisations accountable to Welsh Government including local authorities and Natural Resources Wales, for flood risk management. This framework should include details of roles and responsibilities of each organisation.

Accept

As above, roles and responsibilities are set out in existing legislation, and will be superseded by transfer to Natural Resources Wales. I will be establishing a joint Natural Resources Wales / Internal Drainage Board working group to oversee the transition.

Recommendation 3. We recommend that the Welsh Government review the governance arrangements of Internal Drainage Boards operating wholly or mainly within Wales, and that a system of monitoring of governance arrangements, including procurement processes and financial management, be introduced to ensure that they are transparent and consistent with best practice elsewhere in the public sector and have appropriate documents and plans in place.

Accept

I have announced my intention to use the powers given to Welsh Ministers in the Public Bodies Act 2011 to transfer to Natural Resources Wales the functions of all three Internal Drainage Boards wholly or mainly in Wales. This includes the two cross border Internal Drainage Boards, whose audit arrangements are currently within the jurisdiction of the United Kingdom Government. For the two cross border bodies the transfer will need the consent of the Secretary of State.

These transfers will replace the existing governance, financial controls and audit arrangements with those that apply to Natural Resources Wales. I believe that this will address these matters fully.

In the interim these are matters for the Internal Drainage Board itself. In that regard I have been advised that the Caldicot and Wentlooge Levels Board has been working to improve matters and that progress has been made.

Recommendation 4. We recommend that the Welsh Government works with Internal Drainage Boards operating wholly or mainly in Wales and other small public bodies to ensure that there are clear lines of accountability for their public facing activities, including maintenance of web sites. (Page 20)

Accept in principle

Lines of accountability for Internal Drainage Boards are set out in section 1 and schedules 1 and 2 of the Land Drainage Act 1991. Officers of the Internal Drainage Boards are accountable to their Board, who comprise a mixture of members appointed by charging authorities (Local authorities in practice), and members elected by those in the chargeable area.

While this arrangement has clearly been unsatisfactory, I have no powers to change this for Internal Drainage Boards without bringing forward legislation, and I have announced my intention to do so.

With regard to 'other small bodies' the Welsh Government, having discussed this with the Wales Audit Office, defines these principally, as being the 735 town and community councils in Wales. The clear line of accountability for these bodies is, primarily, the democratic process and their interaction and relationship with their principal councils in Wales.

In February 2013 the Welsh Government made hypothecated grant allocations totalling £1.125m available to the principal councils. This included £375,000 for the town and community councils to establish and develop websites. The grant award letters to the 22 principal councils made it clear that this funding was to be used solely by town and community councils for improvements in their publications and to develop their accessibility on the internet. The award letter set a target of 31 March 2014 for this to be completed.

This position was further underpinned by the provisions of the Local Government (Democracy) (Wales) Bill. This became law on 30 July 2013 and Section 55 requires town and community councils to establish a website and to include specific information relating to councils contact information, details of council members, minutes of meetings and audited statements of account.

Recommendation 5. We recommend that the Welsh Government re-issues guidance on Governance, citing the problems experienced at Caldicot and Wentlooge Levels Internal Drainage as an illustration of what can go wrong. (Page 21)

Accept

The Welsh Government and Welsh Audit Office issued guidance on good governance to community and town councils. In addition, One Voice Wales, the representative organisation for community and town councils in Wales, and the Society of Local Council Clerks have jointly issued their own guidance to councils. All this guidance is available on the internet. We will work with these organisations to ensure councils are reminded of the guidance available together with the conclusions of the report on the Internal Drainage Board.

Recommendation 6. We recommend that the Welsh Government work with Natural Resources Wales, the Association of Drainage Authorities and other appropriate bodies to review the size, composition and

functioning of Internal Drainage Boards operating wholly or mainly in Wales, and Boards for other small public bodies. (Page 25)

Accept

I have looked at this matter for Internal Drainage Boards, and concluded that new arrangements would provide a better approach in the future. This is covered by my written statement of 12 November.

With regard to town and community councils, responsibility for their review rests with the Local Democracy and Boundary Commission for Wales, working in conjunction with the 22 principal councils.

It is possible that the forthcoming report from the Commission on Public Service Governance and Delivery will impact on the size composition of town and community councils. The Welsh Government will give careful consideration to the Commission's report, conclusions and recommendations.

Recommendation 7. We recommend that Internal Drainage Boards should be mindful of the other commitments of Board Members (particularly Appointed Members from Local Authorities) when setting agendas and timetabling meetings to ensure improved attendance. (Page 25)

This recommendation is for the Internal Drainage Boards to take forward.

Recommendation 8. We recommend that in developing systems for monitoring the governance of Drainage Boards and other small public bodies, consideration is given to mechanisms for monitoring the performance of appointed board members, particularly those from local authorities. (Page 25)

Partially Accepted

For Internal Drainage Board functions, this will be addressed by the transfer of functions to Natural Resources Wales. In the interim, as I have previously stated, the Caldicot and Wentlooge Levels Internal Drainage Board has issued new Rules of Procedure/Standing Orders which follow the guidelines produced by the Association of Drainage Authorities.

For appointments to other small public bodies, responsibility for ensuring performance is monitored rests with the appointing authority. Where this lies with Welsh Ministers and comes within the remit of the Commissioner for Public Appointments Code of Practice, this requires that the Welsh Government ensures that regular, effective and transparent performance assessment processes are in place. The Code also stipulates that no member of a public body can be reappointed unless the individual has performed satisfactorily during the current term of appointment.

Recommendation 9. We recommend that consideration should be given to improving communication channels between Appointed Board Members and the local authority they represent. This should include guidance to Appointed Board Members on the escalation of concerns about governance arrangements and a reporting mechanism to enable details of the Boards activities to be scrutinised. (Page 25)

This recommendation is for the appropriate local authorities to take forward.

Recommendation 10. We recommend that the Welsh Government work closely with public bodies to ensure that the remuneration of senior staff is fully transparent and that consideration of proposals for increasing the pay of senior managers is within the Wales Audit Office guidance on good governance. (Page 30)

Partially Accepted

Chief Executive pay in Local Government is subject to external independent scrutiny by the Independent Remuneration Panel, following the Democracy Act 2013. Additionally, elected members have had their salaries set by the Independent Remuneration Panel since the 2011 Local Government Measure.

Where Welsh Ministers are responsible for the pay arrangements of senior staff of Welsh Government Sponsored Bodies and NHS managers, arrangements are in place to ensure that the remuneration is fully transparent and any increases are in accordance with good governance principles.

Recommendation 11. We recommend that the Welsh Government uses this episode to illustrate the need for all public bodies to be mindful of the importance of being able to demonstrably justify public expenditure, with decisions on use of public money supported by clear business cases and measurable outcomes. (Page 31)

Accepted

The Welsh Government is currently updating "Managing Welsh Public Money" which sets out the main principles for dealing with resources used by public sector organisations in Wales. This will be made available to public sector organisations throughout Wales in early spring 2014 when complete.

Recommendation 12. We recommend that the Welsh Government, in collaboration with Natural Resources Wales, works closely with Internal Drainage Boards operating wholly or mainly in Wales to ensure that a robust, effective and monitored induction and training programme is in place for new Members, and that all existing Members complete regular

performance management plans and are regularly encouraged to review their training needs. (Page 32)

Accepted

The transfer of functions, assets and staff to Natural Resources Wales will address this recommendation from April 2015.

In the short term this is a matter for the Internal Drainage Boards [and local authorities in relation to their appointed members]. Although Natural Resources Wales can provide direction to Internal Drainage Boards on operational matters, these are limited to works being carried out. Neither I, nor Natural Resources Wales therefore have appropriate powers to make these changes without legislating, and in relation to the cross-border Internal Drainage Boards this can only be done jointly with the Secretary of State.

Recommendation 13. We recommend that the Welsh Government considers whether there is a need to review the provision of training to Board Members on small public bodies in Wales, including bodies such as Community Councils. (Page 33)

Accepted

A report into the role, functions and future potential of community and town councils in Wales in 2003 found that very few councillors and clerks undertook training. Following this, the Welsh Government established a National Training Advisory Group (now under the chair of One Voice Wales) which developed a National Training Strategy for community and town councils in Wales. Funding from the Welsh Government has supported the development of the training programmes and have been taken up by a significant proportion of such councils.

Recommendation 14. We recommend that the Wales Audit Office appear before the Public Accounts Committee with the results of the review of its auditing methodology and proposals on how it intends to make improvements in the future. (Page 36)

This is a matter for the Wales Audit Office.

Recommendation 15. We recommend that the Welsh Government seeks to bring the audit arrangements for the Lower Wye and Powysland Internal Drainage Boards in line with those currently in place for the Caldicot and Wentlooge Levels Internal Drainage Board. (Page 36)

Accepted

The Public Bodies Act 2011 makes specific provision for Welsh Ministers to transfer Internal Drainage Boards 'wholly or mainly in Wales' to another Welsh body, and Welsh Government has announced its intention to use these powers to transfer them to Natural Resources Wales. This will bring the functions within the Welsh audit regime.

As set out in my written statement I intend to make this change from April 2015, and I attach an outline timetable for legislation which I trust the Committee will support. The National Assembly has rejected the Legislative Consent Motion which would have enabled the UK Government to allow the two cross border bodies to continue within the England regime, pending such a transfer.

The cross-border nature of these bodies means there is no simple alternative way in which the auditing arrangements for the cross border IDB could be brought under the Welsh regime. While we could consider legislation under section 108 of the Government of Wales Act (2006), it is by no means clear that all the functions exercised by these bodies are exercised in relation to Wales. An act to transfer these audit functions could therefore be subject to a competence challenge from the United Kingdom Government

Even if feasible this would be time consuming and ultimately nugatory work, given our intention to transfer the functions to Natural Resources Wales.

Recommendation 16. We recommend that the Minister for Natural Resources and Food makes a statement on the possible transfer of the functions of existing Internal Drainage Boards to Natural Resources Wales (NRW) as soon as possible. (Page 38)

Accept

I have made this statement, a copy of which is attached to this response. As above the outline timetable for these changes is also attached.

**WRITTEN STATEMENT
BY
THE WELSH GOVERNMENT**

TITLE **Future arrangements for Internal Drainage Boards in Wales**

DATE **12 November 2013**

BY **Alun Davies AM, Minister for Natural Resources and Food**

I have decided to transfer the functions, assets and staff of the Powysland, Lower Wye and Caldicot and Wentlooge Levels Internal Drainage Boards (IDB) to Natural Resources Wales.

This will improve opportunities for a more integrated approach to the management of our natural resources in the Internal Drainage Districts, remove duplication of organisational arrangements and improve resilience and value for money. By bringing this expenditure within the framework for audit and accountability we established for Natural Resources Wales, we will secure a long term solution to the many issues raised in relation to Caldicot and Wentlooge Levels IDB by the Wales Audit Office and the Public Accounts Committee.

I will be discussing the cross border issues for Powysland and Lower Wye with the Secretary of State for Defra.

I have asked officials to begin work to prepare the necessary orders and undertake due diligence on the pension arrangements and assets currently linked to the IDB, with a view to making this change in April, 2015.

Draft Legislative Timetable

At this stage this is very much a provisional timetable, but currently, key dates are expected to be –

Draft Instrument prepared 30 April 2014

Draft Order and Explanatory Memorandum circulated to interested parties for comment 1 May to 1 August 2014

Lay Draft SI 16 September 2014

Table the motion 10 February 2015

Plenary date 17 February 2015