



Taking forward the draft Flood and Water Management Bill

The Government response to pre-legislative
scrutiny and public consultation

November 2009



Llywodraeth Cynulliad Cymru
Welsh Assembly Government



Department for Environment
Food and Rural Affairs



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scrutiny and public consultation

November 2009

Presented to Parliament
by the Secretary of State for Environment, Food and Rural Affairs by Command of Her Majesty
November 2009

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Ministerial Foreword



Devastating floods in the Summer of 2007 caused enormous physical and economic damage and untold distress for the thousands of people whose homes were flooded, who lost their power and water supplies, or worst of all lost loved ones. This terrible damage to homes and lives must not and will not be forgotten. Flooding is a natural phenomenon, but the risks and effects of flooding can be reduced.

Building and maintaining flood defences remains central to protecting communities and Government has provided more funding for this than ever before. However, we also need to ensure that we manage the risk from all sources of flooding, not just from rivers and the sea.

This is why we published a draft Flood and Water Management Bill in April this year and why we intend to press ahead with legislation now.

We are very grateful to the Environment, Food and Rural Affairs Select Committee and to those who submitted evidence to it, for their careful examination of a wide-ranging draft Bill and for their report.

The public consultation exercise has shown that there is significant support for the draft Bill. We received over 650 responses to the English and Welsh Consultations. Of these, over 100 were part of a Royal Society for the Protection of Birds campaign. The remaining responses came from across a wide variety of organisations and individuals. The vast majority of those who commented, supported the need for, and general thrust of, the measures in the draft Bill.

This paper sets out our response to those views and to the EFRA Committee recommendations. We are very grateful to all the individuals and organisations who have contributed to the development of this legislation and look forward to their continued support throughout its passage.



Hilary Benn
Secretary of State for Environment,
Food and Rural Affairs
Defra



Jane Davidson
Minister for Environment,
Sustainability and Housing
Welsh Assembly Government

Executive Summary

Overview

- i. In April of this year, Government¹ published a consultation paper and draft Bill for pre-legislative scrutiny and public consultation. This document sets out how Government intends to take forward the measures in the draft Bill, in light of the issues raised in the public consultation and the recommendations that emerged from pre-legislative scrutiny. It includes our response to the issues raised on the impact assessments published with the draft Bill and Government's response to each of the recommendations made by the Environment, Food and Rural Affairs (EFRA) Select Committee in its pre-legislative scrutiny report.

Context

- ii. The consultation paper set out how Government intends to change law to deliver policies developed over the past few years e.g. in 'Making Space for Water', in 'Future Water', in Sir Michael Pitt's report on the Summer 2007 floods, and in the Welsh Assembly Government's 'Environment Strategy for Wales, New Approaches Programme' and the 'Strategic Policy Position Statement on Water.' Key recommendations from these documents are addressed in the Bill being introduced to Parliament, including:
 - whilst 'flood defence' and 'coastal protection' remain crucial, providing for wider flood and coastal erosion risk management, addressing all sources of flooding;
 - creating a strategic overview role for the Environment Agency for all flood and coastal erosion risk management in England and an enhanced oversight role in Wales;
 - giving local authorities a local leadership role, including taking the lead in managing flood risk from surface run off, ordinary watercourses and groundwater flood risk;
 - providing for more sustainable drainage systems (SUDS); and
 - updating existing reservoir safety legislation with a new risk based inspection and enforcement regime.

Pre-legislative scrutiny and the public consultation

- iii. Pre-legislative scrutiny was undertaken by the EFRA Select Committee. The Committee received evidence from just under fifty different witnesses (in writing or orally) and arrived at forty-two conclusions and recommendations. In total the Department² received 642 consultation responses with the Welsh Assembly Government receiving several more which were specific to their consultation questions.
- iv. A number of respondents, in total or in part, supported other responses or based their response on standard text. The most significant examples were the 110 responses identified as being linked to a campaign organised by the Royal Society for the Protection of Birds (RSPB). Government believes the nature of the consultation responses and the Committee report indicates broad stakeholder support for our overarching proposals. The exercises have generated useful feedback which has informed the way forward set out in this document.
- v. Whilst this paper includes the Department's response to each of the EFRA Committee's recommendations, it cannot respond to each individual point made in the public consultation. Instead, Government has identified the main themes and responded to them.

1 References to 'Government' should be read as reference to the UK Government and the Welsh Assembly Government.

2 The Department should be read as reference to the Department for Environment, Food and Rural Affairs

A separate analytical summary of the responses made to the public consultation is available on the Defra and the Welsh Assembly Government websites at: <http://www.defra.gov.uk/environment/flooding/policy/fwmb/index.htm> and <http://wales.gov.uk/consultations/environmentandcountryside/floodwaterbill/>

Next steps

- vi. The UK Government has made clear its aim to bring together the several relevant statutes and the changes it is now proposing into a single coordinated easy to use set of legislation – an approach the Welsh Assembly Government supports. There are many benefits of doing so. However, it is not possible to achieve this fully now because:
 - policy is not finalised in several areas of the consultation paper (for example, the review led by Anna Walker of charging for household water and sewerage services has not yet reported); and
 - this Session of Parliament is necessarily short, so there is unlikely to be sufficient Parliamentary time for a very large Bill to be passed.
- vii. The EFRA Committee has argued that it is preferable to wait until it is possible to bring forward a single Bill which makes all the necessary changes and brings them together with the current statute book. However, Government is clear that it should legislate for the new clear roles and powers necessary to protect people from the risk of floods as soon as possible.
- viii. Furthermore, the EU Floods Directive is due to be transposed this month. Even if the UK Government agreed with the EFRA Committee's desire for delay, it could not wait for a further 12-18 months before bringing the Directive into law in England and Wales. The UK Government, supported by the Welsh Assembly Government, is therefore bringing forward:
 - regulations under the European Communities Act to implement the EU Floods Directive; and
 - the Flood and Water Management Bill in the current Session of this Parliament to implement the most urgent elements of our programme – including a power to enable water and sewerage companies to operate concessionary schemes for community premises for the purpose of surface water drainage charges.

It also intends to bring forward:

- a Bill consolidating the existing legislation on reservoirs with the changes being made in this Session's Bill; and
- a Bill consolidating provisions on flood and coastal erosion risk management in the Land Drainage Act 1991, Coast Protection Act 1949, Water Resources Act 1991 and Environment Act 1995 (all as amended by the Flood and Water Management Bill), with new flood and coastal erosion risk management provisions in the Bill and the regulations implementing the Flood Directive.

As soon as Parliamentary time allows, Government will bring forward legislation on the remainder of our programme, including:

- measures to implement the Cave review of competition in the water industry and the Walker review of charging for household water and sewerage services;
- powers for sewerage companies to rectify misconnected sewers;
- measures to reduce property owners' and occupiers' impact upon local flood risk; and
- a redefinition of the responsibilities, governance and funding arrangements for internal drainage boards.

Government will then take further steps to consolidate this legislation.

1. Introduction

1.1 Background

1.1.1 In April, Government published a consultation paper setting out those areas in which it intended to take forward legislation. Many of those areas were laid out in a draft Bill which was included in the consultation document. Government has now brought a Bill before Parliament covering the following parts of that consultation document:

- **roles and responsibilities for flood and coastal erosion risk management** to close the gap for surface water and groundwater;
- improved risk-based management of **reservoir safety**;
- use of **SUDS** as a key part of sustainable management of flood risk in future;
- **third party asset** designation to reduce the risk of flooding arising from protective features being compromised;
- an updated **special administration regime** for water companies in line with general insolvency law;
- a framework to help ensure the delivery of **large and unusual infrastructure projects** and to protect customers from the risks associated with the late delivery or escalating costs of such projects;
- a power for water companies to more easily control **non-essential uses of water**; and
- abolition of the **Fisheries Committee in Scotland**.

1.1.2 The consultation document also included measures to implement the **Floods Directive**. This is currently being implemented through regulations under Section 2(2) of the European Communities Act 1972.

1.1.3 The Bill also contains a power to enable water companies³ to operate concessionary schemes for community premises such as faith buildings, community centres, sports clubs and scout huts for the purpose of **surface water drainage charges**.

The consultation paper also referred to:

- implementation of the **Water Framework Directive**
- the **Cave Review** of competition in the water industry and the **Walker Review** of charging for household water and sewerage services;
- introduction of a new provision for the most appropriate body to handle **complaints against water and sewerage companies**;
- enhancement of **Ofwat's enforcement powers** so that it is better able to protect consumers' interests;
- extension of the **Environment Agency's powers of entry**, to allow it to install monitoring equipment where this is necessary to the Agency's functions;
- a power to enable the **Drinking Water Inspectorate** to impose a **charging** scheme which will recover the cost of its regulatory functions from water companies;

³ In general water companies within this document refers to water and sewerage companies

- a power to enable the Secretary of State and Welsh Ministers to make regulations for the abstraction and impoundment of water to be licensed as part of a single **environmental permitting** regime;
- powers for sewerage companies to rectify **misconnected sewers**, thereby reducing pollution;
- reduction of **property owners' and occupiers' impact upon local flood risk**;
- redefinition of the **responsibilities, governance and funding arrangements for internal drainage boards**; and
- a duty on the Environment Agency to maintain the **main river map** which defines which rivers are the responsibility of the Agency in terms of flood risk management.

1.2 Pre-legislative scrutiny – The Environment, Food and Rural Affairs Select Committee

- 1.2.1 The EFRA Select Committee, chaired by the Rt Hon Michael Jack MP, conducted pre-legislative scrutiny on the draft Bill. It received 32 written responses, and took oral evidence from the Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, and a number of organisations with an interest in the draft Bill.
- 1.2.2 The Committee published its report on 23 September 2009 including 42 conclusions and recommendations. Our response to each of these conclusions and recommendations is set out in Section 2 of this report. The Department is grateful to the Committee and its members and to those who gave evidence for their vigour and commitment in developing the report. Government has considered it very carefully.

1.3 Public consultation

- 1.3.1 The public consultation on the draft Bill ran from 21 April to 24 July. In total the Department received 642 consultation responses and several more which were specific to Wales were received by the Welsh Assembly Government.
- 1.3.2 A number of respondents, in total or in part, supported other responses or based their response on standard text. The most significant examples were the 110 responses identified as being affiliated to a campaign organised by the Royal Society for the Protection of Birds (RSPB).
- 1.3.3 Responses were drawn from a wide range of individuals and organisations including the following groups: academics, consultants, researchers, the flood protection industry, internal drainage boards, community groups, the insurance industry, local authorities, environmental groups, government agencies, fishery boards, professional and trade associations, property developers, regional flood defence committees, regulators, water companies and many other private companies and individuals.
- 1.3.4 Government has examined the responses received which have helped inform our proposals for moving forward. Due to the number of responses and their level of detail, Government has not responded to each and every issue raised by consultees in this report. Instead, Government has discussed the main points raised by respondents, under each major policy area in the consultation paper.

- 1.3.5 Government is very grateful to all the organisations and individuals who took time to submit responses to the consultation. The Department and Welsh Assembly Government conducted separate analytical analyses, which are available on the relevant websites: <http://www.defra.gov.uk/environment/flooding/policy/fwmb/index.htm> and <http://wales.gov.uk/consultations/environmentandcountryside/floodwaterbill/>
- 1.3.6 In line with the UK Government's and the Welsh Assembly Government's policies of openness, copies of the Department's and the Welsh Assembly Government summaries of response will be made publicly available through the Defra Information Resource Centre (Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR) and the Welsh Assembly Government Publications Centre (Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ) respectively.

2. Response to recommendations of the Environment, Food and Rural Affairs Select Committee

1. **The draft Bill addresses 16 of the Pitt Review's recommendations that require legislation but falls short of providing a Bill which also consolidates our principal Water Acts. We recommend that Defra continue working to produce the comprehensive legislation that the Government has agreed is highly desirable, even if this delays the Bill until the next Parliament.**

The Department still retains the ambition for unified legislation on floods, as proposed by Sir Michael Pitt, and on water, but we do not want to delay changes that will improve protection of lives and property. That is why Government is pressing ahead with this legislation. The terrible damage to homes and lives caused by flooding in 2007 has not been and must not be forgotten.

As both Sir Michael Pitt and the Committee recognised in their responses to the 2007 floods, there are gaps in legislation which need to be plugged before such floods occur again:

“about two thirds of the summer 2007 flooding was caused by surface water flooding, often after intense heavy rainfall overwhelmed drainage systems. No organisation currently has responsibility for surface water flooding, at either the national or local level. This lack of responsibility must be addressed by Government... There also needs to be a stronger requirement on local authorities to insist developers install SUDs on new development... The Government needs to resolve these issues as a matter of urgency to enable the current house-building and eco-towns programmes to incorporate maximum use of SUDs.”

Flooding, Fifth Report of Session 2007–08, EFRA Committee (May 2008)

The Department agrees with this statement from the Committee and does not believe that a desire for the undoubted benefit of a simple and consistent statute book should lead to any delay to achieving the outcomes sought by the Committee, and so many other people across the country.

As the Committee recognises, there are obvious timing constraints in the current Session and many competing priorities. In developing the Bill for this Session, Government has focused on those areas where action is needed most urgently.

Government will continue to develop policy in areas where thinking is currently less developed, or where it is not yet able to take a final view (e.g. the independent policy reviews by Professor Martin Cave and Anna Walker). Government will bring forward this legislation as soon as Parliamentary time allows.

Government has also decided to implement the EU Floods Directive through regulations made under the European Communities Act 1972. This is for two reasons. Firstly, Government needs to transpose the Directive as soon as possible as it is due to be done this month; inclusion in the Bill would delay it at least until late Spring next year. Secondly, it provides more space in the Bill to make those other urgent changes necessary to floods legislation and to enable consolidation to happen sooner.

The UK Government will start the process of consolidation as soon as possible. Government intends to consolidate legislation on reservoirs alongside the Flood and Water Management Bill. Government also intends to consolidate provisions on flood and coastal erosion risk management in the Land Drainage Act 1991, Coast Protection Act 1949, Water Resources Act 1991 and Environment Act 1995 (all as amended by the Flood and Water Management Bill), with new flood and coastal erosion risk management provisions in the Bill and the regulations implementing the EU Floods Directive, as soon as possible after the latter becomes law.

To support this, the Flood and Water Management Bill contains a measure to make changes to these and other Acts dealing with floods and water through regulations to ensure consistency and correct errors.

- 2. The Bill has been drafted against the background that climate change will have an effect on both the availability of water and likelihood of more extreme weather events. We recommend that Defra work with the Environment Agency and the relevant bodies to ensure that the Bill's provisions properly reflect the recently updated climate change scenarios.**

The Department agrees that it is important that the Bill's provisions properly reflect the recently updated climate change scenarios. The provisions of the Bill are flexible enough for authorities to adapt to the wide range of future climate scenarios both modelled for the impact assessments, and those recently updated and set out in UKCP09.

In terms of how the relevant authorities will operate on the ground, their objectives will be determined by the respective national strategies in England and Wales. The Secretary of State will have the power to shape the national strategy for England, ensuring it reflects the latest climate change scenarios and can be updated to allow for new projections to be taken into account too as they are updated in future.

Welsh Ministers will be responsible for developing the national strategy for Wales. They will ensure that UKCP09 is fully reflected in it and that it allows future updates to be reflected.

It has not been possible to update the impact assessments accompanying the Bill in this respect in time for publication. Additional studies are underway to produce the parameters relevant to flood and coastal erosion risk management (such as fluvial flows) from the information in the projections. Much of the data for the most relevant impact assessment, on local flood risk, is based on studies which were well on the way to completion by the time the data from the new projections was available.

However, the range of values for updated projections is not significantly different from the previous projections (the key change being the ease of studying local impacts and additional information on probabilities), and so our impact assessments are broadly consistent with the new projections. Thus, both the impact assessments and the legislation now being brought forward remain appropriate.

- 3. The Department's pick and mix approach over what ultimately might be in the Bill means that the process of pre-legislative scrutiny is inevitably undermined. We recommend that if the Government proceed to develop a truly comprehensive piece of water legislation that the Committee be given a further opportunity to scrutinise those parts of the Bill which are still very much work in progress.**

As the Committee recognises, the Department is committed to engaging with the pre-legislative scrutiny process, doing so "enthusiastically" on this enquiry. Except for the provision on surface water drainage charges, the Committee has been able to scrutinise draft clauses embodying all policies being taken forward in the current Bill or, in the case of the EU Floods Directive, through regulations under Section 2(2) of the European Communities Act 1972.

Future handling and timing of the remaining legislation is currently unclear. However, many of the remaining provisions were included in the draft Bill, while other policy areas are being, or will be, consulted on further. These consultations, as with the current one on the Cave Review on Competition and Innovation in Water Markets, may also include draft clauses. However, Government will consider carefully the Committee's recommendations on this issue.

- 4. With the Queen's speech now scheduled for 18 November, a comprehensive flood and water management Bill is unlikely to be enacted before the next general election, due to the lack of Parliamentary time. Despite many flood and water issues being inter-related and requiring coordinated action, Defra may have no alternative but to consider introducing a slimmed-down Bill that covers only the most important issues. If Defra pursues a slimmed-down Bill it will lose this once in a Parliament opportunity to comprehensively and thoroughly address current water and flooding issues. We recommend the Government adhere to Sir Michael Pitt's recommendation for a proper consolidating Bill. However, if Defra finds it has no alternative but to introduce a slimmed-down Bill, it should consult stakeholders as soon as possible on which provisions should be included.**

Government agrees with the Committee on the importance of consulting with stakeholders on the contents of the final Bill. Throughout the consultation period and since, Government has continued to consult a range of stakeholders on issues covered in the Bill. As well as assessing the evidence to the Committee forming the basis of this report, the Department received 642 responses for England to the public consultation on the draft Bill.

In addition, both the Department and the Welsh Assembly Government hold regular formal and informal meetings with stakeholders in the water and floods sectors. This has allowed us to gauge the strength of opinion and argument on the urgency and readiness of competing provisions for a Bill of limited size. Government has included most of the key stakeholders' priority measures that the Committee have picked out, where policy is developed enough for their inclusion in the Bill.

At the heart of the Bill are provisions for flood and coastal erosion risk management setting out:

- new roles and responsibilities;
- enhanced reservoir safety;
- the designation of flood management assets; and
- the encouragement of sustainable drainage systems.

Further provisions address the more urgent issues on the water side:

- enabling the introduction of concessionary schemes for surface water drainage charges;
- the better management of non-essential uses of water;
- appropriate regulation of large infrastructure projects; and
- arrangements to protect customers in the event of a water company's insolvency.

To help the Department develop the Bill, representatives of Ofwat, the Environment Agency, the Welsh Assembly Government, the Better Regulation Executive, Her Majesty's Treasury, and the Department for Communities and Local Government sit on the Project Board. Collectively this group represents a wide range of interests.

Our response to recommendation 1 above, sets out how we plan to implement Sir Michael Pitt's recommendation for a single unified set of legislation on floods.

- 5. The inevitable uncertainty caused by a 'work in progress' draft Bill could have an impact on Ofwat's final price review 2009 price determinations. We recommend that at the earliest opportunity (even during the remaining part of the Summer recess) Defra make clear its intentions. If it opts for a slimmed down Bill we recommend that rapid consultation with the Environment Agency and the industry about what must be in**

and what could be left out of the legislation. Our view remains that such an approach inevitably means that the 'left out' sections may have to wait years for a further legislative opportunity to the detriment of properly addressing Sir Michael Pitt's recommendations.

Government has not wished to pre-empt the results of public consultation, collective Cabinet decisions or the Queen's Speech in setting out the size and shape of the Bill. However, as mentioned above, both the Environment Agency and Ofwat remain closely involved with our work, including as part of the Project Board and Executive Panel for the Bill's development. Government has taken on the views of both organisations and others in deciding on the Bill's focused contents in what is a shortened Parliamentary Session.

The UK Government set out its plans for legislation in this Session in the draft legislative programme published as part of 'Building Britain's Future' on 29 June.

Inevitably, any further legislation will have to compete against other urgent priorities for Parliamentary time. Government recognise that the EFRA Select Committee and others will continue to make the case for further flood and water legislation.

6. The adoption of a river catchment based planning approach means that close co-operation will have to be achieved between legislative bodies both north and south of the border and in Wales. We recommend that, in light of the fact that each legislature has a different approach to water matters, Defra urgently assess how harmonisation of the measures can be achieved. Given the Welsh Assembly's involvement in developing this draft Bill we believe that there is merit in the Welsh Affairs Select Committee examining their position on this matter at the earliest opportunity.

River catchment based planning is not a new approach to flood and coastal erosion risk management. Flood Risk Management Plans have already been developed on a catchment basis, with full co-operation from authorities on both sides of the borders with Wales and Scotland. The Welsh Assembly Government and the Department worked closely together to develop the draft and prevent introducing barriers to effective systems, while respecting the role and responsibilities of both Governments.

As the Committee rightly states, the Welsh Assembly Government worked closely with the Department throughout the preparation of the draft Flood and Water Management Bill and has continued to do so in developing the final Bill. In many cases policy for England and Wales has harmonised, with movement on both sides. Where appropriate the functions of the operating authorities in England and Wales are aligned to ensure consistent operation on both sides of the border. Examples of this are the arrangements for reservoir safety, sustainable drainage and drought measures.

Co-operation between the relevant authorities is built into the provisions contained within the Bill and both Governments will continue to work together in implementing the changes.

It is of course for the Welsh Affairs Select Committee to decide whether to examine the legislation, but it is worth noting that the National Assembly for Wales Sustainability Committee examined the draft Bill. Its report was published in early August giving the Assembly Government good time to consider the valuable input of the Committee in the drafting of the Bill.

The Scottish Government has introduced its own legislation which received Royal Assent earlier this year.

7. We recommend that Defra redraft Clause 12 to clarify the roles of the different tiers of local authorities and their responsibilities, while allowing the flexibility for pragmatic local solutions and partnerships. We further recommend that the Bill include an order making power, under which the Secretary of State may alter the tasks to be undertaken by local authorities, following full consultation with interested bodies.

The Department believes the revised Bill clarifies local authority roles and responsibilities and that accompanying guidance will help the public and stakeholders understand them. The Department believes the ability of local authorities to delegate will provide adequate flexibility for local authorities to develop local solutions and partnerships that reflect their particular circumstances. The Department has included a power for the roles and responsibilities for local authorities to be adjusted through secondary legislation.

National guidance published by the Environment Agency in England and by the Welsh Assembly Government in Wales will support local roles further. However, in England they will be fully in line with the UK Government's response to Sir Michael Pitt's Review. That made it clear new partnership arrangements in England were needed to bring together county, unitary and district authorities, the Environment Agency, water companies and sewerage undertakers and other players including internal drainage boards to work together to secure effective and consistent management of local flood risk in their areas.

Government expects these organisations to work together to decide the best arrangements for delivery on an area by area basis, taking account of their current roles and capacities.

County and unitary authorities will lead these partnerships, taking responsibility for ensuring that all relevant partners are engaged in developing a local strategy for flood risk management and securing progress in its implementation. This will build on their leadership role in local area agreements, and will allow them to develop centres of engineering and flood risk expertise perhaps alongside their existing highways functions, providing support to other partners and promoting collaboration across the whole area.

District councils have a key role with their land use planning functions in ensuring effective strategic flood risk assessments guide future development. They will also continue to be responsible for the management of ordinary watercourses (as will internal drainage boards where they exist) within the flood risk management strategy established for the area. They will also take on work on the strategy and other functions, as agreed locally.

The new partnership arrangements will support greater collaboration between local authorities in flood risk assessment and development of management plans, and sharing expertise, supporting strategic engagement with the Environment Agency and water companies.

The Bill provides that the Environment Agency must consult on the national guidance for England before it is put in place.

8. Clarity on the form of the National Flood and Coastal Erosion Risk Management strategy should be clearly provided on the face of the Bill; or through an order making power subject to the affirmative Parliamentary procedure. We further recommend that the Bill provides for the strategy being reported to Parliament.

The Department accepts these recommendations and has included the minimum content of the strategy on the face of the Bill and has also provided for the Secretary of State to guide the Environment Agency on additional material in the national strategy for England or accompanying guidance. The Department has also provided for the strategy to be approved by the Secretary of State and then to be reported to Parliament. The national strategy for Wales will be prepared by the Welsh Ministers and will be laid before the National Assembly for Wales.

9. We recommend that Defra publish now details of how the strategy will be prepared, scrutinised and how, and over what cycle, it will be reviewed.

The Department will set out its proposals for the preparation, scrutiny and review of the strategy in a short factsheet which will be published shortly after the publication of the Bill. The Environment Agency will be responsible for preparing the strategy for England but in doing so they will need to work closely with local authorities, internal drainage boards and other organisations such as water companies to ensure that the strategy provides an overview of all forms of flooding at the national level. The Bill provides for the strategy to be consulted on publicly before it is put in place and Government sees a particular role for regional flood and coastal committees in ensuring that the strategy adequately reflects the range of different risks and priorities within their areas.

Following approval by the Secretary of State, reporting the strategy to Parliament will provide a further opportunity for scrutiny. The strategy itself will set out review timescales which are likely to reflect a range of external influences such as the maps, assessments and plans produced for the Floods Directive, the spending review cycle and the timing of completion of documents such as shoreline management plans and catchment flood management plans.

10. We are concerned that the draft Bill establishes a rigid vertical structure, which potentially precludes pragmatic cross-boundary area-based approaches that accommodate local people's views and knowledge. We are concerned that local people do not have a seat at the table and the Bill's proposals will dilute the ability of an articulate community to influence decision making.

The Bill will put local authorities, the representatives of their local communities, squarely at the heart of local flood risk management. The Bill therefore strengthens the direct democratic accountability for local flood risk management and puts the responsibility in the hands of bodies used to bringing together a wide range of partners, through local area agreements for example.

There is inevitably scope for tension between this role for local authorities and the need for a large scale (e.g. catchment) perspective on flood and coastal erosion risk. Furthermore, circumstances will be very different across the country. Government therefore want to avoid a prescriptive and bureaucratic approach.

Government has considered carefully suggestions that statutory local flood risk management boards or groups should be established. The legislation we are bringing forward would certainly allow such models, but we do not wish to prescribe them to the exclusion of others. Others suggested that we should not define which authority should have the responsibility of ensuring that a strategy was put in place and leave that to local discretion. Again, many models are possible – including a district council with particular capabilities doing much of the work for the local strategy, for example. However, Sir Michael Pitt's report was very clear about the benefits of clear local responsibilities residing in one place and we agree.

We believe that the Bill provides a pragmatic and highly flexible approach by clearly making county and unitary authorities responsible for leadership on local flood risk in their area, but enabling them and other risk management authorities to enter into arrangements for nearly all aspects of flood and coastal erosion risk management for which they are collectively responsible. This is supported by the requirements for delivery authorities to co-operate and act consistently with local and national strategies and guidance and for others to provide information and have regard to the strategies.

The guidance accompanying the national strategies will focus particularly on the local partnerships and should help ensure that best use is made of the knowledge and expertise from all local partners (particularly those with practical experience in the area, such as district councils and internal drainage boards where they exist). It might also set out possible models and arrangements for local partnerships based on the experiences of those authorities that have already established groups for similar purposes such as coastal groups.

However, it will be for the authorities in the local area to agree the best arrangements for them, taking account of their existing roles and capacities. Cross-boundary, catchment or sub-catchment groups will certainly not be precluded by the Bill.

The local strategy will provide a vehicle for formalising these arrangements, for setting out how risks will be managed within the area and for identifying how this will be co-ordinated with wider activities. Both the national and local strategies will evolve over time, and will be informed by a range of plans (such as shoreline management plans, catchment management plans and surface water management plans) and assessments (such as strategic flood risk assessments) which will have been consulted on individually within the relevant areas. These will provide communities with an opportunity to influence all significant decisions.

The Environment Agency will largely be responsible for determining the management of flooding from main rivers and the sea, as they are now, to ensure that wider considerations across administrative boundaries are reflected. Similarly, regional flood and coastal committees and local authorities will continue to be able to raise funding locally to take forward projects that are identified as viable but are not sufficiently high priority to be funded from national budgets.

The Bill will ensure that public consultations are held for both the local and national strategies. This, together with the enhanced scrutiny arrangements for local authorities to explore management of all sources of flood risk within the area should also help ensure that communities are able to influence flood risk management in their locality.

11. Subject to any concerns on national security grounds, the national flood risk management strategy should be published in full to guide the many organisations and bodies who will need to refer to it. Similarly we see no reason for local authority plans not to be published.

The Department accepts this recommendation. Both the local and national strategies will be publicly available and accessible. Where there are particular national security concerns some information may need to be omitted from the published strategies, but this is unlikely to be significant.

12. The provisions in Clause 22 provide the Environment Agency and local authorities with a broad power over potentially a wide range of public bodies and private individuals. We acknowledge the concerns raised by Ofwat and accept that there could be an impact on customers' bills. A balance must be struck between providing those with responsibility for flood and coastal erosion risk management with the necessary tools to do that job and ensuring that those bodies do not place undue obligations on the water companies or others. We recommend that Defra clarifies how this power is expected to be exercised and in what circumstances it would not be applied.

The powers and responsibilities provided to the Environment Agency and local authorities have been carefully considered. The duty to act consistently with the local and national strategies applies only to those organisations undertaking a flood or coastal erosion risk management function.

Other organisations (such as planning authorities) will be required to 'have regard' to the flood and coastal erosion risk management requirements. That is they will need to consider the flood and coastal erosion risk management requirements, but are not bound by them if they can demonstrate that they are outweighed by other considerations.

On water companies' flood risk management functions, the Department has concluded that they should be subject to a duty to act consistently with the national strategy and, in view of Ofwat's and the Committee's comments, to have regard to the local strategies.

The Bill will also require organisations to co-operate and provide pertinent information. Guidance on how different partners should work together to develop and deliver the local flood risk management strategies will be provided by the Environment Agency in England and the Welsh Ministers in Wales alongside the national strategies.

The Department will continue to work with Ofwat to ensure water companies contribute to local strategies and the delivery of objectives, and that the national strategy and duty to co-operate are considered as part of the periodic review of price limits.

At the local level, the ability of local authority scrutiny committees to hold water companies and others to account should also help to ensure all partners contribute to effective flood risk management.

13. Defra must explain how the national plan will relate to local spatial planning. Local authorities are already responsible for the spatial planning process, and this Bill also gives them a remit for flood and coastal erosion risk management planning. Authorities will have to fit the two together and synchronise the cycles for revising and updating their plans.

Many of the components to ensure that spatial planning in England reflects flood and coastal erosion risk are already in place through Planning Policy Statement 25 (PPS25) or proposed in the supplement on draft planning policy on development and coastal change, which was published for consultation on 20 July 2009. Local authorities in England are obliged to consider all sources of flooding in formulating their strategic flood risk assessments, and should therefore already be considering the effects of local flood risk as part of the process of ensuring that their local development documents and proposals are 'sound'.

However, in practice few are currently able to do this due to a lack of information on local flood risk. The production of surface water management plans is also anticipated by PPS25, and synergies between the strategic flood risk assessment and surface water management plan are already being explored. The Department anticipates that the strategic flood risk assessment will provide an initial base from which the local authorities can develop their plans for managing flood risk.

There are comparable arrangements in Wales, through Planning Policy Wales and Technical Advice Note 15, though the production of equivalents to strategic flood risk assessments and surface water management plans is not formalised.

The relevant national strategy will set out principles and approaches for flood risk management and will be accompanied by guidance which planners will have to 'have regard to'. There may be some constraints on the timing of the production of local authority plans resulting from the implementation of the Floods Directive, but as far as possible we intend that they will have flexibility to align the timescale for reviewing plans to local spatial planning cycles.

The lead local flood authority will take the lead role at county level in shaping surface water risk assessments, working in partnership with the local planning authorities. This will ensure close tie in between risk assessments and the development of local flood risk strategies.

14. We commend the water industry and Environment Agency for initiating work to improve data sharing. We recommend that Defra consider whether guidance on data sharing, including the safeguards that should be in place, should be provided for in secondary legislation.

The Department agrees that there is a need for guidance on data sharing. In England, this will be given by the Environment Agency alongside the national strategy, but we do not currently consider that this needs to be in secondary legislation.

The Bill provides that organisations exercising flood and coastal erosion risk management functions will need to act consistently with the strategies and accompanying guidance (others will have to 'have regard' to them). Both the Environment Agency and lead local flood authority will have the power to require information from various authorities listed in the Bill and such information will need to be provided in the form or manner and time period specified in the request.

The duty to co-operate which is to be introduced on risk management authorities will also allow for and require data-sharing. Taken together, these provisions should ensure that data is shared appropriately.

The Welsh Assembly Government will work with the Department and the Environment Agency on the guidance with the aim of developing a consistent approach across England and Wales.

15. We do not consider the protections referred to in the consultation document to be sufficient. We recommend that Defra include provisions that establish appeal mechanisms against the powers of the Environment Agency and local authorities set out in Clauses 34 to 49. Such mechanisms must provide for an independent court or tribunal to decide appeals.

The Department accepts this recommendation and is providing for appeals for relevant parts of the Bill. Where the Bill proposes modifications to existing powers there will already be appeal mechanisms in place and the Bill includes provision for these to be consolidated and made more consistent.

Provisions to establish appeal mechanisms will be included for those parts of the Bill that provide new powers to the Environment Agency and local authorities. In nearly all cases the details will be defined through secondary legislation and Government are considering the role that independent courts or tribunals should play, but in some cases it is likely that other mechanisms (such as determination by the Secretary of State or Welsh Ministers) will provide a more proportionate and effective approach.

16. We recommend that Defra make clear to the European Commission the benefits of including the provisions of the Directive in comprehensive legislation and seek assurances that the UK will not be subject to infraction proceedings before the Bill passes into law.

The Department does not accept this recommendation, and it does not believe that such assurances would be available from the Commission, particularly in the light of the long delay to transposition envisaged by the Committee. The Department has laid regulations before Parliament for the Directive's timely transposition which are consistent with the Bill and believe this represents the most pragmatic way forward.

17. We consider that the local authority proposal for catchment area flood management boards, similar to Regional Flood Defence Committees, has much to recommend it. We recommend that Defra explore this approach with local authorities and bring forward provisions that would enable the creation of catchment area flood management boards. The Bill should require decision making bodies to explain how they have taken into account any advice from regional advisory bodies, or their reasons for rejecting it.

The Department partially accepts this recommendation but is anxious to avoid prescriptive, inflexible and overly bureaucratic approaches. The Department are also concerned to avoid a duplication of the role of the regional flood and coastal committees, which as proposed and widely supported, would already provide regional committees with representation from local authorities and other bodies for the purposes of supporting local flood and coastal risk management delivery and scrutiny. The Department believes that enabling authorities to enter into arrangements provides sufficient flexibility for issues to be dealt with on a catchment basis

where appropriate and that voluntary partnerships and groups (such as the existing coastal groups for shoreline management plans) can provide an efficient and effective vehicle for strategic and coordinated planning across different responsibilities.

The duty to consult on strategies will mean that decision making bodies will need to be able to explain how advice from regional and other bodies including regional flood and coastal committees has been taken into account in these decisions.

18. We are concerned that bodies that would be able to designate “things” appear unsure about their scope or scale. The purpose of the provisions is not in question but there needs to be greater clarity about what could be designated, how the designating authorities would coordinate with one another and how differences of opinion between designating authorities would be resolved.

The Department is pleased that the Committee does not call the purpose of the provisions in to question. The Bill now has a clearer definition but it remains relatively broad because of the significant variety of features that can affect flood risk, for which there is no single definition and for which there is very little protection enshrined in existing legislation.

The Department appreciates that the Committee will have heard a number of explanations from witnesses about what a third party asset might be. We think this is to be expected. Different operating authorities may well identify different types of feature relevant to their own flood risk management functions, which will vary, and reflect the different types of risk and physical landscapes that exist in their areas.

The Department believes that the duty to co-operate will help avoid disagreements between operating authorities in designating features. Furthermore, the operating authority must have flood or coastal erosion risk management functions in respect of the risk which may be affected by the feature; the feature must not already be designated; and the operating authority must notify any other designating authority with an interest.

The duty on the lead local flood authority to keep a register of assets in its area and the record keeping of other authorities, such as the Environment Agency’s National Flood and Coast Defence Database, should enable authorities to keep track of what has been designated and what is of importance to their flood and coastal management strategies.

Local authorities will also have the discretion under the Bill to enter into arrangements with others. This would allow for greater co-ordination across an area, for instance, if authorities wanted to set up a single designating unit for an area.

19. Provisions providing safeguards and appeals should be included in the Bill. The lack of such provisions in the draft Bill is a serious deficiency. The legislation would confer substantial powers on designating authorities and the checks and balances should have been available for this Committee to scrutinise and for stakeholders to comment upon. We recommend that Clause 95 be amended to exclude the Minister from the list of bodies that could consider appeals in relation to Part 2.

On work powers, safeguards are provided in the existing legislation and will apply to the revised and additional provisions in the Bill. The only exception to this would be an urgent need for an authority to take remedial action on a designated feature. This would be when there is an immediate risk which would mean it is unsafe to serve a period of notice. Both owners of features and persons subject to enforcement proceedings (if different) will be given notice and the opportunity to make representations ahead of further action being taken by the responsible authority. For example, the owner of a feature may make representations in respect of a ‘provisional designation notice’ and may appeal a subsequent ‘designation notice’.

Appeals are also provided for where an owner is refused consent to alter, remove or replace a feature, refused a request to cancel a designation, or is in receipt of an enforcement notice.

The Department accepts the importance of safeguards and is proposing that authorities must give notice of the intention to enter land, make it clear why access is necessary and to include similar provisions to those already enshrined in the Water Resources Act 1991 in the event of damage being caused to an individual's property.

The Bill provides for the appeals mechanism to be defined in secondary legislation because the arrangements for the appeals process are essentially administrative and process-oriented and as such are unlikely to be controversial. The Department does not want to prescribe such procedural detail on the face of the Bill itself it considers the appeals mechanism to be an integral part of the decision making process, particulars of which may also be prescribed by secondary legislation. By making use of regulations, we will have the opportunity to reflect changing circumstances, especially if any particulars of the notices were to be changed, with a minimum of bureaucracy and without recourse to primary legislation.

We do, however, intend for the secondary legislation to be made under the affirmative resolution procedure. Above all, we are committed to giving individuals every opportunity to make representations and raise an appeal at all stages of designation.

The regulations must give the power to consider the appeal to a court or tribunal, or to the Secretary of State or Welsh Ministers as appropriate. They must also set out how the person might appeal and the procedure for doing so.

However, in some circumstances, there may be more appropriate ways of achieving this than through a court or tribunal. The reference to the Minister is therefore necessary to enable him to delegate this function to some other independent body or person, acting as a court or tribunal.

20. Defra should examine including a provision to establish a low-cost initial assessment of smaller reservoirs. Reservoirs adjudged to be low risk under such a system could be exempted from the panoply of inspections and procedures currently set out in Part 3 of the draft Bill.

The Department accepts this recommendation. The Department has reviewed the provisions to ensure that the burdens of registration and assessment, particularly for reservoirs being brought into the regulatory regime, are minimised. We will only require owners or undertakers to provide readily available information.

It was always intended that the regulatory regime would be risk-based and the requirements for inspection, monitoring and supervision should only apply to the high risk reservoirs. We are also providing for exemptions to be made if there are types of structure for which relaxed requirements can be justified.

21. Defra should consider whether the existing COMAH regulations might be extended to include reservoirs.

The Department has considered whether the control of major accident hazards regulations could be appropriately extended to include reservoirs. Aspects of the Bill's provisions are similar to the control of major accident hazards model (such as the preparation, responsibility and review of off-site plans), but the particular requirements for reservoirs and synergies with wider flood and coastal risk management, are such that bespoke provisions are warranted.

22. Defra should examine with the insurance industry the scope for synergies between the needs of insurance companies and the risk management aims of the draft Bill, to minimise any additional cost for reservoir owners.

The Department accepts this recommendation and has continued discussions with the insurance industry. Insurance companies have reiterated their commitment to providing current levels of cover to reservoir owners and their appointed engineers and agents. They have expressed severe reservations at the feasibility of further extension of such liability insurance.

The Department will be specifying what is required but will allow owners to arrange for the inspections. This enables owners to take advantage of any synergies that are available.

23. Offences that are set out on the face of the Bill should be as clear as possible. We recommend that Defra review the offences under Part 3 within a year of the Bill being enacted to ensure that they are appropriate, enforceable and if necessary amended in the light of experience.

The Department has reviewed these offences in the light of the Committee's recommendations. We are now providing for civil sanctions in respect of the power to require information from private persons. The Department otherwise believes that the offences proposed are appropriate, proportionate and enforceable, but will keep their implementation under review.

24. These Clauses provide a starting point to resolve the long-standing difficulties associated with the introduction and management of SUDS. The wide-spread implementation of SUDS is a critical part of future water management and therefore we welcome Defra's work in taking SUDS forward. However, the current provisions leave several questions unanswered on: the capacity of SUDS, the transfer of approval powers, funding arrangements for the adoption and maintenance of SUDS, and the potential for retro-fitting SUDS.

Government recognises that sustainable drainage systems (SUDS) are not a panacea to surface water flooding, and the Bill makes no attempt to present SUDS as the sole solution to this type of flooding. The Bill does, however, recognise the importance of SUDS as part of the wider flood risk management strategy and that they should be a part of all new-build drainage designs. The Bill also recognises that SUDS play an important role in improving water quality and overall amenity.

SUDS can incorporate a wide range of drainage techniques. The new proposals for approval of drainage systems, along with the publication of National Standards, will help deliver the best sustainable drainage solution possible.

No formal delegation functions were set out in the original Bill, and we do not feel that legislation is required to enable the SUDS Approving Body to delegate to organisations which may be better-placed to deliver on SUDS. However, the SUDS Approving Body will retain overall responsibility and liability for decisions on what drainage proposals are approved.

SUDS capital costs will be covered in the costs of new developments. The costs of SUDS are not expected to exceed the costs of conventional drainage and in many cases they will be less than those of conventional drainage since SUDS structures tend to be simple surface features (e.g. ponds, swales or permeable paving), as opposed to the traditional hard-engineered, below-ground solutions.

The costs of administering the SUDS adoption process will be met by fees. We are exploring the appropriate mechanisms and fee structures in discussion with other Government departments.

SUDS maintenance is a long term issue. SUDS are expected to have lifetimes lasting decades. We have assumed they will last 30-50 years and the number of SUDS to be maintained will rise gradually as new developments using SUDS are built. In the medium term, the expected savings of over £50 million from the transfer of private sewers to water companies, together with savings

from better local flood risk management, are expected to more than cover the rising costs of maintaining adopted SUDS.

We recognise that longer term funding must be in place from around 2018, and are considering a number of options to address the funding of SUDS maintenance in the long term.

The Bill does not focus on retro-fitting, but instead on incorporating SUDS in new developments and redevelopments. We hope that increasing numbers of SUDS in new building developments will also encourage local authorities, householders and sewerage companies to retro-fit as SUDS methods, materials, techniques and awareness improve.

One of the barriers to retro-fitting SUDS is that there have not been clear adoption arrangements in place for SUDS in the public domain. However, the Flood and Water Management Bill provides for the SUDS approving body to adopt SUDS.

As a further incentive, householders who use SUDS and do not need a connection to surface water sewer receive a rebate on their surface water charges. Site area charging for surface water drainage for non-household customers, which has been introduced by four of the ten water companies in England and Wales, also provides a direct financial incentive to install SUDS to reduce the site area liable to charges.

25. The Government should ensure that the legislative framework provides sufficient incentives for households and businesses to install rainwater harvesting and grey water systems; and also prevents further erosion of permeable surfaces.

The new requirement for approval of all drainage in all new developments and redevelopments will ensure that homeowners and developers incorporate SUDS and manage surface water runoff effectively. The National Standards will set out a range of SUDS options, including rainwater harvesting and the use of permeable, rather than hard-paved, surfaces. Best practice, clear requirements, examples and guidance will help understanding and delivery of SUDS. These measures will strengthen Department for Communities and Local Government policy incorporating permeable paving within permitted development rights.

On grey water systems, SUDS are designed to deal with surface water. Grey water systems, which relate to foul waste, fall outside the scope of the Bill.

The Code for Sustainable Homes did, though, establish a series of performance levels and standards for new homes, including a set of minimum performance levels for water use. Higher levels of the code encourage higher performance in key resource efficiency areas, of which water is one. The upper level of the Code (5/6) has a performance target of 82 litres per person per day; for which some use of grey or rain water will be required to meet the standard, using normal fittings. However, grey water recycling technology is not sufficiently well developed for mainstream installation.

26. The relationship between IDBs and local authorities remains crucial to effective local flood risk management. Defra's proposals are a blunt instrument if the intention is to enhance IDBs' environmental protection role and give local authorities greater say over the work of IDBs. While we accept the importance of IDBs working with local authorities to deliver local flood and coastal erosion risk management strategies, it is vital that IDBs' experience and expertise in preserving high quality agricultural land is maintained. Defra should consult with local authorities to establish whether the statutory framework governing IDBs provides sufficient flexibility to enable them to work effectively.

Following further discussions with local authorities, internal drainage boards and the Environment Agency, we do not propose to move responsibility for supervision of internal drainage boards from the Environment Agency to local authorities at the current time. The focus of the Bill introduced to Parliament is on flood and coastal erosion risk management and we will be seeking to make any wider reforms to internal drainage boards through subsequent legislation.

The Department believes that the proposed legislative framework provides ample flexibility for local authorities and other partners to work effectively to manage local flood risk. The requirement for all operating authorities to act consistently with the local and national strategies and co-operate with each other, together with the ability for authorities to enter into agreements for others to take on roles and tasks as part of developing and applying their strategies will be particularly important. Guidance will set out and reinforce the opportunities for working in this way.

27. There is a compelling argument that those who cause flooding should bear some responsibility for their actions, or failure to act. We recommend that Defra should include provisions in the Bill to encompass causing flooding as a statutory nuisance. Those provisions should provide the necessary protection for householders, while not creating an overly proscriptive regime for the farming community. Defra should ensure farmers and landowners have clear guidance and advice on the practicalities of minimising flood risk from their land.

There is evidence that land management practices and land use change can increase runoff at a local level, causing flood damage in certain circumstances. Those affected by runoff flooding do already have recourse to civil nuisance proceedings. Whilst we believe there are strong arguments for changes to legislation to make it easier to tackle runoff flooding, there are other solutions that need to be considered alongside the option of a new statutory nuisance. These options include the Common Agricultural Policy schemes cross-compliance requirements and extension of the remit of the agricultural land tribunals.

Currently, we have no evidence that measures under the Common Agricultural Policy may be insufficient to address this. However, the Department will consider further whether it would be appropriate to introduce a new statutory nuisance or other measures to require farmers to change management practices where it is clear that these are responsible for localised flooding.

We are continuing work to determine the best approach. We will also issue a factsheet to help victims of runoff flooding better understand how they can tackle the issue.

The Department is currently conducting research on the extent to which land management practices affect runoff. At present there is not sufficient evidence available to justify restricting land management practices for the purposes of managing runoff at catchment level. This could change in future, and the Department will continue to work on this issue. The Welsh Assembly Government is looking at a similar issue.

28. We recommend that Defra provide clear guidance on the obligations and responsibilities of riparian owners and provide practical advice on how they can meet their responsibilities for the maintenance of watercourses, rather than leaving these to emerge only through case law.

The Department agrees that it is important to ensure riparian owners are aware of their responsibilities. Clear guidance for riparian owners is available through the Environment Agency publication "Living on the Edge". The third edition of this was published in 2007 and is available from the Environment Agency website⁴ and offices.

This material is already made available by a number of local authorities and is likely to be further promoted by the national and local strategies. The Environment Agency has also undertaken to review the publication to take account of the changes to legislation proposed by the Bill, and through the strategies, including where appropriate advice on the roles of other organisations.

29. Defra should do more to promote flooding resilience at the most local level. The Bill should include a requirement on the Environment Agency and local authorities to include in their flood risk management plans a duty to promote resilience.

⁴ <http://www.environment-agency.gov.uk/homeandleisure/floods/31626.aspx>

The Department recognises the importance of promoting resilience as part of a long-term flood risk management strategy. The Bill now requires Secretary of State approval of the national strategy for England which will set out proposed measures, and the cost and benefits of different measures. Welsh Ministers will have a similar level of control as they will produce the strategy for Wales.

Local authority strategies will need to be consistent with the national strategy and in any event Ministers will have the power to give guidance direct to local authorities. In this way Government will be able to ensure that sufficient weight is given by the risk management authorities to developing resilience. The requirement to set out costs and benefits of the measures proposed also puts some pressure on the risk management authorities to consider resilience measures which may be more cost effective.

Local flood risk management strategies should identify areas where resistance and resilience approaches are likely to be more efficient than conventional approaches. The adoption of a wider definition of flood and coastal erosion risk management, together with funding changes will enable local authorities to promote these approaches more effectively, however a duty to promote resilience would not necessarily be appropriate in all locations (particularly where the chance of flooding is very small) and could take resources away from more effective flood risk management approaches.

30. The National Flood Forum is an example of what ordinary people can and will do to influence and control their flood risks. Those at risk of flooding need good information about what products and advice are available. Defra should consult the National Flood Forum and other local groups about the scope for more comprehensive advice for those at risk of flooding. The Department should explore the scope for these groups developing, with Defra funding if necessary, a system for reviewing and rating the effectiveness of flood defence products.

The Department agrees that those at risk of flooding need good information about what products and advice are available. The Department has worked with the National Flood Forum for a number of years and supported their work with local groups and contributing to wider policy development. The Welsh Assembly Government is also working with the National Flood Forum and supporting the development of its presence in Wales. There is already a range of information available to householders on flood risk and the Department is planning a focused piece of work to bring this together and identify whether there are any gaps which need filling.

There is an existing British Standard scheme for flood protection products. The test standard (PAS1188) was updated in March 2009 and includes requirements for manufacturers to include a test height and width on their products so that customers will know to what size of openings the products are suitable for.

31. The proposals for the water administration regime appear appropriate. We note the water industry's concerns that the provisions may affect investor perceptions. However, those concerns are common to many proposed changes to the regulation or administration of the industry and should not prevent the inclusion of provisions intended to protect consumers and preserve water supply. The principal purpose of the water industry is the supply of potable water and removal of wastewater. The regulator and the industry have a duty of care to ensure that those core functions are not jeopardised by water companies taking on other trading activities.

The Department is grateful to the EFRA Committee for its support for the provisions to amend the special administration regime for water companies.

The issue of investor perception was considered in the impact assessment on the proposed reforms that accompanied the consultation document. This said:

“Bringing in the rescue objective could also potentially reduce the cost of borrowing for water companies because there is a reduced risk of the business being sold if it gets into difficulties, but there are a large number of other factors to be taken into account by investors in capital markets so the reduced risk may not have much of an impact on actual costs.”

The special administration regime has been a feature of the regulation of English and Welsh water companies since privatisation and it is likely that investors will already factor in any risks around the regime in their decision-making process. The reforms that the Department is proposing will increase the options for the special administrator to produce a more satisfactory outcome to maximise value in the business while continuing to protect the interests of customers. This could have a positive impact on investors' decisions, but this will be one of many other risks that they would need to take into account.

On water companies taking on other trading activities, Ofwat works closely with relevant undertakers to ensure that they are able to properly carry out and finance their statutory functions. This helps to reduce the risk of water companies running into severe financial difficulties or failing to meet key statutory or regulatory requirements, but does not, nor is it intended to eliminate all risks of this occurring. However, Ofwat requires that the assets of water companies are ring-fenced to ensure that other trading activities within the group do not receive any subsidies from the water business or put the delivery of water and sewerage services at risk.

32. We recommend that when the Bill is introduced to Parliament it is accompanied by a statement setting out Ofwat's assessment of the risks to water industry investors of the Bill's proposed changes to the regulatory regime.

Ofwat has agreed that it will produce a statement as recommended by the Committee.

33. We accept the rationale for a process to alter standard licence conditions without excessive bureaucracy. However, we consider it proportionate for the provisions of Clause 234 to be balanced by a clear appeal mechanism that should be set out on the face of the Bill.

The Department welcomes the Committee's acceptance of the rationale for being able to alter standard licence conditions. In line with process adopted by other sectors subject to economic regulation, there are several safeguards included in the clause in the draft Bill:

- Ofwat would have a duty to consult all water companies and other interested parties on any proposed change to the standard licence conditions;
- The Secretary of State/Welsh Ministers would be able to direct Ofwat not to make the proposed change;
- Companies would be able to submit representations and/or objections to the proposed change;
- Ofwat would have a duty to consider all representations and/or objections and would only be able to make the proposed change if:
 - the percentage of companies objecting to the proposed change is less than a specified percentage; and
 - the combined market share of companies objecting to the proposed change is less than a specified percentage.

The Department considers that these safeguards mean that it would not be possible for Ofwat to push through licence modifications that the majority of water companies do not accept. Therefore an appeal mechanism associated with this power would be unnecessary and would create regulatory uncertainty for those water companies that had already accepted the change in their licences.

34. We agree that the period during which penalties can be imposed by the regulator should be extended. However, we consider it proportionate for the provisions of the Clause to be balanced by a clear appeal mechanism separate from the regulator.

We recommend that Ofwat assess how the imposition of penalties affects companies' cost of capital and that any increase in the cost of capital at future price reviews attributed to the imposition of penalties should not be passed on to the customer in the regulator's final determination.

The Department welcomes the Committee's agreement with the proposal to extend the period during which penalties can be imposed. Section 22E of the Water Industry Act 1991 already provides a right of appeal to the High Court against the imposition of financial penalties. This is in line with provisions in other sectors subject to economic regulation such as electricity, gas, railways and postal services.

Ofwat has had the ability to impose financial penalties since 1 April 2005. Therefore the risk of financial penalties is already a factor in investors' decisions. Financial penalties can only be imposed by Ofwat where water companies have breached their statutory obligations. Ofwat sets the cost of capital on the basis of a fully compliant industry. Where a company has breached its statutory obligations and faces a financial penalty that sum is met by its shareholders and is not passed on to customers.

35. We welcome the provisions in Clause 254. Much of south and east England suffer water scarcity, which is set to become more frequent and widespread. We note the concerns raised by the National Farmers' Union and recommend that, when using the powers under Clause 254, Ministers and water companies consider measures to mitigate the impact on agriculture.

The Department welcomes the support for proposals to widen the scope of the hosepipe ban powers and will take forward the clause proposed in the draft Bill. New non-essential uses will only be added to the hosepipe ban powers through an Order once further work has been undertaken to establish the costs and benefits both to water companies and also to their customers of adding those non essential uses.

Water companies will have the flexibility to limit the effect of a hosepipe ban by restricting its application in terms of timing, area, customers, practices and apparatus. The Water Industry Code of Practice sets out the principles by which water companies will operate to ensure that practices are consistent, transparent and proportionate.

36. Ofwat's price review mechanism does not provide sufficient incentives for water efficiency savings. We recommend that Defra include provisions in the Bill providing for time limiting of abstraction licences and water efficiency obligations on water supply companies. Such provisions are essential to achieve the vision set out in Future Water. In drafting these provisions Defra should consider their potential impact on the cost of water companies raising finance which would be borne by their customers. Defra together with the regulator, companies and financial institutions should consider how the legislation can be drafted to ensure the least detrimental effect on the water companies' ability to raise finance.

The proposals for mandatory time limiting of all abstraction licences have been subject to a separate consultation exercise. Government is considering the results of that and will issue a response in due course.

37. In a market without competition, Ofwat is right to be cautious about the impact of mergers on customers' interests. It appears that the Government and Ofwat are committed to competition in some form. However, it would be inappropriate for the regulator to prevent mergers purely to maintain their ability to compare companies' performance. Defra should review the water industry's merger regime with the intention of relaxing its conditions when greater competition is introduced. Defra should ensure that any changes to the merger regime do not reduce the protection for consumers.

Government launched a public consultation on the recommendations made by Professor Martin Cave's Review on 17 September. This included recommendations to reform the special merger regime.

As the Committee notes, the water sector is currently one of the few sectors which has a special merger regime. Under the special water merger regime, any merger where either the acquiring or the acquired water company has an annual turnover of £10 million or more is automatically referred by the Office of Fair Trading to the Competition Commission. This threshold can be changed by the Secretary of State using secondary legislation.

Government recognises that the wide diversity of companies in the English and Welsh water industry has greatly benefitted the sector, but we also agree that consumers and the environment could benefit through increased consolidation within the industry. Government is therefore consulting on the recommendations to increase the annual turnover threshold to £70 million and to introduce other changes to the regime.

However, the Department also recognises the importance of Ofwat's ability to be able to make meaningful comparisons between water companies as part of the periodic review process and when it carries out its other regulatory functions. The Department therefore strongly supports the Cave Review's recommendations that Ofwat should commission an independent review of the scope for making greater use of alternative data sources and statistical techniques and their impact on the loss of a comparator, and continue to refine its econometric modelling techniques to take advantage of the information from alternative data sources.

The public consultation will run until 18 December and it is our intention to include any legislative changes alongside reforms to the competition regime.

38. We do not accept Ofwat's argument that there is sufficient transitional flexibility in the regulatory regime to accommodate changes in charging schemes. We recommend that Defra explore including provisions in the Bill that create a subset of customers that could be excluded from the new charging method and which recognise the real world financial situation of not-for-profit organisations such as the Scouts, Churches and village halls.

The Department has repeatedly said that community organisations should not face disproportionate increases in water bills as companies switch to site area charging for surface water drainage. Such increases are not in line with Government guidance issued to Ofwat in 2000, nor Ofwat's more detailed guidance issued in 2003 to water companies. The Department has always said that we would give the companies and Ofwat time to come up with a fair solution whilst being clear that the Department would intervene to fix this problem if Ofwat and the companies involved did not.

The Department agrees with Ofwat that all customers connected to the surface water sewer should make a contribution towards the cost of removing and treating surface water where they use public sewers. This provides a financial incentive to reduce surface water runoff which can reduce the risk of surface water flooding, which is likely to increase in the future because of climate change. For this reason, where a charging scheme is based on surface area, we do not propose that any organisation should be wholly exempted from surface water drainage charges.

However, increases in bills of many thousands of pounds, for example, are clearly unaffordable for community and voluntary groups, who risk having to close or cut back significantly on the valuable services that they provide to society. That would be in nobody's interest.

The Secretary of State therefore announced on 28 September that Government will legislate to enable water companies in England and Wales to operate concessionary schemes for community premises for the purpose of surface water drainage charges, and require Ofwat to allow companies to exercise their discretion in the design and operation of schemes. This provision is included in the Bill currently before Parliament.

39. The provisions in this legislation can only be justified if the calculations in the impact assessments produce an overall net financial benefit. Despite Defra's assurances, we remain concerned that the impact assessments are insufficiently precise and provide meagre evidence to support their cost and benefit calculations. We note that Defra intends to do further work on the impact assessments—that is essential. Parliament will expect that, when the Bill is introduced, its accompanying impact assessments provide a clear, accurate exposition of the costs and benefits and how the funding will work, particularly in relation to the new roles and responsibilities for local authorities.

Government has strengthened the analysis underlying several of the impact assessments including an updated assessment by experienced consultants of the number of surface water management plans needed, staffing, SUDS and other costs for local authorities associated with local flood risk management. Similarly the analytical approach for the reservoirs impact assessment has been enhanced.

Government is confident that the revised impact assessments provide robust analyses of the overall impacts of the proposals and where appropriate have undertaken sensitivity analyses which show that a substantial net benefit will result in almost all cases. We have also summarised the costs and benefits for the individual impact assessments to provide an overall analysis for the Bill.

40. We are not convinced that local authorities will benefit from the transfer of sewers to the degree anticipated in the impact assessments. There remains some uncertainty about the costs of adopting and maintaining SUDS—until these questions are answered doubts remain about the impact assessments' robustness.

Government has strengthened the analysis for the calculation of new burdens for local authorities, which demonstrates that it is extremely unlikely that additional local authority expenditure will exceed the savings identified. We are confident that the assessment represents the best available evidence; it uses the upper end of the range of cost estimates and the conservative end of the range of potential benefit. The Department will monitor the situation as implementation proceeds, including local authority take-up of new powers and functions. The Department will ensure that any increased costs to local authorities are fully funded to avoid upward pressure on council tax.

To provide greater certainty and transparency, funding for the new lead local flood authority role and SUDS maintenance will be provided to local authorities as un-ringfenced area-based grants, so that local authorities will see how much is being provided to fund the additional roles.

41. We welcome the Government's announcement of funding to improve local authorities' skills. In its response to this report, Defra should provide an estimate of how many local authority staff will benefit from the additional funding; and how long it will take before local authorities have sufficient numbers of appropriately trained and qualified staff.

The Department has provided funding to enable local authority staff to join the Environment Agency foundation degree programme. It is also working with the industry to develop other training including an apprenticeship programme, and a network of skilled staff within local authorities. About 25 local authority participants were identified for the foundation degree programme this year, but it is difficult to estimate numbers benefitting from the other initiatives.

Within the impact assessment we estimated that on average each lead local flood authority would require between 1 and 3 staff members to undertake the SUDS and local flood risk management roles. Since there would be 147 lead local flood authorities, this totals between 147 and 441 additional staff across England needed to manage local flood risk and oversee SUDS. In Wales, we expect that a similar staffing level will be required, with between 1 and 3 staff required for SUDS and local flood management in 22 unitary authorities. So there would be 22 to 66 new staff required to implement these proposals in Wales.

Other activities are also being explicitly funded through new burdens, such as the designation of third party assets, and the mapping and assessing of drainage assets; these roles will also require additional staff. For the lead authority role, it is proposed that authorities are funded in accordance with the level of local flood risk, and so some authorities could be funded to recruit three or four times as many new staff as other authorities. Proposals will be consulted on through the Department for Communities and Local Government, local government finance settlement working group.

It is likely that these roles will be filled through a range of approaches including recruitment, contracting and secondment of experienced individuals, training of new staff and existing staff with relevant backgrounds and partnership working with organisations such as internal drainage boards.

The Department recognises that it will take some time to develop the necessary skills within local authorities and this is reflected in the assumptions we have made around the programme of work. We are working closely with the Local Government Association and others on skills and will continue to keep the situation under review.

42. Defra has further work to do on the Bill and time is short. Even if Defra have a Bill prepared for introduction immediately after the Queen's Speech there is little realistic chance of it reaching the statute book before the next general election. As a result Defra might welcome more time to consider how to improve the current provisions; as well as the inclusion of provisions to implement the Cave and Walker reviews' recommendations; and consolidate existing legislation as recommended by Sir Michael Pitt.

As stated in answer to the Committee's first recommendation, we do not want to delay changes that will improve protection to people's lives and property. We want to resolve immediately the deficiencies in legislation which the Committee rightly identified as needing urgent action.

Delaying certain aspects such as provisions to implement the Cave and Walker Reviews' recommendations will allow us more time to consider the issues which have not undergone the same extensive consultation and rigorous Committee scrutiny that the vast majority of the provisions in the Bill have. As mentioned, subsequent consolidation will still allow us to achieve Sir Michael Pitt's recommended single unifying act on floods legislation.

Our firm intention is that the current Bill will reach the statute book before the next general election. We hope that EFRA Committee members will join us in achieving that ambition and avoid a repeat of the terrible damage to homes and lives caused by flooding in 2007.

3. Plans for taking forward measures in the draft Bill in light of pre-legislative scrutiny and response to the public consultation

This section sets out how Government proposes to take individual policies forward in light of pre-legislative scrutiny and the public consultation. It is organised to match the structure of the consultation document, addressing the issues which came out most strongly from EFRA's recommendations and the public consultation.

3.1 Cross-cutting issues

3.1.1 Many issues raised by the EFRA Committee and through the public consultation refer to single policy areas in the draft Bill. Government's response to these is set out in the following sections of this document. However, several recommendations and responses are relevant across the draft Bill or fall outside of the specific issues consulted on. These are addressed below.

Length of consultation and scrutiny

3.1.2 Some respondents to the public consultation felt we had allowed too little time for responses on what was admittedly a wide ranging subject matter and a lengthy document. EFRA too complained of "insufficient time to pursue all of the issues as we might have wished". A few respondents also complained of a lack of clarity or of drafting errors in the document.

3.1.3 However, the timing of publication allowed at least the customary period normally allowed for consultation and for pre-legislative scrutiny. The concerns about the length of the consultation period was not borne out by the number and detail of the responses received.

3.1.4 Many of the policy elements of the consultation were familiar to stakeholders from previous strategy and consultation documents. The size of the document was inevitable given the many calls from stakeholders (including Sir Michael Pitt and EFRA) for comprehensive legislation. Publishing the draft Bill and wider consultation paper together was a strength; stakeholders welcomed the opportunity to influence the shape of final legislation at an early stage.

3.1.5 EFRA published their report on 23 September. Despite the constraints this has placed on our timetable for producing a 5th Session Bill. Government has considered very carefully EFRA's concerns in drafting the final Flood and Water Management Bill.

Speed and format of legislation

3.1.6 EFRA's main concern reflected in the PLS report was that Government would not be able to pursue a single Act covering all of the areas consulted on and that we would press ahead with a Bill. However, other stakeholders, including the Association of British Insurers pressed for urgent legislation in their responses to consultation.

3.1.7 Five of the Committee's conclusions and recommendations covered this ground. Our full response to these is set out in Section 2 of the document and in the response to the specific consultation questions on a single unifying act. We still retain the ambition for unified legislation on floods and on water, but we do not want to delay changes that will improve protection of lives and property. That is why we have pressed ahead with the Bill now before Parliament.

3.1.8 As EFRA recognises, there will be obvious timing constraints in the current Session and many competing priorities. In developing the Flood and Water Management Bill, we have focused on the key, most urgent provisions which are ready to be taken forward.

We will continue to advance policy in areas where thinking is less developed, or where we are not yet able to take account of the independent policy reviews by Professor Martin Cave and Anna Walker. We will bring forward this legislation when ready, as Parliamentary time allows.

- 3.1.9 Our ultimate ambition remains to bring together legislation to make it easy to use. To this end we will consolidate legislation on reservoirs alongside the Flood and Water Management Bill. We also intend to consolidate provisions relating to flood and coastal erosion risk management in the Land Drainage Act 1991, Coast Protection Act 1949, Water Resources Act 1991 and Environment Act 1995 (all as amended by the Flood and Water Management Bill), with new flood and coastal erosion risk management provisions in the Bill, and with the regulations implementing the Floods Directive. We will take a similar approach on subsequent legislation.

Territorial extent

- 3.1.10 The EFRA Committee rightly pointed out that river catchment areas do not neatly align with national borders so close co-operation with Wales and Scotland would be necessary.
- 3.1.11 The Welsh Assembly Government and the UK Government have been working closely together and many of the proposals for England will also apply in Wales. Where proposals differ for Wales, this is made explicit in the text under each of the policy areas in Sections 3 and 4 of the document.
- 3.1.12 In general, where new powers are being created in England, it is intended that similar powers will also be created in Wales. The UK Government will have relevant functions for England and for water companies wholly or mainly in England. The Welsh Assembly Government will have functions for Wales and for water companies based wholly or mainly in Wales.
- 3.1.13 In addition to the questions raised throughout Sections 2-5 Welsh Ministers also sought views in relation to both the delivery framework for flood and coastal erosion risk management within Wales and wider issues on water policy in Wales, which were set out in Annex A of the consultation document.
- 3.1.14 The Flood and Water Management Bill does not generally apply to Scotland. The Scottish Government has already passed legislation through the Scottish Parliament on several of the flood issues addressed by the Bill currently before Parliament. The Flood Risk Management (Scotland) Act received Royal Assent on 16 June 2009.
- 3.1.15 The Bill does include two provisions which apply to Scotland. One provision that triggers the Sewel Convention. This provision relates to cross-border reservoir safety. Permission from Scottish Ministers to promote a legislative consent motion on this issue was granted on 22 October.
- 3.1.16 Another which applies to Scotland only – a clause to abolish the Scottish Fisheries Committee. This clause does not trigger the Sewel Convention. The Fisheries Committee, which was set up under a pre-devolution enactment, remained a reserved matter post-devolution in 1999.
- 3.1.17 Neither the draft nor the final Flood and Water Management Bill currently before Parliament, extend to Northern Ireland. The Northern Ireland Assembly is preparing unrelated draft secondary legislation for flood risk management.

Impact assessments

- 3.1.18 EFRA raised a concern that the impact assessments accompanying the draft Bill were insufficiently robust. They also questioned savings anticipated from the transfer of private sewers and the costs of adopting and maintaining SUDS.

- 3.1.19 Since publication of the draft Bill, we have reviewed and strengthened the impact assessments accompanying the Bill. In particular, the analysis underlying the local flood risk impact assessment includes an updated assessment by experienced consultants of the number of surface water management plans needed, staffing SUDS, and other costs for local authorities associated with their new roles.
- 3.1.20 The Department is confident that the revised impact assessments provide a robust assessment of the overall impacts of the proposals and have undertaken sensitivity analyses which show that a substantial net benefit will result in almost all cases.
- 3.1.21 The Department has strengthened the analysis for the calculation of new burdens for local authorities, which demonstrates that it is very unlikely that additional local authority expenditure will exceed the savings identified. The Department will monitor the situation as implementation proceeds and ensure that any increased costs to local authorities are fully funded to avoid upward pressure on council tax.

Flood risk reduction targets and long term investment

- 3.1.22 In response to the consultation the insurance industry called for long term legally binding targets for reducing the number of homes and businesses at different levels of flood risk. To ensure targets are met, insurers also called for a long term investment strategy for flood risk management.
- 3.1.23 However, it is worth noting legally binding targets are not appropriate given the permissive nature of legislation and need to retain flexibility to respond to our improving understanding of flood risk. Government investment in flood and coastal erosion risk management has more than doubled in the last 10 years (with a further £20m brought forward to this year).
- 3.1.24 Next financial year, a total of £780m is expected to be spent, compared to £600m in 2007/08, and £310m in 1997/98. The number of households protected has increased alongside this increase in investment, with 250,000 homes afforded better protection in the last decade.
- 3.1.25 Government has a target to move 145,000 households to a lower flood probability category by March 2011. The Environment Agency and other operating authorities are on track to exceed this target and provide better protection to 160,000 homes. Targets beyond 2011 will be considered as part of the UK Government's next spending review.
- 3.1.26 The Environment Agency published its report to the UK Government on a long-term investment strategy for England in June this year. This report set out the level of investment needed over the period from 2010 to 2035 to adapt to climate change (based on UKCP09 data, central estimates) and manage existing defence assets.
- 3.1.27 The report covered flooding from rivers and the sea and coastal erosion, presenting a proposed set of policy options and their associated costs, benefits and residual risks. This fulfilled a commitment by Government under the 'statement of principles'; an agreement between Government and the insurance industry, renewed in July 2008, that demonstrates a joint commitment to enable flood insurance to continue to be as widely available as possible.
- 3.1.28 The Welsh Assembly Government is working with the Environment Agency to develop a long-term investment strategy for Wales that takes account of the policies of the Welsh Ministers and the recent UKCP09

Flood management priorities

- 3.1.29 Some respondents to the consultation complained of a comparative lack of measures relating to coastal erosion. Others questioned the apparent absence of flooding from sewers from the draft Bill and what they perceived to be a lack of importance in Government's eyes compared to the distressing experiences of individuals. Some respondents felt that Government was reacting too strongly to the experience of the 2007 floods in concentrating on surface water flooding when fluvial flooding was still the major flood risk in their eyes. Better maintenance and dredging of river channels was a common call, with some respondents feeling that maintenance had suffered since the Environment Agency had taken on responsibility for critical ordinary watercourses in recent years.
- 3.1.30 The Bill provides for a wider range of approaches to be used in managing risk from coastal erosion. These measures sit alongside wider work looking at how coastal communities can successfully adapt to the impacts of coastal change, and Government's role in supporting this. In particular, the Department's Coastal Change consultation and associated pathfinder programme which were launched on 15 June, and the parallel consultation from the Department for Communities and Local Government on new planning policy on development and coastal change.
- 3.1.31 Flooding from sewers is currently the responsibility of sewerage undertakers (water companies) and there is no intention to change these responsibilities. However the lead local flood authority will consider flooding from sewers caused by excessive rainfall, along with all other risks, and will have a strategy to help co-ordinate the management of these. All the relevant local bodies will work together to develop and implement these strategies.
- 3.1.32 The traditional work of defending people and their property from flooding from rivers and the sea remain central. However, it is not sufficient to meet all potential threats as experience in 2007 showed.
- 3.1.33 The experience in 2007 is taken seriously by Government and the extent of flooding from surface water was on a scale not experienced before. Evidence suggests that the effects of climate change will make conditions like those of 2007 more frequent. The Flood and Water Management Bill is intended to improve the management of all forms of flood risk: from rivers, from the sea, from sewers (when there is excess rainfall), from surface runoff and from groundwater.
- 3.1.34 Flooding from surface runoff and groundwater in particular, were not the responsibility of any authority; so it was particularly important that this gap was addressed and clear responsibility assigned. In the longer term, Government will work with the Environment Agency to better understand risk from all forms of flooding both now and in the future. This will inform how resources should be allocated in a way that is proportionate to the risk.
- 3.1.35 Historically, regular dredging of some river channels was carried out to enable navigation, and much of this activity has now generally ceased. The operating authorities (principally the Environment Agency, but also local authorities and internal drainage boards) undertake prioritised programmes of maintenance work on watercourses, including cleaning and dredging where appropriate. Otherwise responsibility for clearance lies with the land owner. The Environment Agency have produced information about dredging activities which can be found at: <http://www.environment-agency.gov.uk/>

Prevention and resilience

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

- 3.1.37 The insurance industry welcomed Planning Policy Statement 25 (PPS25) and believe it has strengthened previous planning guidance. However, they also believe that it could be strengthened further and should be applied more rigorously, and where developments are built in flood plains they need to be adequately defended.
- 3.1.38 A key aim of Government policy is to ensure that development is located away from flood risk wherever possible, and to prevent inappropriate new development in areas at risk of flooding. This is achieved through the assessment of flood risk at all levels of the planning system, taking account of all sources of flooding and the expected impact of climate change.
- 3.1.39 It is not Government policy to prevent all development in flood risk areas. That would be unrealistic. Ten per cent of England (land, people, homes) is in high flood risk areas and almost seven per cent of the land area of Wales is at risk of flooding. We cannot just write-off these communities.
- 3.1.40 Sir Michael Pitt's Report on the lessons learned from the 2007 floods, supports PPS25 planning policy and recommends that it should be rigorously applied by local planning authorities. PPS25 is supported by a Practice Guide to assist planners in implementing the policy and the UK Government will be monitoring closely its effectiveness.
- 3.1.41 Planning policy in relation to flood risk management in Wales is governed by Technical Advice Note (TAN) 15. This is a well established and well understood policy and kept under constant review.
- 3.1.42 PPS25 and TAN 15 will help reduce flood risk to new development and deliver the level of house building we want to see safely and without exposing people to unnecessary flood risk. Where, exceptionally, homes have to be built in flood risk areas to achieve wider objectives, the new developments will have to be safe and less susceptible to flood damage.

Flood response

i. Who to contact?

- 3.1.43 The National Flood Forum consultation response called for a single point of contact on all flood related matters – something like a 'one stop shop for flooding' – to address the frequent complaint that flood victims find they have to make many telephone calls before an organisation will own a problem. The Bill addresses this by providing clear roles and responsibilities for different organisations, and a duty for the lead local flood authority to investigate flood incidents where the cause is not clear.
- 3.1.44 In addition, it should be noted that, the management of a flood emergency will involve several agencies at different stages in the event. The UK Government is committed to the development (by June 2010) of a National Flood Emergencies Framework which will provide members of the public with a detailed description of the roles and responsibilities of each organisation involved in planning for, the management of, and recovery from, a flood emergency. The Welsh Ministers will bring forward the Wales Flood Response Framework by April 2010.

ii. National publicity campaign

- 3.1.45 Both the National Flood Forum and the insurance industry called for increased awareness raising, possibly through a national campaign to inform the public about the new roles and responsibilities of flood authorities and educating people to protect themselves against the risk of flooding.
- 3.1.46 The Environment Agency has run information campaigns on flood risk for a number of years and continues to improve the flood prevention and mitigation advice available to householders and businesses as part of this. However, the approach has changed in light of the Pitt Review. For example, it has identified eight Local Resilience Forums throughout

England and Wales where it will work with partners and local communities to raise awareness of flooding, and of measures to mitigate the impacts. Communities are also being encouraged to develop flood plans, initially focusing on vulnerable sectors.

iii. Emergency plans

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

iv. Flood warnings

3.1.48 The National Flood Forum felt that flood warnings should relate to specific communities, not river lengths. They also said that warnings should specify the water levels likely to be reached, related to known local property floor levels; and that the Environment Agency should map these floor levels where the information does not already exist. A range of development work is taking place for flood warnings.

3.1.49 The Environment Agency is currently developing new flood warning codes and messages. These warnings will provide people with a more intuitive service and locally specific information, such as river levels and timing of the flood. The Flood Forecasting Centre, the Met Office and the Environment Agency are developing forecasting techniques that will significantly improve the provision of information on where and when it will flood.

v. Role of the emergency services

3.1.50 Responses from the emergency services and employee organisations sought greater clarity on their role. The Fire Brigades Union response suggested it would be a mistake for Government to delay implementing the statutory duty on Fire and Rescue Authorities to respond to flood incidents. The Union supports a specific duty to respond and for the service to play a wider role in flood management.

3.1.51 The UK Government believes that the duties defined in the Civil Contingencies Act provide sufficient clarity on the roles and responsibilities of the emergency services in the event of a flood incident.

vi. Flood wardens

3.1.52 The National Flood Forum felt that local flood risk management strategies should encourage the introduction of local flood warden schemes; and that the Bill should therefore require the Environment Agency to develop a national framework for flood warden schemes within the national strategy for England. Developing the national strategy will provide an opportunity for the costs and benefits to be assessed and compared with other measures. However, it is likely that consideration of the role for flood wardens should be a matter for the local resilience forums as they review and/or develop their local flood management strategies.

Surface water drainage charges

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

3.1.54 The UK Government has repeatedly said that community organisations should not face disproportionate increases in water bills as companies switch to site area charging for surface water drainage. Such increases are neither in line with Government guidance issued to Ofwat in 2000, nor Ofwat's more detailed guidance issued in 2003 to water

companies. We have always said that we would give the companies and Ofwat time to come up with a fair solution whilst being clear that Government would intervene to fix this problem if Ofwat and the companies involved did not.

- 3.1.55 Increases in bills of many hundred percent are clearly unaffordable for community and voluntary groups, who risk having to close or cut back significantly on the valuable services that they provide to society. That would be in nobody's interest. The Secretary of State therefore announced on 28 September that Government will legislate to enable water companies in England and Wales to operate concessionary schemes for community premises for the purpose of surface water drainage charges, and require Ofwat to allow companies to exercise their discretion in the design and operation of schemes. This provision has been included in the Bill now before Parliament.

3.2 New approaches to flood and coastal erosion risk management

Definition of flooding

- 3.2.1 Whilst flood defence against flooding from rivers and the sea remains crucial, respondents gave widespread support to the new wider definitions of flood and coastal erosion risk management and the sources of flooding. However, the Association of Drainage Authorities represented a view that the definition was flawed because "it does not include waterlogging or saturation of soils within 600mm of the ground surface".
- 3.2.2 The definition of floods in the draft Bill reflects the definition in the European Floods Directive. It will allow for the management of water below ground level if the purpose of that management is to avoid the potentially harmful impact of land becoming covered by water. It is important to note, moreover, that the definition is inclusive rather than exhaustive. Therefore, the definition allows "flood" to have its natural meaning, and then specifically include things which accord with the provisions of the Floods Directive.
- 3.2.3 Relevant authorities may also need to manage water below ground level for agricultural or environmental purposes. Drainage for agricultural reasons is allowed by the Land Drainage Act 1991 and will be permitted for environmental reasons by the environmental clauses in the Bill. Since these provisions are covered elsewhere in the Bill or are already in place, we have not changed the definition.

Definition of risk management and implication for the approaches taken

- 3.2.4 Responses showed widespread support for including both the probability and the consequences of flooding and erosion in the definition of risk. However, there were also strong calls for the greater integration of flood and erosion risk management with other social, economic and environmental objectives. A significant body of opinion (especially amongst environmental groups) considered the definition of risk management limited insofar as it would restrict authorities to assessing and managing only the harmful consequence of flood and erosion. Instead these respondents felt that the potentially beneficial effects in some cases of flooding for biodiversity, archaeology or recreation for example should also be assessed.
- 3.2.5 In general, environmental groups, their supporters and some authorities preferred what they described as a more integrated approach whereby authorities would be charged with managing flooding and erosion to both reduce risks to people and property and further sustainable development. They considered that this would lead to greater benefit than the definition in the draft Bill. Consultation responses also called for stronger links with the town and country planning systems, water quality management under the requirements of the Water Framework Directive and environmental objectives.

3.2.6 On the other hand some stakeholders felt that the overall approach was being downgraded from flood defence to flood risk management. While this is a misunderstanding of the purpose of the Bill, it emphasises the need for clarity. In fact, flood defence is an important part of broader flood risk management.

3.2.7 Government's main objective is to reduce the adverse impacts of flooding and erosion. However, we aim to do so in ways which also "deliver the greatest environmental, social and economic benefit, consistent with the Government's sustainable development principles". We also want to address the calls for greater clarity on how the new arrangements would work in practice. We have therefore added clauses to:

- give greater clarity on what national and local flood and erosion risk management strategies must cover;
- require the Secretary of State and Welsh Ministers to approve the respective national strategies and provide guidance on its content;
- require the inclusion in strategies of a statement as to how environmental objectives will be achieved through the management of flooding and erosion risk; and
- introduce a sustainable development duty in respect of these functions on all relevant authorities under the Bill – except for:
 - i. water companies (as their regulator Ofwat is already subject to such a duty); and
 - ii. the Environment Agency (which has an existing duty in discharging all its functions, including flood and erosion risk management, "to protect or enhance the environment, taken as a whole, so as to make a contribution towards attaining the objective of achieving sustainable development").

We will also ensure that the proposed changes to legislation are effectively communicated to stakeholders.

3.2.8 The EFRA report reflected the views of a number of consultation responses in saying that the national strategy is the keystone of the arrangements in the Bill and in calling for greater detail on what the strategy should cover. The Bill aims to do so by setting out what the strategies for England and Wales must at a minimum include (see section on roles and responsibilities).

Power to do environmental works

3.2.9 Changes have been made to clauses which allow relevant authorities to carry out environmental works. This is to answer comments from some authorities that the conditions in the draft Bill made the powers unworkable. Respondents explained that because any harmful effect, no matter how small, would mean the power could not be exercised; even if that harm were more than outweighed by beneficial effects to wildlife or recreation for example. The clause now allows for the power to be exercised where the balance of effects is positive. The scope of these powers has also been extended to include the preservation of cultural heritage, landscape and people's enjoyment of these features.

Enabling a wider range of approaches

3.2.10 Most respondents were content that the Bill should enable a wider range of approaches to managing the risk of flood and coastal erosion. Few could think of approaches that the draft Bill would not allow, some respondents felt that more should be done to require authorities to consider soft engineering and adaptive approaches. The EFRA Committee also recommended a formal duty to promote resilience.

- 3.2.11 Government is promoting a wide range of alternative management techniques. Some are about resilience, in the sense of minimising impacts, and others are about defence. However, we do not consider it appropriate to prescribe what these should be on the face of the Bill. Guidance can, if necessary, be given to the Environment Agency and local authorities by the Secretary of State and Welsh Ministers if there is insufficient emphasis on resilience.
- 3.2.12 However, we envisage that the wider meaning of risk management as well as the usual constraints on finances will steer authorities towards such an approach in any event. Resilience is an important part of the flood and coastal erosion risk management toolkit. However, we do not think there should be a specific duty to promote resilience when there would be no such duty in relation to other solutions that manage flood risk.

3.3 Future roles and responsibilities

Environment Agency strategic overview

- 3.3.1 The general view from the public consultation was that the Environment Agency's strategic overview role for England was clear and correct and that the relevant provisions relating to the component parts would enable the objectives to be met. Many respondents felt that a national strategy was needed to ensure a cohesive response to flood risk. However, although a national strategy was generally felt to be a good thing, most respondents still felt that local level strategies also had their place in the system and should not be overlooked.
- 3.3.2 There appeared to be some surprise that the strategic overview was not already in force. In fact, parts of the strategic overview are already being implemented under current powers, and the intention of the Bill is to provide a clearer and more explicit framework for this purpose.
- 3.3.3 The Environment Agency was supportive of the establishment of a clearer legal framework for the strategic overview role for the organisation. However, they took the view that a strategy of this significance, which will underlie all local strategies and guidance, should be formally approved by the Secretary of State.
- 3.3.4 The EFRA Committee took the view that the strategy needed to be better defined in the Bill. They recommended that this should be done on the face of the Bill or through order-making powers. The Committee also recommended that the strategy be reported to Parliament.
- 3.3.5 We have retained the Environment Agency's strategic overview role for England in the Bill. In exercising its overview of local flood risk management, it may require information and reports from local authorities. It is envisaged that the Environment Agency will put together guidance on what the duty to provide information and the duty to co-operate will mean in practice. This will need to be approved by the Secretary of State and we envisage that in this way we can minimise reporting burdens on local authorities and ensure that information that needs to be collected is proportionate, appropriate and efficient.
- 3.3.6 To reflect the Environment Agency's comments and to ensure that there is sufficient governmental input into the national strategy for England, the Bill now provides for the Secretary of State to approve, amend or reject the national strategy for England.
- 3.3.7 In order to provide clarity on the strategy's content, the Bill now sets out explicitly the minimum contents of the strategy. This ranges from setting strategic objectives to stating how these objectives should be met, as well as how and when the strategy is to be reviewed. The Bill also now requires the Secretary of State to lay the approved strategy before Parliament.

Environment Agency consultation as part of preparing or publishing the national strategy for England

- 3.3.8 Internal drainage boards and district authorities were concerned about not being closely involved in the Environment Agency's development of the strategy. Respondents including the Environment Agency overwhelmingly agreed that it should consult on the strategy before publishing. Many respondents also called for as wide ranging consultation as possible.
- 3.3.9 To reflect these concerns the Bill now contains an explicit duty for the Environment Agency to consult other risk management authorities, the regional flood and coastal communities and the public on the national strategy for England.

The policy position in Wales

- 3.3.10 The Welsh Assembly Government consulted on proposals for flood and coastal erosion risk management in Wales in Annex A to the consultation on the draft Bill. Within Annex A the Welsh Assembly Government proposed that the Welsh Ministers would retain their strategic responsibilities for flood and coastal erosion risk management, with the Environment Agency given an enhanced oversight role for all flood and coastal erosion risk management in Wales.
- 3.3.11 The majority of respondents were in favour of this division of responsibilities, believing that they were appropriate for the needs of Wales.
- 3.3.12 While not originally proposed within the consultation there was strong support for the Welsh Ministers to produce a national strategy for flood and coastal erosion risk management in Wales, and we have included provisions within the final Bill to that end. The minimum content of the national strategy for Wales will be specified on the face of the Bill and the strategy will be subject to public consultation. When published, a copy will be laid before the National Assembly for Wales and made available on the Welsh Assembly Government website.
- 3.3.13 Respondents supported giving the Environment Agency an enhanced oversight role in Wales. It was felt generally that this would ensure consistency in the co-ordination of flood and coastal erosion risk management activities. Respondents also agreed that this would allow the Environment Agency to better support the Welsh Ministers and we have included provisions within the draft Bill to bring this forward.

3.4 Main river mapping

- 3.4.1 Most respondents were in favour of placing a duty on the Environment Agency to maintain the main river map and to provide reasonable facilities to inspect the map. Many suggested that the maps should be readily available to the public by incorporating them into existing online flood maps.
- 3.4.2 It is not proposed to include these provisions in the current Bill as change is not needed urgently. Assuming we have further legislation, Government does not propose to make any major changes in the proposed clauses set out in the consultation document. However, we will look further at the clause that relates to making the maps available to consider whether this provision should simply state that these maps should be published on a publicly accessible website. We will seek to provide for this as soon as is reasonably possible.

3.5 Local flood risk management

3.5.1 Sir Michael Pitt's Review recommended a new statutory role for local authority: to be accountable for the delivery of co-ordinated local flood risk management. He recommended that county councils and unitary authorities (known as the lead local flood authorities in the draft Flood and Water Management Bill) were the bodies considered most suited to carry out this role and should positively tackle local flooding by working with all relevant bodies and establish who owns, or is responsible for, what locally.

Lead local flood authority strategy

3.5.2 The draft Bill set out that the lead local flood authority should lead the development and implementation of a strategy for local flood risk management across their area. Local flood risk is defined in England and Wales as covering surface runoff, ground water and minor watercourses and taking account of any effect on these from other sources of flooding.

3.5.3 The draft Bill also required the local flood risk management strategy to be consistent with the national strategy for England developed by the Environment Agency and that other relevant authorities with flood risk management functions should act consistently with local and national strategies in England.

3.5.4 Water companies and Ofwat have raised concerns that the requirement that they act consistently with local strategies might mean that water companies would be bound to fund works that would not otherwise be built on existing criteria. Comments were also frequently made about a lack of clarity on what the lead local flood authority strategy was or how it would work, particularly in relation to a hierarchy with the Environment Agency strategy. The EFRA Committee echoed this concern.

3.5.5 To clarify this, the Bill now sets out the minimum contents of a local strategy. This will be supplemented through a new power for the Secretary of State to provide guidance which may, amongst other things, set out in more detail how the Environment Agency national strategy and the local strategy should interact. This guidance should ensure that local authorities are left with sufficient discretion and flexibility at a local level.

3.5.6 The Bill now also clarifies the lead local authority's functions for the strategy by expanding the wording used in the draft Bill. It requires strategies to be developed, maintained, applied and monitored.

3.5.7 There is also new wording to reflect Ofwat's concerns about the Bill being inconsistent with its statutory responsibility for regulating capital expenditure in the water industry. This will mean that water companies will be required to co-operate and to act consistently with the national strategy. They will have a lighter duty to have regard to the local strategies.

3.5.8 This will mean that unless they can give good grounds for doing otherwise, the water company will need to carry out its function consistently with the wider objectives for local and national flood risk management. Government will continue to work with Ofwat to ensure water companies contribute to local strategies and the delivery of objectives, and that the national strategy and duty to co-operate are considered as part of the periodic review of price limits.

3.5.9 The Bill also now requires lead local authorities to consult the Environment Agency, the public and relevant local authorities, internal drainage boards, water companies and highway authorities, as well as regional flood and coastal committees on the content of the local strategy. This will supplement other public engagement, for example on the preparation of surface water and other management plans.

Resourcing and capacity

- 3.5.10 Responses to the public consultation demonstrated widespread support for county councils and unitary authorities taking a lead role for local flood risk management in England.
- 3.5.11 There was also a consensus across stakeholders in England and Wales on the need for adequate resourcing and capacity building to allow the lead local flood authority to take on this new role. The EFRA Committee focused on the skills of local authority staff and their ability to carry out the new functions. The Local Government Association contested the funding assumptions made and said much more work needs to be done to assess the full costs of the Bill proposals and any related savings for local authorities.
- 3.5.12 The Department has reviewed its assessment of new burdens on local authorities and strengthened the underlying evidence. The new assessment continues to show that it is unlikely that the additional funding required will exceed the savings available. The transfer of private sewers to water companies is expected to save local authorities at least £50m a year based on conservative assumptions.
- 3.5.13 These funds, together with existing budgets and savings as a result of better flood risk management, more than meet the additional funding requirements until at least 2018. The Department will monitor the situation as implementation proceeds, including local authority take-up of new powers and functions, and ensure that any increased costs to local authorities are fully funded to avoid upward pressure on council tax.
- 3.5.14 Policy proposals for building capacity and skills are being developed with local authorities and others and implemented to support the new role in the short and longer term including information portals, training programmes, apprenticeships and new national vocational qualifications.

Lead local flood authority and partnership working

- 3.5.15 Most consultation responses supported the lead local flood authority role in England. There was also strong support for partnership working with other tiers of local authority, internal drainage boards, Environment Agency and water companies. The Local Government Association strongly supported greater flexibility at a local level with local authorities within an area being in a position to select an appropriate lead authority which would then operate through a strategic flood group.
- 3.5.16 The EFRA Committee recommended that the roles of the different tiers of local authorities and their responsibilities should be clarified, whilst allowing the flexibility for pragmatic local solutions and partnerships. The EFRA Committee also recommended that Order-making powers should be included to allow the Secretary of State to alter the tasks to be undertaken by local authorities following full consultation.
- 3.5.17 The EFRA Committee also drew attention to the importance of differences in administrative and water catchment boundaries and questioned how management will be joined up across those boundaries. This opinion was supported by district authorities and internal drainage boards who also mentioned the need for flexibility in arrangements.
- 3.5.18 Government agrees with Sir Michael Pitt's Review that it is vital to have a clear local responsibility for making things happen. However, this does not need to be inconsistent with partnership working or with the emergence of any number of different working arrangements locally. The policy position has been set out in the response to the EFRA Committee's recommendation 7 in Section 2.
- 3.5.19 We have nonetheless reviewed the draft Bill's provisions. In order to address concerns about flexibility and allowing for pragmatic local solutions, the Bill makes explicit the scope

for lead local authorities to delegate powers by agreement to other flood risk management authorities. The only constraint on this is that while lead local authorities can delegate (e.g. to district councils or internal drainage boards) much of the work in preparing and implementing local strategies, county and unitary local authorities will remain responsible for ensuring strategies are put in place and for the key decisions to be taken.

- 3.5.20 The Bill also now enables the Environment Agency, through its guidance making power, to provide guidance on the duty to co-operate. This guidance will also encourage effective partnership working. Government is keen to ensure that all relevant organisations engage effectively in local partnership. In the case of water companies we will be ensuring that this is reflected in the social and environmental guidance that we provide to Ofwat.
- 3.5.21 In line with the EFRA Committee's recommendation, it is proposed to give the Secretary of State powers to alter the remit of local authorities so that district councils, for example, could be given responsibility for local flood risk management, or specific associated functions.
- 3.5.22 We believe these changes largely address the Local Government Association recommendation for greater local flexibility, by strengthening the provisions for partnership working. Retaining a clear lead, though, ensures that areas do not suffer a leadership vacuum in respect of local flood risk.
- 3.5.23 In addition, the national strategy or national guidance will cover how authorities should take into account adjacent administrative and wider geographic and water catchment boundaries in managing flood risk in their areas. The Department will work with local authorities and others in developing this guidance.
- 3.5.24 The EFRA Committee also pointed to the mismatch between political boundaries and catchments. Whilst Government considers EFRA's and the district authorities' concerns about the mismatch between political boundaries and catchments to be important, it nevertheless takes the view that voluntary and pragmatic arrangements can address this.
- 3.5.25 There is no need for prescriptive legal provisions which risk imposing inappropriately, a one-size fits all approach. In addition, the regional flood defence committees, (to be renamed regional flood and coastal committees), would provide a forum for joint working at a regional level.

Managing ordinary watercourses

- 3.5.26 The majority of respondents felt that district authorities and internal drainage boards should be able to continue to manage flood risk from ordinary watercourses, taking account of local and national strategies.
- 3.5.27 A few internal drainage boards felt that a lack of Environment Agency involvement went against the general theme of the Pitt Review and made the process of managing ordinary watercourses more complicated. Local authorities also argued that in areas where there are no internal drainage boards, this role should lie with the lead local flood authority.
- 3.5.28 Some county councils commented that the lead local flood authority should have the power to regulate ordinary watercourses, with a power to delegate the work to internal drainage boards and district local authorities. Most local authorities felt that county and unitary authorities should be able to act in default of district authorities and internal drainage boards.
- 3.5.29 In light of the comments made, the Department has decided to retain the Environment Agency in its role of supervising internal drainage boards and consenting to works they undertake. District authorities and internal drainage boards will continue to manage ordinary watercourses.

3.5.30 The Environment Agency and lead local flood authorities will be able to delegate most of their functions by agreement. The Bill now allows consenting powers to be delegated. This will mean upper tier authorities will be able to delegate direct responsibility for consenting of third party works; enabling district authorities and internal drainage boards to have effective control of the watercourses they manage.

Sea flooding

3.5.31 Most respondents agreed that local authorities should seek the consent of the Environment Agency in order to undertake any sea flooding works. In light of the comments made, Government agree with this proposal.

Duty to investigate, maintain an asset register and emergency powers

3.5.32 The draft Bill set out a duty on the lead local flood authority to investigate flooding incidents (where no one accepts responsibility to manage them). It also required lead local flood authorities to maintain an asset register detailing the ownership and state of repair of significant drainage and flood management assets.

3.5.33 The consultation responses in England and Wales on these proposals showed strong support, from all stakeholder groups, for giving the lead local flood authorities:

- emergency powers;
- powers of entry; and
- the power to act, where others failed to, and recover costs.

Consultees generally agreed that the lead local flood authorities would be well placed to take prompt action where a relevant district council or internal drainage board failed to act in appropriate circumstances.

3.5.34 Current legislation allows the Secretary of State to direct the Environment Agency to exercise a flood and coastal erosion risk management function when necessary. We believe this power is still needed. However, in response to the views expressed in the consultation, the Bill will extend this power in England and Wales to cover any of the specified “relevant authorities”, not just the Environment Agency.

3.5.35 In line with the local government performance framework, local government and its partners have the prime responsibility for managing performance within their local areas, identifying problems at an early stage and taking action to address them. As lead local flood authorities will have a duty to investigate flooding incidents they would highlight where action is needed and by whom. Where problems are critical or long standing the Secretary of State would then be able to direct that body to take action.

3.5.36 Where this does not happen or it is otherwise inappropriate to direct this body to act, the Secretary of State and Welsh Ministers will have power to direct another relevant authority to step in. This latter authority will be able to recover its costs, where that is deemed appropriate by the Secretary of State and Welsh Ministers.

Lead local flood authority reporting arrangements

3.5.37 The consultation asked whether all lead local flood authorities should be required to produce annual reports on the actions they take to manage local flood risk. Relatively few respondents supported this. Comments reflected the proposal’s lack of clarity on the level of detail and the purpose of the report and some respondents therefore felt unable to offer a view. Concerns were raised that annual reporting would be very burdensome to lead local flood authorities.

3.5.38 Without a requirement to report there could be little impetus for actions to be taken and plans to be developed. Reporting will also act as a check on the delivery of the EU Floods Directive. However, the Department recognises the concerns raised about reporting requirements and has decided that rather than requiring for lead local flood authorities to report regularly to the Environment Agency, they should report to the Environment Agency under the duty to co-operate and provide information (set out in 3.5 below). Reporting arrangements will be agreed in consultation with lead local flood authorities and set out as necessary in the Agency's national guidance on the delivery of the local strategy. The information required will be proportionate and appropriate and the processes introduced will need to be efficient.

The roles of local authority overview and scrutiny committees

3.5.39 Local authorities have existing powers under the Local Government Act 2000 to establish overview and scrutiny committees relating to any of their functions and invite persons to attend these meetings.

3.5.40 The consultation asked whether the Environment Agency should provide support and advice to the local overview and scrutiny functions as part of the exercise of its strategic overview role. There was very strong support in consultation responses that the Environment Agency should do so. The Agency itself disagreed, as it noted that lead local flood authorities are responsible for local flood risk management and thus should scrutinise reports within the local authority.

3.5.41 There was also strong support in consultation responses for requiring water companies and internal drainage boards to co-operate with the scrutiny committees.

3.5.42 We want to ensure that there are arrangements in place which allow for scrutiny of local flood risk management functions. This will ensure democratic accountability and community engagement. It will facilitate the leadership role for local authorities and provide for the involvement of elected representatives and thus greater accountability to the electorate. Existing legislation enables lead local flood authorities to scrutinise their own flood activities accordingly.

3.5.43 However, they have limited powers to scrutinise the work of their key partners in flood risk management. The UK Government is therefore seeking to provide for all the specified relevant authorities not only to provide information but also to attend scrutiny committee meetings when invited to do so. The Bill also proposes to require those partner authorities to "have regard to" the recommendations of the scrutiny committee; as is required from those authorities already covered by the Local Government and Public Involvement in Health Act 2007.

3.5.44 This is an extension of powers: in particular in relation to internal drainage boards and water companies which are not covered in current provisions. There is no current provision for the Environment Agency to be required to attend scrutiny committee meetings, although committees can request attendance and as a matter of practice the Environment Agency does already attend (e.g. in the aftermath of the 2007 floods). It should be a supportive partner to the local arrangements and be able to provide advice and support as part of its overview role.

The policy position in Wales

3.5.45 The Welsh Assembly Government consulted on proposals for flood and coastal erosion risk management in Wales. The majority of respondents agreed that local authorities in Wales were best placed to lead on the identifying and managing local flood risks.

3.5.46 While there was strong support for the production of surface water management plans across Wales, there was also a significant number of respondents calling for the production of plans to manage the broader range of local flood risks. There was also strong support for the introduction of a lead local flood authority role similar to that advocated for England.

3.5.47 The Welsh Ministers have determined that local authorities in Wales should take on an enhanced leadership role in respect of local flood risks. This is consistent with the findings of the Pitt Review which the Welsh Ministers have accepted and committed to implement in Wales as appropriate.

i. Local flood risk management strategies

3.5.48 The Welsh local authorities will be required to develop and implement a strategy for local flood risk management across their area. There is also a requirement that the local flood risk management strategies should be consistent with the national strategy for Wales developed by the Welsh Ministers. Welsh Assembly Government has included provisions to this effect within the Bill, which sets out the minimum content of the local strategies. Consultation on the preparation of the strategies is also required.

ii. Partnership working

3.5.49 Within Annex A to the consultation on the draft Bill the Welsh Ministers advocated partnership working to implement effective flood and coastal erosion risk management measures. This was further supported by the comments of respondents, many of which were similar to those made in respect of the proposals for England. There was strong support for flexibility within the system.

3.5.50 Welsh Assembly Government has included within the Bill a provision to allow all relevant organisations to undertake flood and coastal erosion functions at the request of another body. Local authorities and internal drainage boards will manage ordinary watercourses. They will be able to delegate some functions by agreement where appropriate, in line with the existing protocols. The Welsh Ministers will have the powers to direct local authorities to act in default of internal drainage boards when appropriate.

iii. Reporting arrangements

3.5.51 The Welsh Ministers did not include recommendations on local authority reporting. We will require the Environment Agency to report on the implementation of flood and coastal erosion risk management policies in line with the national strategy for Wales. The Welsh Assembly Government will not be requiring annual reports to be prepared by Welsh local authorities and will leave this to their own discretion in line with individual scrutiny arrangements.

iv. Funding and capacity

3.5.52 The Welsh Ministers have conducted an assessment of new burdens on local authorities with the aim of agreeing what additional funding is needed and how this is to be provided. The Welsh Assembly Government has drawn on the comments made in respect of the impact assessments published with the draft Bill which were prepared in respect of England and will be discussing building capacity and skills with the Welsh Local Government Association.

3.6 Duty to co-operate and share information

Relevant authorities

3.6.1 The draft Bill proposed that all relevant authorities should co-operate with any other relevant authority exercising functions under the Bill. It also proposes that listed authorities must comply with any request for information reasonably made by the Environment Agency or the lead local flood authorities.

- 3.6.2 Many responses to the public consultation made suggestions for additions to the list of bodies required to have regard to the local flood risk management guidance. Some respondents also commented that the lists of organisations that should co-operate, and those that should comply with requests for information, should be the same.
- 3.6.3 The Department has considered these suggestions. Some bodies suggested by respondents are already covered by the Bill. For example, local planning authorities are part of district or unitary local authorities and the Highways Agency is the highways authority for trunk roads.
- 3.6.4 The Bill also includes an order-making power for the Secretary of State to add further authorities to the list of those authorities that must act consistently with or have regard to strategies. This could be used as responsibilities develop or as new authorities are created.
- 3.6.5 The power to require information has now also been extended to allow for information to be required from all persons. As the need for information was one of the reasons why there was a demand for other authorities to be listed, this largely addresses this concern.

Data from private individuals

- 3.6.6 The consultation asked whether the lead local flood authority and the Environment Agency should be able to ask private individuals for information relating to flood risk on their land. There was a consensus across all stakeholder groups that the Environment Agency and lead local flood authority should be able to gather information from private landowners/individuals about flood drainage assets.
- 3.6.7 Several comments were made that a request for information should have a reasonable time limit and not be overly onerous. A wide range of sanctions was mentioned which ranged from recovery of costs, a financial penalty (generally undefined) to a criminal offence. An alternative view which was less common was that sanctions were a last resort and it is more beneficial to encourage co-operation by offering assistance and advice.
- 3.6.8 The EFRA Committee recommended that the Department should consider issuing guidance on data sharing, and that a balance should be struck between the need for information and ensuring that undue obligations are not created.
- 3.6.9 To take account of these views, the Bill contains a new power to require persons to comply with any reasonable request for information which they might reasonably be expected to have. Environment Agency guidance accompanying the national strategy will cover the exchange of information by private persons and companies, and this will include guidance on when information can reasonably be required.
- 3.6.10 Where a person refuses a reasonable request, the Environment Agency or lead local flood authority will be able to use existing powers to either survey or inspect records. A proportionate level of civil sanctions will be introduced to enforce this.

Water companies sharing information

- 3.6.11 Local authorities commented that it was essential to have tighter requirements on water companies to provide information and data to inform the development of surface water management plans and to enable them to effectively manage local flood risk. This is due to existing responsibilities that water companies have under the Water Industry Act 1991 to effectually drain areas.
- 3.6.12 In their response to the consultation, water companies raised their concerns over data sharing. Whilst water companies said they were keen to co-operate and be involved as a partner in the development of surface water management plans, they had reservations

about the number and type of information requests they would receive. They were also concerned about what would happen to data (which may be commercially sensitive or important for national security) once it was in the hands of local authorities. No water companies, however, had an outright objection to providing information.

- 3.6.13 The EFRA Committee recommended that the Department should consider whether guidance on data sharing, including the safeguards that should be in place, should be provided for in secondary legislation.
- 3.6.14 The draft Bill set out the requirement that water companies must comply only with any request of a lead local flood authority to provide information reasonably required in connection with that authority's flood risk management strategy. We believe that the inclusion of the term "reasonable" in this clause should prevent the lead local flood authority from making unnecessary requests for information and so avoid creating a significant burden on water companies.
- 3.6.15 Government does not consider that major changes are needed, although the Bill does now include provisions that make it clear that the duty to co-operate allows for and requires data-sharing. It is also envisaged that the Environment Agency will give guidance on information-sharing. This guidance will take into account information protocols that are being developed. This should prevent unreasonable and burdensome information requests, as well as ensuring that information is only used appropriately.
- 3.6.16 The Department is also developing a chapter on information sharing in the Department's best practice surface water management plan technical guidance⁵ which will include material for local authorities on requesting information.
- 3.6.17 Government believes that these proposals meet the water companies' requirements to have arrangements in place to protect their interests and address the EFRA Committee's recommendation to balance the need for essential information to be made available with minimising the administrative burden.

3.7 Sustainable drainage systems (SUDS)

- 3.7.1 Several changes have been made to the proposed legislation on SUDS since the consultation.

Approval

- 3.7.2 The draft Bill prohibited the construction of certain new drainage systems without approval from the SUDS approving body. The SUDS approving body will be a unitary or county council, unless otherwise provided for by the Secretary of State or Welsh Ministers. The Bill now requires that building may not begin unless a surface water drainage system for the work has been approved by the SUDS approving body. This covers the building or a structure where the ability of the land to absorb rainwater is affected, and includes construction of roads. This is a change from the original drafting, that said that 'building of drainage' could not start until this approval was given.
- 3.7.3 The Bill will make provision for regulations to define what will require approval, and set out exemptions.
- 3.7.4 The SUDS approving body will be able to set conditions for SUDS approval. This will ensure that changes can be made without holding up the planning or development process by having to reject an application when one or two things are fixable. The draft Bill proposed to amend section 106 of the Water Industry Act so that connection to the

⁵ <http://www.defra.gov.uk/environment/flooding/documents/manage/surfacewater/swmp-guide.pdf>

sewer would be made contingent on the approval of drainage systems. Properties which are made exempt from the requirement for approval will be able to connect to the sewer, where a connection is required.

- 3.7.5 In the draft Bill, approval of the drainage system was a separate function to planning, with developers making a direct application to the SUDS approving body in all cases. The Bill now proposes to align the SUDS approval process to the planning process by making the SUDS approving body a statutory consultee to the planning authority.
- 3.7.6 Where planning permission is needed, the developer will lodge both a planning application, and a drainage application with the planning authority. This will streamline applications for developers by providing a single application point for both processes.
- 3.7.7 The planning authority will forward the drainage application to the SUDS approving body who will consider whether it meets the National Standards. The SUDS approving body will return its decision to the planning authority, who will then decide whether to grant planning permission.
- 3.7.8 The planning authority will inform the developer of both the approval and planning decisions. It will also inform the SUDS approving body of its decision on the planning application. However, the drainage system approval is independent of the planning decision, so if the SUDS approving body has refused the drainage application, then building cannot start and connection to the sewer will not be given, regardless of the planning decision.
- 3.7.9 To avoid delays to planning we will give powers to the Secretary of State and the Welsh Ministers to make regulations setting a timeframe and procedures for the decision. The draft Bill also provided for the SUDS approving body to charge fees for its approval work. We will make provision for the Minister to make an Order to set a scale of fees.
- 3.7.10 The draft Bill provided for a SUDS approving body to take a non-performance bond from the developer, and use it to complete the SUDS and bring it up to standards if the drainage did not meet the approved plan. The Bill will now enable the planning authority to take the bond and fees and pass them on to the SUDS approving body. Developers will still be able to seek approval directly from the SUDS approving body, where planning permission is not required (e.g. permitted development).
- 3.7.11 The SUDS approving body will not approve the drainage system for nationally significant infrastructure projects considered by the Infrastructure Planning Commission. Instead, SUDS requirements, based on SUDS National Standards, will be set out in the relevant National Policy Statements which set out the primary policy framework for Infrastructure Planning Commission decisions. This will ensure that the single consent regime established under the Planning Act 2008 is preserved, whilst also ensuring that SUDS are incorporated into large infrastructure schemes and to National Standards.
- 3.7.12 The Infrastructure Planning Commission will normally be expected to make provision for the adoption and maintenance of any SUDS as part of the terms of its Development Consent Order. Government will set out model provisions for such terms via secondary legislation under the Planning Act 2008.
- 3.7.13 The draft Bill also proposed that water companies would be statutory consultees to the SUDS approving body. However, to ensure that all parties, whose assets are affected, have a chance to make representations, before the SUDS approving body makes its decision, the Bill now provides that the Environment Agency, highways authorities and British Waterways will also be statutory consultees to the approval process alongside the water companies.

- 3.7.14 The draft Bill set out powers for the SUDS approving body to inspect the construction from time to time. The SUDS approving body must satisfy itself that the drainage system was constructed and functions in line with the National Standards, and the Bill will provide for powers of entry, and associated rights of compensation should they cause any damage, to enable this to happen.
- 3.7.15 There were no enforcement proposals on the face of the draft Bill, and so Government now propose to make provision for the SUDS approving body to have powers similar to enforcement of a breach of planning control under the Town and Country Planning Act 1990. Developers and local authorities are already familiar with these enforcement mechanisms. The Bill will enable the Minister to set out the specifics of the enforcement regime in secondary legislation.

National Standards

- 3.7.16 The draft Bill made provision for the Secretary of State or the Welsh Ministers to publish National Standards for the construction and operation of sustainable drainage systems, following consultation. Government have broadened this so the standards cover the design, construction, operation and maintenance of drainage systems. To ensure that local authorities reasonably exercise their judgement in applying the National Standards and approving drainage systems, the Secretary of State and the Welsh Ministers will have a power to issue guidance to accompany the National Standards.

Adoption

- 3.7.17 The SUDS Approving Body must adopt the SUDS assets that serve more than one property. This means the SUDS approving body will be responsible for the ongoing maintenance of SUDS in public spaces, and SUDS on private property – where those SUDS provide drainage for more than one property. The Bill sets out how this process of adoption will work.
- 3.7.18 Government is now proposing to make provision for the SUDS approving body to voluntarily adopt SUDS which were constructed before the Bill comes into force (existing SUDS), where construction took place unlawfully without approval, or where an exemption for requirement for approval was in place at the time of construction. However, this is at the discretion of the SUDS approving body.

Highways

- 3.7.19 The draft Bill did not set out specific roles for highways authorities because powers and duties were conferred on local authorities. Government expects that many SUDS assets will be situated in, underneath or beside roads, and the SUDS approving body may not be best placed to maintain these. To ensure the roads elements of a SUDS are adopted and maintained to National Standards, the Bill now requires highways authorities to adopt SUDS that have been approved by the SUDS approving body, which drain properties and which are in publicly maintained roads. These will need to be maintained to National Standards.

SUDS on private property

- 3.7.20 Although many SUDS will be in the public domain – in and beside roads and in public open spaces – there will also be SUDS located on private property. There will be two kinds of SUDS on private land:
- “private SUDS” that manage rainwater from that single property only; and
 - adopted SUDS on private property. These manage the rainwater from more than one property and will therefore be adopted and maintained by the SUDS approving body.

- 3.7.21 Private SUDS, which serve only the property on which they are located, play an important role as part of the wider drainage system. These may include, for example, permeable driveways, permeable paving, swales and soak-aways. Failure of these systems due to a lack of maintenance will have knock-on effects for the rest of the drainage system, so our policy is to ensure that those consequences are kept to a minimum.
- 3.7.22 Homeowners and businesses who have either private or adopted SUDS on their property will need to be made aware that the SUDS are there, and of any obligations associated with them. Government also want to ensure that the SUDS are not damaged, and function effectively as drainage systems.
- 3.7.23 There were no proposals in the draft Bill for dealing with SUDS on private property. Government now propose to place a duty on the SUDS approving body to designate all SUDS on private property (both private and adopted) as third party assets. The duty to designate will not apply to adopted SUDS in the public domain or on local authority land as they are not, by definition, third party. Designation of third party assets is via a local land charge, so property owners will be notified during title searches of SUDS on their property during the conveyancing process.
- 3.7.24 Third party assets cannot be moved without permission or damaged, which means that property owners must preserve both private and adopted SUDS. This is important as the wider system may contain an element of both private and adopted SUDS, with each element contributing to its effective function.
- 3.7.25 Finally, designation confers powers of entry and other enforcement powers, which will enable the SUDS approving body to enter the property to maintain adopted SUDS, and to put right damaged SUDS (including adopted SUDS which the SUDS approving body is under a duty to maintain) and to recharge owners. The notification periods, appeals and other provisions set out in the Third Party Assets clauses will apply.

Appeals

- 3.7.26 The draft Bill did not initially set out any appeal powers. We have made provision on the face of the Bill for appeals in the SUDS provisions including:
- against decisions about applications for approval, including decisions about conditions;
 - against decisions about adoption; and
 - against enforcement actions taken by the SUDS approving body.
- 3.7.27 The Bill now gives powers to the Secretary of State and the Welsh Ministers to set regulations outlining the jurisdictions, mechanisms and circumstances for appealing the decisions of the SUDS approving body and the way it discharges its function in approving and adopting SUDS.

General SUDS provisions

- 3.7.28 No delegation functions were set out in the draft Bill. However, many respondents to the consultation felt that the SUDS approving body should be able to delegate its approval or adoption functions to organisations that it feels may be well-placed to deliver.
- 3.7.29 Government have considered this and believe that the responsibility and liability for the decision must stay with the SUDS approving body. However, if it wanted another body to assess and approve proposals on its behalf, this is already achievable through existing legislation. So no change has been made to the Bill on this issue.
- 3.7.30 The Bill will also place a duty on the SUDS approving body to add all SUDS (private SUDS, adopted SUDS on private property, and adopted SUDS in the public domain) on

the local authority register. The Bill will enable the Secretary of State and Welsh Ministers to set out guidance for the designation of third party assets, as well as placement of SUDS on the register, so that the SUDS are treated as a specific category.

- 3.7.31 Government expects that many SUDS that drain properties will be in public spaces, such as parks, as well as in roads. The Bill will make provision for sewerage undertakers to accept any residual flows to the sewer from properties served by approved SUDS, which meet National Standards even if they inadvertently collect water from land or roads.

3.8 Regional flood defence committees (RFDCs)

Regional flood defence committee status to change formally from executive to advisory

- 3.8.1 The majority of respondents stated that they would prefer the regional flood defence committee to remain executive instead of becoming an advisory body. The primary concerns were that a change in role would result in the reduction of powers, regional flood defence committees would not be able to have as much of a say as they do at present and potentially their views may not be taken into account by the Environment Agency.
- 3.8.2 The EFRA Committee considered that the local authority proposal for catchment area flood management boards, similar to regional flood defence committee, had potential. It recommended that the Department should explore this approach with local authorities and bring forward provisions that would enable the creation of catchment area flood management boards. It stated that the Bill should also require decision making bodies to explain how they have taken into account any advice from regional advisory bodies, or their reasons for rejecting it.
- 3.8.3 Governments view is that the role of regional flood defence committee has already changed due to revisions made in 2004 largely replacing levies with funding from the Department and allocation of that funding in accordance with national priorities and targets. Though final decisions on the Department-funded work are formally taken by the regional flood defence committee, in practice this role is akin to an advisory role.
- 3.8.4 The present arrangement, which formally requires the Environment Agency to exercise its flood defence functions through the regional flood defence committee, creates legal ambiguity. The Environment Agency Board receives flood defence grant in aid and is accountable to Ministers for its expenditure, yet the actual legal powers rest with the regional flood defence committee. The proposals in the draft Bill give the Environment Agency these decision making powers and create clear lines of accountability in line with the Pitt Review.
- 3.8.5 The new proposed national strategy, will help determine priorities on the basis of objective criteria and reflect the detailed work fed through from a local level under the Floods Directive. In light of this, the Department has considered further the role that regional flood defence committees can play. Our conclusion is that the most appropriate role is a predominantly advisory role that uses members' local knowledge (including those that are appointed by local authorities) to help prioritise and advise on schemes.
- 3.8.6 Regional flood defence committees can inform the risk assessment process (which will determine priorities), risk maps, and management plans, under the Floods Directive. They can also advise the Environment Agency in its quality assurance and co-ordination role relating to input from local authorities and the Agency's regional offices. The Environment Agency will need to have regard to this advice and will (in accordance with principles of administrative law) be able to justify decisions which go against this advice.

- 3.8.7 The current funding system gives regional flood defence committees the power to raise levies on local authorities for additional local projects. These must be agreed by the majority of local authority members of the relevant regional flood defence committees and are in addition to those schemes funded out of Flood Defence Grant in Aid from the Department to the Environment Agency. We propose to leave this power with the regional flood defence committees. The Department also proposes to leave the regional flood defence committees with executive powers over those other sources of funding which are under the Environment Agency's control, i.e. the General and Special Drainage Charges and the internal Drainage Boards precept. As a result, the regional committees will continue to play a key role through this combination of executive powers in relation to local funding, and the ability to make representations which the Environment Agency Board would have to take into account regarding any flood or coastal erosion risk matter.
- 3.8.8 Indeed, the Department wishes to strengthen these committees by ensuring their members are of the right calibre and standing and able to provide effective local input. The Bill therefore now gives Ministers the power to decide the number of members on a committee and how they should be selected and appointed. This will enable these arrangements to reflect changing needs in representation on these committees. This is necessary because there are already powers to change boundaries and thereby alter the size of area covered by regional flood defence committees.
- 3.8.9 The Department recognises the importance of giving regional flood and defence committees a clear mission and sense of purpose, and ensuring that they are sufficiently independent to be able to play the role of an independent advisory body. The Department will continue discussions with regional flood defence committee Chairs and keep the role of their committees under review. Further changes to arrangements and the associated legislation may be brought forward as a result in future.
- 3.8.10 Government has considered the EFRA Committee's recommendation on providing for catchment level boards. Government's view is that the benefits of this approach do not clearly outweigh the costs of setting up this new institutional structure across the country. It should also be noted that it was only a few years ago that local flood defence committees were wound up so this in our view would be going back to a structure that has already been rejected.
- 3.8.11 Government's preferred approach is to leave it to local authorities to determine structures which are best suited to their area and to set up "boards" accordingly. The duty to co-operate and provide information to be placed on relevant authorities, as well as extensive powers to enter into delegation type arrangements, will facilitate such arrangements. This would allow the possibility of locally determined arrangements including catchment area co-operation.

Change of name from regional flood defence committee to regional flood and coastal committee and extending the regional flood defence committee's levy-consenting powers to coastal erosion issues

- 3.8.12 The majority of respondents (including those regional flood and defence committees that responded to this question) approved of the name change from regional flood defence committee to regional flood defence and coastal committee and felt that the inclusion of 'coastal' explained the role more clearly. The Bill now includes provisions to change the name to regional flood and coastal committees.

Policy position in Wales

- 3.8.13 The Welsh Ministers consulted on proposals in relation to Flood Risk Management Wales, the regional flood defence committee for Wales, within Annex A to the consultation document. We specifically asked for comments on:
- whether the committee should retain its current remit, or have it extended to cover all flood and coastal erosion risk management matters;
 - whether the committee should be an executive or advisory committee; and
 - how often it should meet.
- 3.8.14 Welsh Assembly Government did not intend to make any changes to the current arrangements in respect of the membership of Flood Risk Management Wales.
- 3.8.15 Overall there was strong support for extending the remit of Flood Risk Management Wales to match the extended overview of the Environment Agency and for them to meet quarterly. Allied to the support for their extension to cover coastal erosion was strong support for the allocation of a levy raising power in relation to coastal erosion works, though it was noted that this should only be exercised in support of local development plans and identified community needs.
- 3.8.16 On the matter of the status of the committee, views were polarised and the split of responses was virtually equal. Taking all of the comments received into account the Welsh Ministers have determined that Flood Risk Management Wales should become an advisory regional flood and coastal committee, though it will retain its levy raising powers which will be extended to cover coastal erosion and coastal protection works.
- 3.8.17 The Welsh Ministers will retain their current powers to determine the membership scheme for Flood Risk Management Wales in secondary legislation and will continue to make appointments to the committee.

3.9 EU Floods Directive

- 3.9.1 The Directive requires consistent approach across Member States in the assessment of flood risk, flood mapping and management planning. Our draft Bill set out measures which would enable us to apply the Directive in England and Wales by placing duties on the Environment Agency and local authorities to produce the outputs required and on other organisations to co-operate and share data. The main issues raised by respondents to the consultation were the means of transposition; the roles of county or unitary local authorities; the determination and moderation of significant flood risk areas; and the manner in which documents produced under the Directive would be quality checked.

Means of transposition

- 3.9.2 In our consultation, Government proposed to reconsider our method of transposition if the Bill's timetable through Parliament put pressure on our ability to effectively implement the Directive.
- 3.9.3 The EFRA Committee focused on how Government might transpose the Directive into law. They recommended that Government continue to transpose the Directive through the Bill and explain our approach to the European Commission and ask not to be infringed in the period before the Bill became law.
- 3.9.4 Since the consultation period began, the Department has reassessed the infraction risks from not meeting the transposition deadline and considered the space constraints in the Bill in the light of the shortness of this Parliamentary Session. Both factors have led us to transposing the Directive, by regulations made under the European Communities Act 1972.

Roles and responsibilities for directive deliverables

3.9.5 Consultation respondents agreed with our proposals that the Environment Agency and local authorities should be responsible for implementing the Floods Directive. The Environment Agency would assume responsibility for national mapping and planning and local authorities would have specific responsibilities for local flood risk, and reaching a decision on significant risk in their own areas. This is reflected in Government's implementing regulations.

Assessment of significant risk

3.9.6 In the consultation responses there was a call for an agreed national standard on and guidance on a methodology for, determining areas of significant flood risk. Government agrees with this and expects the Environment Agency will wish to give guidance on setting thresholds to help determine which risks are significant. Guidance is likely to be issued by the Department with advice and input from others including the Environment Agency.

Moderation and consistency

3.9.7 Government had previously suggested a need for a national panel to moderate decisions on significant risk flood areas and to check documents produced by the Environment Agency and local authorities for consistency and compliance with the Directive. Some respondents felt there was no need for the moderation of significant risk areas if there was a nationally recognised standard or definition of significant risk. Other respondents supported the need for a body to carry out checks on documents produced for consistency and compliance with the Directive's requirements.

3.9.8 While Government does not now propose to set up a new panel to undertake this work, the implementing regulations include a provision for the Environment Agency to ensure documents produced across the country are consistent and comply with the Directive. Government expects the Environment Agency will seek the advice of Regional Flood and Coastal Committees in this function. The Environment Agency will also ensure decisions on significant risk are consistent with the guidance and refer any discrepancies to Ministers.

Management units

3.9.9 The management units we define for the purposes of delivering the Directive's outputs were not considered in the draft Bill consultation document. Instead they were covered in a supplementary consultation outlining more detailed implementing arrangements.

3.9.10 Government has decided to use the same management units as are used under the Water Framework Directive, i.e. river basin districts of which there are eleven in England and Wales. This approach will mean we can more effectively ensure co-ordination and consistency with the Water Framework Directive and achieve efficiencies by having a relatively smaller number of units on which to provide reports.

3.9.11 Additionally, Government will be requiring the Environment Agency to compile, co-ordinate and make available the documents produced by local authorities and its own regional offices at river basin district level.

3.10 Water Framework Directive (WFD)

3.10.1 Amongst those who responded on this issue, there was strong support for the principle that "flood and coastal erosion risk management authorities should exercise their functions so as to secure compliance with the requirements of the Water Framework Directive". The only caveats were that it should not compromise flood risk management (Water Framework Directive requirements allow for flood risk management), and that the Environment Agency would need to be involved in the processes of determining compliance with the Water Framework Directive.

- 3.10.2 The draft Bill gave effect to this duty via the national strategy that the Environment Agency is required to develop. Clause 15 required the Environment Agency, in developing the strategy, to "...have regard to the desirability of minimising detrimental effects on the chemical, biological and other characteristics of water (whether or not by reference to the requirements of the Water Framework Directive)."
- 3.10.3 The majority of respondents thought this approach was satisfactory. However, some felt that it did not comply with Water Framework Directive requirements, was vague or unenforceable and that the duty should be applied directly rather than through the strategy. The Environment Agency noted that it imposed a weaker duty on the Agency in relation to the Water Framework Directive than to its existing flood risk management functions.
- 3.10.4 Government has considered these concerns, in particular the indirect nature of the provision which would not establish the duty in legislation. Government now proposes instead to implement this requirement by amending the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003.

3.11 Third party assets

Designation of features

- 3.11.1 Most respondents agreed that the Environment Agency, internal drainage boards and local authorities should be able to designate structures and features that affect flood or coastal erosion risk, with respondents recognising that it would be "for the common good."
- 3.11.2 A number of respondents highlighted the importance of having a clear appeals mechanism (which is a requirement in the Bill). A few respondents suggested that the appeals process could be streamlined slightly.
- 3.11.3 Government agrees that a clear appeals mechanism must be in place but would wish to avoid simplifying the proposed system with anything that would dilute the proper protection of an individual's rights in respect of a designation to make representations and have an appeal heard. The Bill gives people the right to make representations against both a provisional and a final designation notice.
- 3.11.4 On enforcement, the enforcement notice provides a light touch alternative to prosecution ahead of formal legal proceedings in a magistrate's court. Government thinks it is important to enable people to act in their own interest ahead of prosecution. As a result we do not propose to streamline the process by removing the enforcement notice stage.

Maintenance of features

- 3.11.5 Although not included in the draft Bill, the consultation sought views on introducing a duty to maintain third party assets. Respondents were broadly in favour of introducing a duty to maintain. In opposition, several respondents identified reasons of fairness and practicality.
- 3.11.6 A number of respondents suggested that any requirement to maintain should be matched by funding or a cost recovery mechanism. At this time Government proposes to pursue non-legislative approaches to encouraging maintenance whilst introducing the immediate protection to features afforded by designations.
- 3.11.7 Government is therefore legislating through the current Bill for the designation of features to secure important third party assets and provide an enforcement route where people deliberately harm an asset, and to explore non-legislative approaches to encouraging appropriate maintenance.

3.12 Consenting and enforcement

Regulation of the ordinary watercourse network

- 3.12.1 The consultation sought views on whether the regulation of the ordinary watercourse network (where there are no internal drainage boards) should transfer from the Environment Agency to county and unitary authorities. Most respondents agreed with this. A significant percentage felt that although this would allow a more cohesive approach to the ordinary watercourse network, guidelines may be required to ensure partnerships work correctly and discharges into watercourses are monitored.
- 3.12.2 It remains Government's intention to transfer the regulation of the ordinary watercourse network (where there are no internal drainage boards) to the county and unitary authorities. Lead local flood authorities will exercise these functions having regard to Environment Agency guidance. This guidance will seek to ensure that issues relating to impacts on other areas are properly considered.
- 3.12.3 Some consultees felt that the role that district councils could play needed more recognition. In response, the Bill now allows consenting powers to be delegated. We do not intend to transfer the regulation of ordinary watercourses within internal drainage board areas to county and unitary authorities.

Possibility to make consents subject to reasonable conditions

- 3.12.4 Respondents felt that this measure would help support the effective management of flood risk by relevant authorities.
- 3.12.5 The Bill now allows for consents to be made subject to reasonable conditions except where a SUDS under Part 3 of the Bill may require maintenance to National Standards, which would be enforceable, and may be designated as a feature under Part 2 (in order to protect it from wilful interference and register as a local land charge).

3.13 Reservoir safety

- 3.13.1 The draft Bill proposed the following main changes to the Reservoirs Act 1975 (which currently applies only to reservoirs over 25,000 cu metres):
- to place a requirement for all reservoirs above a minimum volume capacity (10,000 cubic metres) to be included on an Environment Agency register;
 - to require the Environment Agency to classify each relevant reservoir according to whether they pose a threat to human life, or meet technical conditions (to be specified) which in effect mean the risk is negligible;
 - to specify the duties of reservoir undertakers; and
 - to specify panel engineers' duties in relation to these reservoirs based on the level of risk.

General approach to reservoir safety

- 3.13.2 Only a handful of responses questioned the basic approach taken by the Bill to meet the commitment to adopt a more risk-based approach to reservoir safety legislation, as recommended by Sir Michael Pitt.

Minimum volume figure – 5,000 cu metres, 10,000 cu metres or another figure

- 3.13.3 Some responses suggested that a figure of 5,000 cu metres would be more appropriate or that risk should be assessed first of all before any figure is adopted.

- 3.13.4 Some responses that indicated the figure of 10,000 cu metres is adequate added that provision was needed to include other reservoirs where a risk was identified, or that risk assessment should be undertaken to assess the adequacy of any figure.
- 3.13.5 Government notes the uncertainty that emerged from responses. The Bill proposals contain the flexibility needed to address any uncertainties around the minimum 10,000 cu metres figure. They provide for reservoirs below 10,000 cu metres to be included if it is discovered that they pose a risk; or for the figure to be raised if evidence suggests that the 10,000 cu metres is too low.
- 3.13.6 If, for example, there was evidence that the figure needed to be lowered for some types of reservoir, scope exists to exempt other types in the size range that are not a problem. How these cases will be handled would depend on the evidence at the time. The process of registration will form the basis of risk assessment for those reservoirs in the 10-25,000 cu metres band. For reservoirs below the 10,000 cu metres minimum, we will carry out work to assess the numbers and any risks.
- 3.13.7 Concern over minimum size was expressed by small, recreational owners or lessees such as fishing clubs. There is no “typical” member of this category – patterns of ownership and/or leasing arrangements and the types of reservoir they use are diverse. The issues raised are therefore complex and likely to have implications across all sectors. Government proposes to deal with such issues when regulations about registration are made.

Construction criteria for exemption

- 3.13.8 Type of construction was seen by some respondents as being important (e.g. continuous concrete constructions), whilst others are of the view that the only factor determining exemption should be escapable volume of water and consequences of such escapes (including the speed, depth and timing of release), since likelihood can be assessed only on an individual basis.
- 3.13.9 Other comments argued that regulatory requirements could differ depending on factors such as embankment height; the potential effects on property; whether reservoirs were for irrigation; whether structures were already regulated under other measures e.g. Mining Waste Directive; whether a reservoir was part of a cascade; and whether it was a farm reservoir under 25,000 cu metres (NFU suggestion).
- 3.13.10 The Bill will not itself provide for exemptions and exclusions but for Regulations to be made which will set these out. Cascades will be taken account of in determining the capacity of a reservoir.
- 3.13.11 Government also notes that the two main views are not diametrically opposed: for example, embankment height is a main determinant of consequences. The proposals therefore allow all these views to be taken into consideration as detailed rules are developed.
- 3.13.12 However, Government does not consider that a blanket exemption for farm reservoirs will be possible. Whilst we do accept that a large proportion of these are likely to be low risk, it will not be possible to say that this is invariably the case until registration has been completed.

Registration

- 3.13.13 Overall, respondents were keen that only details strictly relevant to risk assessment should be included, with the recording and registration requirements under the Reservoirs Act 1975 being the baseline. A number of responders felt that an on-line system of registration could keep costs down for owners. Some responders noted that

a panel engineer's involvement would be required in some cases; e.g. where capacity was close to the minimum (when it was felt owners should not have to bear the cost).

- 3.13.14 A key piece of information to determine whether a reservoir might be classified as high risk or low risk is an inundation map. Some responders suggested that these should be prepared by Government for smaller reservoirs as is the case for larger reservoirs.
- 3.13.15 One frequent concern was that the costs of registration should be kept as low as possible, particularly for those reservoirs that turn out to be low risk. This has been a concern of the farmers' and landowners' representatives given the probability that many farm reservoirs will be assessed as being low risk. Government notes that for reservoirs already regulated, the only need will be to confirm or update the information on the Environment Agency's register.
- 3.13.16 For reservoirs that will be regulated for the first time, the initial requirements for owners will be limited to information which is readily available to them. For further detail, although the owner might initially be asked, the required information will involve a visit by a supervising engineer from the Environment Agency. Registration costs will not be borne by the owner.

Proposed classification and responsibility for determining class

- 3.13.17 The EFRA Committee recommended that the Department should examine including a provision to establish a low-cost initial assessment of smaller reservoirs. They suggested that reservoirs adjudged to be low risk under such a system could be exempted from the "panoply of inspections and procedures" currently set out in Part 3 of the draft Bill.
- 3.13.18 The great majority of responses agreed that the Environment Agency should be responsible for classification and on the basis proposed.
- 3.13.19 A number of responses questioned the apparently simplified system of High risk and Low risk classification: that for example a category of "negligible" risk should be introduced, particularly in circumstances where such bodies as farm reservoirs were involved; or that the present 4-tier system should be retained, particularly as it takes account of potential property damage (which some also felt should be included).
- 3.13.20 Government notes the Select Committee's recommendation and concern about registration costs. The Bill allows classification of reservoirs as low risk or to exempt those which by their nature present similar levels of risk. We consider that we need to cater for intermediate levels. We propose to do this in part by providing for variations to the frequency of inspections to be set differentially.
- 3.13.21 The effect of this will be to provide for a common level of regulation for high risk reservoirs in supervision and monitoring but for a requirement for inspection to be set according to a) as now, a supervising engineer's assessment on-site of the reservoir's condition and b) otherwise according to regulations which will specify different inspection periods in place of the "default" position under the Reservoirs Act 1975 of inspection at least every 10 years.
- 3.13.22 In addition, Government will also commission guidance to review the engineering standards to which dam engineers work. This is relevant to the suggestion for retention of the 4-tier system, which differentiates reservoirs' spillway design levels according to size of impacts from uncontrolled releases of water.
- 3.13.23 As to risk classification taking account of property damage, risks to people will, of course, be a proxy for property. However, in cases where infrastructure only is at risk, it would be for the asset owner to address.

Insurance

- 3.13.24 The EFRA Committee also recommended the Department should examine with the insurance industry the scope for synergies between the needs of insurance companies and the risk management aims of the draft Bill, to minimise any additional cost for reservoir owners.
- 3.13.25 Some responses to the consultation on the draft Bill did not consider insurance to be an alternative to statutory regulation, some that owners should be required to have third party insurance (without any further comment on benefits or costs). Some felt that the role of insurance was worth exploring further or that insurance could reflect risk, through pricing premiums according to safety measures undertaken by owners but subject to conditions, explicitly stating or implying some form of agreement with Government as to what conditions should apply.
- 3.13.26 However, there are several complications that make a role for insurance in reservoir safety less attractive than it may at first appear. The main problem is that the market for insurance cover is likely to be very thin. Reservoir failures are extremely rare events and very difficult to predict. As such there is unlikely to ever be the type of historical risk/outcome information that would be needed for a competitive market to develop. Whilst public liability cover is widely taken up by businesses it often includes a large range of risks and the incentive to manage a particular risk may not be readily apparent.
- 3.13.27 Conversely if a specific product was developed for reservoir liability, the market would be relatively small and the profile of losses extremely uncertain (since very few reservoirs would be expected to fail, but the costs of such a failure could be very large). As well as resulting in a less competitive market, this is likely to mean that insurers rely on reinsurance which could be subject to rapid variations in cost or availability, thus making the operation of reservoirs sensitive to wider events (such as increases in the cost of capital).
- 3.13.28 Similarly, if the cover were provided through an annual contract (as is currently the norm for commercial insurance) the transaction costs associated with inspections and assessments could be very high in relation to the risks posed by some reservoirs. Insurance policies seldom cover the full range of impacts – they typically include tangible property damage and injury to people (including loss of life), but some risks (such as incident response cost and some consequential losses) may be excluded. In some cases, the total impacts significantly exceed the cover and thus the appropriate level of safety may not be achieved.
- 3.13.29 Based on these considerations and consultation with insurers to date, Government has concluded that an insurance based approach would not provide an adequate substitute for the primary legislation and without effective regulation the availability of insurance is likely to be severely constrained. The new legislation will facilitate a continuing role for insurance in enabling organisations to manage their potential liabilities. Further discussions with the insurance industry, focused on ensuring that there is an appropriate market to maintain widespread availability of cover, will continue as policy develops in detail, and information from inundation mapping and registration becomes available.

Financial burdens and charges

- 3.13.30 There was a wide range of views as to whether charges should be based on volume, compliance, risk or costs. Some responders consider that it is contrary to the interest of safety and encouragement to owners to register for an annual charge to be made for enforcement, given that owners must already bear directly the costs of employing panel engineers. Some saw enforcement of the proposals as part of Environment Agency's

wider functions and something to be funded from the Department's Grant in Aid for this purpose. The Department has received strong representations from National Farmers Union and others that we should either drop the power to make charges or shape a scheme in such a way that the charge falls most heavily or even exclusively on owners with a poor record of compliance.

- 3.13.31 The Bill provides for the Environment Agency to introduce a charging scheme (which would be subject to Ministers' approval) to recover its costs in performing functions under the Reservoirs Act 1975. The scheme would cover all or part of the Environment Agency's costs including maintaining the register of reservoirs; receiving copies of reports, statements, certificates and directions of panel engineers; issuing notices of non-compliance; and in the end prosecution. In cases where the Environment Agency has to use its reserve powers to step in for recalcitrant or absent owners it already has powers to recover its expenses.

Sanctions

- 3.13.32 The EFRA Committee also recommended that offences set out on the face of the Bill should be as clear as possible; and that the Department review the offences under Part 3 within a year of the Bill being enacted to ensure that they are appropriate, enforceable and if necessary amended in the light of experience.
- 3.13.33 Government has concluded that these issues must be addressed not only in the light of consultation responses but also any proposals that are brought forward to introduce a system of civil sanctions, as provided for in the Regulatory Enforcement and Sanctions Act 2008. These will provide for a set of measures that might apply before prosecution is considered such as fixed and variable monetary penalties and enforcement undertakings. Proposals will be brought forward at the appropriate time once the Bill has been enacted.

Flood plans direction

- 3.13.34 The EFRA Committee recommended that the Department should consider whether the existing Control of Major Accident Hazards regulations might be extended to include reservoirs. Some respondents were in favour of proceeding ahead of the Bill's enactment, some in favour of waiting for the Bill to be enacted.
- 3.13.35 The main point made by most was that owners should not be required to pay for off-site planning as the costs are likely to be burdensome and out of the control of the owner. On the other hand local authorities were concerned that the costs of off-site planning should be fully funded, either by the owner or Government.
- 3.13.36 In relation to the costs of off-site planning, the Department considers that the Select Committee's recommendation can best be met by providing for regulations to be made allowing Ministers to require the costs of off-site planning to be met by reservoir owners. We do not, however, consider that we should at this stage require such costs to be met by reservoir owners.
- 3.13.37 Part of the consideration of this issue is how far the requirement will substantially be met by the off-site planning being carried out this year and next under the £1.25 million UK Government has made available to support the production of such plans as part of its response to Sir Michael Pitt's recommendations. In the meantime, we are consulting separately on a Direction under the Water Act 2003.

3.14 Hosepipe bans

- 3.14.1 The draft Bill provides an enabling power to allow the Secretary of State or Welsh Ministers, by Order, to extend water company hosepipe ban powers so that they are able to ban a wider range of discretionary uses of water and so take action to constrain demand for water at an early stage of a drought.
- 3.14.2 The EFRA Committee welcomed the provision, but recommended that Ministers and water companies should consider measures to mitigate the impact on agriculture.
- 3.14.3 Respondents to the consultation exercise were also generally supportive of the proposals, whilst identifying concerns that business interests should be protected. Some also argued that a decision to include new non-essential uses through the order making power should be based on evidence of the benefits and costs.
- 3.14.4 Government welcomes the support for proposals to widen the scope of the hosepipe ban powers and has taken forward the clause proposed in the draft Bill into the Bill currently before Parliament.
- 3.14.5 New non-essential uses will only be added to the hosepipe ban powers through an Order once further work has been undertaken to establish the costs and benefits both to water companies and also to their customers of adding those non-essential uses. Water companies will have the flexibility to limit the effect of a hosepipe ban by restricting its application in terms of timing, area, customers, practices and apparatus. The Water Industry Code of Practice sets out the principles by which water companies will operate to ensure that practices are consistent, transparent and proportionate.

3.15 Environmental Permitting Programme

- 3.15.1 Clause 238 of the draft Bill proposed an enabling power for Ministers to regulate the use of water resources. It would allow licensing for water abstraction and impoundment to be brought into the common environmental permitting system established by the Environmental Permitting (England and Wales) Regulations 2007. Respondents to the consultation were either supportive or neutral on the matter. No policy changes will be made in the light of this consultation and Government will take the clause forward at the next legislative opportunity.

3.16 Power of entry – water resources functions

- 3.16.1 The overwhelming majority of those who responded to the consultation supported this proposal. Others were also generally supportive provided there was reasonable notice and safeguards such as provision for compensation (already included) for any loss or damage arising from the exercise of the power.
- 3.16.2 Where qualified support has been indicated, Government is confident that appropriate direction or guidance can be given to the Environment Agency to allay these concerns without changing the policy or amending the clause in the draft Bill.
- 3.16.3 Given the strong support for this proposal, Government will take the clause forward at the next legislative opportunity.

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

- 3.17.1 The consultation attracted only a handful of responses with comments on these proposals. Most of these were generally favourable, subject only to a few reservations or concerns, and none were totally negative. The main concerns expressed were about extending the current provision relating to the waste of abstracted water and pleadings for exceptions to meet certain operational needs.
- 3.17.2 The main reservations or concerns are considered to be misplaced since the combined effect of the existing provision and draft clause already provide appropriate protection for operators who need, as part of their statutory duties or functions, to let water run to waste in an emergency or by reason of other operational necessity.
- 3.17.3 Minimising the waste of water abstracted from all sources of supply should be the aim of all responsible abstractors. The environment and wider public interest will be best served by taking this proposal forward at the next legislative opportunity.
- 3.17.4 In the absence of clear objections, Government proposes that provision to extend special discounted charge agreements to cover all forms of irrigation and to remove the land restrictions associated with them should be introduced at the next legislative opportunity. However, Government will only bring this change into effect when the removal of the current exemption from licence control of certain forms of non-spray irrigation under the Water Act 2003 comes into force.
- 3.17.5 In the absence of any objections or a compelling need to retain the records of maps of resource mains and waterworks being maintained by the Environment Agency, we propose that this requirement be repealed at the next legislative opportunity.

3.18 Water administration regime

- 3.18.1 There was wide spread support for Government's proposals to amend the special administration regime for water companies to bring it into line with the general insolvency regime. However, some respondents wanted clarification on possible impacts on customers and the regulation of water companies. In particular, the Consumer Council for Water wanted more discussion on special administration to understand the overall impact on customers.
- 3.18.2 None of the proposals in the consultation impact on the primary purpose of the special administration regime, which is to ensure that water and sewerage services continue to be provided when a water company cannot pay its debts. The proposals overall will give the special administrator more options to bring the water company back into profitability or to ensure a more efficient transfer if this remains the only viable option. The proposed changes to the special administration regime will therefore potentially benefit both customers and creditors.
- 3.18.3 WaterUK and some water companies wanted Government to place the proposed changes to the regime in the context of other regulatory measures, such as the operation of the substantial effects clause. The substantial effects clause triggers a request for an interim determination of price limits between five-yearly price reviews if specific changes in a water company's circumstance lead to a significant reduction in its revenue or an unexpected increase in costs (e.g. if certain costs increase by 20 per cent or more).
- 3.18.4 However, it cannot be assumed that Ofwat would increase price control revenues in any particular case. In particular, it is unlikely that increases in price limits would be allowed to enable recovery of unexpected costs that could be mitigated or avoided by prudent and efficient management action and/or if they do not arise from an external development.

In such circumstances Ofwat would work with the water company to see what action could be taken. The special administration regime would be used as a last resort and would therefore not necessarily be triggered by the circumstances that led to the request for an interim determination of price limits between five-yearly price reviews under the substantial effects clause. These proposals are included in the Bill currently before Parliament.

3.19 Drinking Water Inspectorate (DWI) recovery of charges

3.19.1 The majority of responses to the consultation agreed with these proposals. As a result there are no issues which require a revision in policy. However, future provisions will reflect the need to ensure that the Drinking Water Inspectorate operates in an efficient manner to limit regulatory cost burden and meet the principles of better regulation. These proposals will be taken forward at the next legislative opportunity.

3.20 Introduction of a mandatory build standard for sewers that will connect to the public sewers

3.20.1 We consulted on introducing a requirement to build new sewers and lateral drains to an approved mandatory standard, if intended to connect to the existing public system. We proposed amending section 106 of the Water Industry Act 1991, making the right to communicate with the public sewerage network dependant on meeting the new sewer standards.

3.20.2 A key theme from the consultation responses was concern that this amendment in isolation would not deliver the required outcome practicably. Key stakeholders such as Water UK and housing developers stated that the proposed changes to Section 106 should be supported by further amendments e.g. to Section 104 of the Water Industry Act 1991. Water UK considered that bonds should be required to ensure compliance with standards, but housing developers expressed concern that the use here of 100 per cent bonds, as set out in SUDS proposals, would place overly onerous financial burdens on them. Developers also called for an appeals mechanism, to enable the settlement of disputes over the water companies' application of the new sewer standards.

3.20.3 In light of the consultation responses and following discussions with key stakeholders, Government proposes that the right to communicate with the public sewerage network under section 106 of the Water industry Act 1991 should be made dependent on entering into a section 104 'adoption' agreement bound by two parameters – that the sewer or lateral drain a) be built to mandatory standards either published by Ministers or agreed by the parties to the agreement and b) ultimately vests in the relevant water company as a public sewer.

3.20.4 This approach acknowledges the views of key stakeholders that section 104 agreements would be a practical way of overseeing the construction stage to deliver the new sewer standards better when they are introduced. It is a procedure housing developers and water companies are used to. The details of the agreement, e.g. bonds, can be site specific and risk based, if that is preferred to a general model agreement, and developers can appeal to Ofwat under section 105 of the Water Industry Act in the event of a dispute over the terms of the agreement.

3.20.5 The amendments will be introduced in the current Bill and will extend to s105 of the Water Industry Act 1991, to ensure that disputes over the standard an asset has been built to are also covered. These will be provisions for the Secretary of State and Welsh Ministers to make regulations in respect of the requirements for s104 agreements and to issue more general guidance if necessary.

- 3.20.6 The amendments will also have the effect of introducing mandatory adoption by water companies. On 15 December 2008, the UK Government announced that it would take steps to prevent the proliferation of new private sewers connecting to the public system, as part of its transfer of such existing assets to water companies. On 31 March 2009, the Welsh Assembly Government launched the Strategic Policy position Statement on Water, which included a commitment to take steps to prevent the further proliferation of private sewers that are not of an adoptable standard.
- 3.20.7 These amendments implement this aspect of Government's review of private sewers.
- 3.20.8 Government acknowledges those responses which asked for more details of the proposed new mandatory build standards for sewers. The Department and the Welsh Assembly Government will continue to work closely with stakeholders on the content of a standard.

3.21 Misconnections

- 3.21.1 The public consultation revealed overwhelming support for the proposal that powers should be given to sewerage companies to require householders to remedy misconnections. The EFRA Committee report highlighted that several water companies regarded misconnections as a high priority. Government will proceed with this proposal at the next available opportunity.

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

- 3.22.1 There was general support for proposals to introduce a new regime for delivering infrastructure projects. There were several useful comments that will help develop the secondary legislation. In particular, there was a general consensus that the regime should only apply to a limited number of very large projects.
- 3.22.2 However, respondents wanted clarity on the criteria which would determine which projects should be covered by this legislation. It was suggested the criteria should not be based on project characteristics such as risk and complexity, but instead there should be only a financial threshold when the regime kicks in.
- 3.22.3 Government will consider these points as it develops the secondary legislation early next year, in consultation with stakeholders. Primary legislative provisions are included in the Bill currently before Parliament.

3.23 Complaint handling powers

- 3.23.1 There was significant agreement from local authorities, consultancy firms, individuals and representatives of businesses to the proposals. Water companies were also broadly supportive, and Government will provide clarification to individual companies on points they raised about costs associated with arbitration. These proposals will be taken forward at the next legislative opportunity.

3.24 Securing compliance

3.24.1 A number of water companies questioned the proposals around securing compliance. In particular they wanted to ensure that the appeal provisions around the appropriateness of financial penalties and changing conditions of appointment were adequate. Government believes that the existing regime addresses these concerns and does not propose to make any changes to the existing proposals.

However, we will engage with water companies and other stakeholders on the development of the secondary legislation and consider the best way to accommodate the role of Welsh Ministers in the regulation of water companies wholly or mainly in Wales. These proposals will be taken forward at the next legislative opportunity.

3.25 Scottish Fisheries Committee

3.25.1 Discussions were held between the Scottish Environment Protection Agency and the primary objectors to the proposals: the Association of Salmon Fishery Boards and River and Fisheries Trusts of Scotland.

3.25.2 As a result, the parties agreed that the Fish and Fisheries Advisory Group (set up under section 17 of the Water Environment and Water Services (Scotland) Act 2003) offered an appropriate way to deal with a wide range of strategic issues following the abolition of the Fisheries Committee. The Water Environment (Controlled Activities) (Scotland) Regulations 2005 (known by the acronym 'CAR') process would deal with any site specific fisheries impacts.

3.25.3 Subsequently, there are no unresolved material objections in Scotland to the abolition of the Fisheries Committee and there are no further policy requirements. This provision is included in the Bill currently before Parliament.

4. Other issues raised for consultation

4.1 Possible reform to the role and governance of Internal Drainage Boards (IDBs)

The future size, shape and structure of internal drainage boards

- 4.1.1 Over half of all respondents agreed that the Secretary of State should be able to determine the size, shape and structure of internal drainage boards in the future. However, it was felt that if the Secretary of State should consult fully with local key stakeholders before exercising any such powers. Some also suggested that an impact assessment would need to be carried out for all cases that required changes in size, shape or structure.
- 4.1.2 Most respondents also supported internal drainage boards being able to extend their boundaries. Most felt that it was useful to base the boundaries on catchment areas rather than on political borders. Over two thirds supported the relaxation of powers contained within the Medway Letter and agreed with the proposal of simplifying the process of amalgamating internal drainage boards.
- 4.1.3 Government's view is that the future structure of internal drainage boards should continue to be based around hydraulic catchment boundaries rather than local authority administrative boundaries. This reflects the findings and recommendations of the 2007 Internal Drainage Boards Review.
- 4.1.4 For internal drainage boards to be able to deliver the benefits of working along hydraulic lines, it is of course important that they cover a whole sub-catchment. Government's initial view is that a power to be able to restructure on this basis is essential.
- 4.1.5 However, further work is needed to consider the precise basis and criteria for such restructuring which takes into account the benefits of existing boundaries and smaller scale bodies as well as the advantages of catchment-level internal drainage boards. The Department intends to engage further with relevant stakeholders to develop policy in this area.
- 4.1.6 In terms of allowing for internal drainage boards to extend their boundaries beyond those provided for by the Medway Letter, legislative provisions may not be required. Further consideration is, however, required as to how larger internal drainage boards that cover higher ground would fit in with funding systems and the new structures that are being created. These new structures include lead local flood authorities with responsibility and powers for surface water management, with the power to enter into arrangements with other bodies such as internal drainage boards.
- 4.1.7 On the process for amalgamation and order making, our initial view, overwhelmingly supported by stakeholders is that it should be streamlined. The proposal is to remove the requirement for four protracted advertising periods, replacing them with just two; thereby speeding up the process so that it takes approximately 8 months instead of the current 12 months. We do not feel that this needs to be considered through further consultation with internal drainage boards or other stakeholders.

Internal drainage boards title change to water level management boards

- 4.1.8 The proposal that the title of internal drainage boards should change in the future to reflect the wider approaches that they will undertake, was met with a fairly balanced response, both for and against. Local authorities, the Royal Society for the Protection of Birds and the Environment Agency supported a name change, but had different views on what the name should be.

- 4.1.9 The majority of internal drainage boards and local authorities that responded disagreed with the suggested title 'Flood Risk Management Board'. They felt this did not reflect the water level management role undertaken by internal drainage boards and that it could lead to confusion regarding who is in charge of local flood risk management.
- 4.1.10 A number of variations on 'water level management boards' were put forward by respondents. As a cost neutral measure, Government will encourage the use of "water level management board" by internal drainage boards. We will consider whether a formal change is needed at the next legislative opportunity.

Working in partnership

- 4.1.11 The majority of respondents were in favour of allowing internal drainage boards to work in consortia. Respondents felt that allowing internal drainage boards to share services and form consortia would improve efficiency, though the preference was for doing so on a voluntary basis rather than as a regulatory duty.
- 4.1.12 Around half of respondents supported the proposal for internal drainage boards to form/participate in limited companies/limited liability partnerships for the purposes of sharing services. Those in support felt that it would mean pooling of resources and therefore create value for money. However, concerns were raised that it could weaken internal drainage boards public role, create possible cross subsidies, limit internal drainage boards accountability and their ability to work consistently with local strategies.
- 4.1.13 The EFRA Committee felt that the Department should consult with local authorities to establish whether the statutory framework governing internal drainage boards provides sufficient flexibility to enable them to work effectively.
- 4.1.14 In response, the Bill now includes a provision to allow internal drainage boards to work in consortia. This will enable internal drainage boards to share administrative, professional or technical services as well as perform flood risk management functions for one another. Government sees this as a further step in encouraging internal drainage boards towards full amalgamation based on sub-catchments by 2013.
- 4.1.15 Internal drainage boards suggested forming limited companies as an alternative solution to sharing services through a lead board (working as a consortium). Government will consider whether this measure is still needed since internal drainage boards will be able to work in consortia and, if so bring forward further legislation as Parliamentary time allows.

Membership of boards

- 4.1.16 Around half of respondents agreed that the bare majority limit on local authority membership of boards should be removed. The principle of "he who pays, gets a say" was favoured by most respondents. Although many felt it was important to ensure that the local knowledge base and representation is maintained.
- 4.1.17 The Environment Agency, Natural England and the Royal Society for the Protection of Birds went further and suggested that a wider range of local interests such as tourism, conservation and recreation should be included on boards. It was suggested this could be through official appointments or by local authorities selecting members with particular expertise.
- 4.1.18 Government agrees that the bare majority limit should be removed to ensure local authority representation reflects more closely the level of funding provided. Government also recognises that boards make decisions for the benefit of the wider local area as well as the immediate interests of board members. We therefore feel it is appropriate to widen board membership to reflect a broader range of local interests.

4.1.19 However, as internal drainage boards work within different geographic areas, there may not be a “one size fits all” membership scheme. Government proposes to work with internal drainage boards and others to identify their services, customers and duties and develop appropriate membership models which provide the right balance of interests. These will be considered for future legislation.

Internal drainage board’s supervisory role and powers

4.1.20 The consultation asked whether there is a direct conflict or inconsistency between the internal drainage boards, supervisory role within their area and the local leadership role of the county and unitary local authorities. Around half of respondents disagreed. It was felt by many that the internal drainage boards’ supervisory role should be maintained due to their level of experience and knowledge. Some also felt this was important in order to help internal drainage boards influence the planning process. The EFRA Committee also commented that it is vital that their experience and expertise in preserving high quality agricultural land is maintained.

4.1.21 Just under a quarter of respondents were in favour of transferring the regulation of the entire ordinary watercourse network to county and unitary authorities. Some felt that internal drainage boards had managed these responsibilities up until this point, had significant expertise and questioned the usefulness of changing it. The EFRA Committee commented that the requirement for internal drainage boards to seek consent from the Environment Agency for basic maintenance work is unnecessarily restrictive.

4.1.22 Government has considered these views and has concluded there is no need to change the supervisory role which internal drainage boards have within their own areas.

Supervision of internal drainage boards by the Environment Agency

4.1.23 Many respondents felt internal drainage boards should not be supervised by lead local flood authorities. Issues that were raised included the need for expertise and funding in local authorities. Some practical issues were also highlighted as internal drainage boards are based around catchment areas, whilst local authorities work along political boundaries. Internal drainage boards were strongly against the suggested change, while just over half of local authorities supported the idea. Responses were similar on who should lead on processing amalgamation scheme proposals.

4.1.24 The consultation responses identified a number of key issues which we need to explore before any decision on the future supervision of internal drainage boards and associated activities can be made. On the issue of local authority knowledge and expertise, our intention is to build skills within local authorities so they can perform a central role in flood and coastal erosion risk management.

4.1.25 Lead local flood authorities will have responsibility for groundwater, surface water and ordinary watercourses outside internal drainage boards areas. They may therefore need greater direct influence over the activities of internal drainage boards. However, Government recognises that internal drainage boards perform a number of different water level management functions across areas defined by contours and water course which may cross several political boundaries. The Environment Agency may be able to offer oversight across these functions and boundaries.

4.1.26 Under the provisions included in the Bill, internal drainage boards have a duty to act consistently with the local and national strategies. They also have a duty to co-operate with other flood authorities.

4.1.27 This should help ensure consistent approaches to flood risk management within political and catchment boundaries. Local strategies will also provide a form of direction to internal drainage boards on local issues. Local authorities already play a key role in

decision making on internal drainage boards. Government will need to consider how lead local flood authorities should be involved in IDB boards in future.

- 4.1.28 Government will continue to consider the challenges raised by respondents in deciding which authority should have the specific powers of direction over internal drainage boards.

4.2 Funding

Environment Agency grant making powers

- 4.2.1 The Environment Agency would not support the broadening of its funding powers if it would be exposed to the risk of being inundated with requests from individual property owners to fund measures such as flood gates and air-brick covers. The new power is important for the Agency to be able to fund adaptation and resilience activity and alternatives to traditional built defences. The Agency would not be obliged to make payments it has not authorised itself, and we would anticipate the Agency operating in a similar manner to existing powers in that it would invite applications for grant before it may be given.

Environment Agency local levy

- 4.2.2 Respondents were broadly supportive of proposals to extend the present levy-raising powers of regional flood defence committees to also allow funding to be raised by the new regional flood defence committees for locally-important coastal erosion risk management projects. As a result, we have included provisions in the Bill before Parliament.

Other funding streams

- 4.2.3 Respondents supported retention of the Environment Agency's general drainage charge and internal drainage boards' agricultural drainage rates as important local funding mechanisms that operate in accordance with a 'who benefits, pays' principle. Respondents were split on whether to repeal the Environment Agency's special drainage charges.
- 4.2.4 Government is minded to retain the full suite of instruments but to consider whether they can be modernised and enhanced, including in light of the findings of the Environment Agency's Long Term Investment Strategy. Government is minded to seek to address issues of accountability and transparency, particularly in relation to funding mechanisms such as highland water charges, precept and special levies through any future legislative opportunity.

Local authority funding

- 4.2.5 Respondents indicated support for retaining existing local authority funding structures and in particular for district authorities to retain their funding direct from central government to allow them to continue to fulfil important functions and retain expertise.
- 4.2.6 Some concern was expressed that diverting funding to the lead local flood authority may diminish the certainty of investment in appropriate funding activity, particularly at the local level. Government will consider further the most effective allocation of funding that would support the new roles and responsibilities of authorities under the Bill.

Developer contributions

- 4.2.7 There was support in general for making sure developers pay for the long-term impacts of building on the flood plain. However, respondents indicated that the proposed combination of Community Infrastructure Levy and continuing powers to require developers to pay Section 106 commuted sums to local authorities to maintain specific assets should be sufficient. Government will keep this issue under review.

4.3 Reducing the contribution of private property to flood risk

Increasing awareness of responsibilities of riparian owners

4.3.1 There was support for the proposal to include information on riparian responsibilities in home information packs. Government has no immediate plans to make changes to home information packs because of the possible costs of such changes and the need for a period of stability following the introduction of home information packs. Government are considering the responses received and whether other steps should be taken. These include discussions with the Law Society on whether information on riparian responsibilities can be incorporated into the standard conveyancing process.

Stronger enforcement powers

4.3.2 A number of proposals were made for amending the powers under section 25 of the Land Drainage Act 1991 to strengthen the powers of local authorities and internal drainage boards to carry out their duties. We are considering whether changes are warranted.

Early Neutral Intervention or Alternative Dispute Resolution mechanisms

4.3.3 Though there was support for this proposal, it was also pointed out that the drawing up of a drainage report prior to a hearing may serve a similar purpose to Early Neutral Intervention. Many cases are currently settled following the drawing up of the report, before the case is heard. There were also concerns that agricultural land tribunal staff would not have the skills to carry out mediation. Government's conclusion is that it is not necessary to add an Early Neutral Intervention stage to the tribunal process, for the reasons outlined above, and also because parties who wished to mediate could draw on the range of mediation services that exist (e.g. the National Mediation Helpline). Government will consider however how it can make parties involved in land drainage cases aware of existing mediation services.

Extending the Remit and Procedural Reform of the Agricultural Land Tribunal

4.3.4 There was broad support for proposals to introduce fees and costs provisions so that the loser would pay the winners costs. However, the agricultural land tribunal was concerned that administration costs might outweigh the application fee if it was low. Government will consider further whether fees are appropriate, and if so, at what level they should be set.

4.3.5 There was broad support for extending the remit to cover ordinary watercourses, though some internal drainage boards were worried that this could conflict with their own role. Additionally, there was support for streamlining and simplification and a number of proposals were made. Government are considering these issues further.

4.3.6 A number of proposals were made for renaming the Agricultural Land Tribunal, including a suggestion to split the Agricultural Land Tribunal into separate agricultural and drainage tribunals. Government believe a change is required to make more explicit the drainage role of the Agricultural Land Tribunal. However, we will make a decision on this in light of any other changes that are made to the Agricultural Land Tribunal following the consultation.

Supplementing the Law on Riparian Ownership by Creating a Statutory Nuisance

4.3.7 The creation of a statutory nuisance received broad support. However, some key stakeholders opposed arguing that existing powers were already sufficient and/or improvements could be achieved through minor amendments to existing legislation. Individual can already bring cases under the common law: nuisance, negligence and also Judicial Review in relation to public authorities. Government is therefore not convinced that a new statutory nuisance relating to obstructed watercourses is justified. Government will however consider the issue further with key stakeholders, and consider the alternative amendments proposed through any future legislative opportunity.

Creating a Statutory Nuisance of Runoff Flooding

4.3.8 The majority of respondents supported the proposal for a statutory nuisance covering runoff flooding, though there were concerns over how it could be enforced and the potential burden upon local authorities. Government believes there are strong arguments for changes to legislation to make it easier to tackle runoff flooding. However, more work is required to weigh up the costs and benefits and consider precisely how a new statutory nuisance might work before a final decision can be made. Government also need to consider the alternative of extending the remit of the ALT to cover this sort of flooding.

Encouraging local authorities to make more use of their Article 4 powers to reduce the growth in surface runoff risk

4.3.9 This proposal received broad support. Though this proposal does not require legislative change, the Department for Communities and Local Government has recently consulted on proposals to make it easier for local authorities to make Article 4 Directions their use where necessary (ensuing legislation is expected in April 2010).

4.3.10 A number of respondents proposed that Government should go further and exclude paving over back gardens from permitted development rights, unless permeable surfaces are used, to mirror the recent change made in relation to front gardens. The Department for Communities and Local Government has no plans, however, to consult on extending regulation of paving to side and rear domestic gardens as local planning authorities already have powers to restrict such development where it causes a local problem via Article 4 of the Town and Country Planning (General Permitted Development) order 1995.

4.3.11 The Department for Communities and Local Government is currently consulting on proposals for changes to permitted development rights for hard surfaces laid upon shop, office, institutional, and industrial premises.

Farmland and Restrictions on Management Practices

4.3.12 The proposal to give authorities powers to impose restrictions on management practices was broadly supported, though there were concerns for the impact upon land managers and farmers.

4.3.13 The Department is conducting research on the extent to which land management practices affect runoff at catchment level. At present, there is not sufficient evidence available to justify restricting land management practices for the purposes of managing runoff at catchment level. This could change in future, and the Department will continue to work on this issue.

4.3.14 The evidence suggests that management practices do, however, make a difference at a local level. Common Agriculture Policy cross-compliance provisions were recently revised to include a 'Soil Protection Review', which should help identify and manage farmland runoff problems. The Department will assess the effectiveness of those existing measures and consider further whether it would be appropriate to introduce a new statutory nuisance or other measures to require farmers to make change management practices where it is clear that these are responsible for localised flooding.

4.4 Single Unifying Act

4.4.1 Of those who responded, approximately half agreed that direct discussions with relevant organisations would be sufficient to agree any further changes in legislation. Those respondents also agreed that no further general consultation was needed.

4.4.2 The EFRA Committee recommended that the Department should continue working towards a single unifying act, even if this delays the Bill until the next Parliament.

Government recognises the desire for a single unified Act on floods to help simplify the numerous Acts in existence and help clarify current legislation. Our ongoing aim will be to condense and simplify the relevant Acts as far as possible in the Parliamentary time available.

- 4.4.3 Although Government are not able to produce a single unifying act in the 5th Session of Parliament, Government propose introducing a provision which will give the Secretary of State power to make pre-legislative amendments to the legislation which we intend to consolidate. This power will help allow Government to eliminate differences in provisions in different Acts, which serve a similar purpose to allow for greater consistency, simplify procedures and correct errors. Once the provision is commenced, Government plan, to use these powers at the earliest opportunity to start the consolidation process.
- 4.4.4 Government will continue to work with our key stakeholders in developing policies, which are not included in the current Bill. The Department has identified some areas where we may undertake smaller scale consultations to test policy options and we will continue to engage with the interested parties.

4.5 Time limiting of abstraction licences

- 4.5.1 The proposals for mandatory time limiting of all abstraction licences have been subject to a separate consultation exercise. The responses are currently under consideration and Government will issue a response in due course. If primary legislation is required to deliver the changes decided upon, Government will seek to make those alongside legislation on other matters covered by this document.

4.6 Water efficiency

- 4.6.1 Government concluded in advance of the consultation that on this issue it would await the recommendations that emerge from the Walker Review.

4.7 Hydromorphology

- 4.7.1 Almost all respondents who addressed the questions supported the principles of this proposal and, in most cases, the details. Concerns raised related mainly to the criteria for the use of the power, in particular the phrase “reasonable certainty” was considered either imprecise or too high or, in some cases, too low a threshold for action. It was also questioned whether it made adequate provision for costs and benefits and the “polluter pays principle”.
- 4.7.2 It is important to see the proposal, which will be provided specifically to implement the Water Framework Directive, in the context of existing legislation and guidance to the Environment Agency. For example, the Water Framework Directive requires Member States to take account of the polluter pays principle, but economic analysis may, on occasions, indicate exceptions to this principle.
- 4.7.3 Consultation with interested parties is an integral part both of the Water Framework Directive and of the transposing regulations. “Reasonably certain” may seem imprecise, but absolute certainty is clearly unobtainable in relation to environmental outcomes while a low level of certainty is likely to be disproportionately costly and thus to lead to action being ruled out when the economic tools developed for Water Framework Directive implementation are applied.

4.7.4 On balance, Government considers that the provision overall should provide a sufficient but not excessive power which will be further developed in light of some of the detailed comments and suggestions received. Government proposes to implement the provision by means of a Statutory Instrument made under Section 2(2) of the European Communities Act 1972.

4.8 Cave Review of competition and innovation in water markets

4.8.1 The UK and Welsh Assembly Government response will be taken forward alongside responses to the ongoing consultation on the Cave Review. Please see <http://www.defra.gov.uk/corporate/consult/cave-review/index.htm> for further information.

4.9 Walker Review of charging for household water and sewerage services

4.9.1 Anna Walker is consulting on interim recommendations and is due to publish her final report later this year. The UK Government and Welsh Assembly Government will consider the recommendations of her Review.

5. Next steps

- 5.1 The UK Government has made clear its aim to bring together the several relevant statutes and the changes it is now proposing into a single coordinated easy to use set of legislation – an approach the Welsh Assembly Government supports. There are many benefits of doing so. However, it is not possible to achieve this at this moment because:
- policy is not finalised in several areas of the consultation paper (for example, the review led by Anna Walker of charging for household water and sewerage services has not yet reported); and
 - this Session of Parliament is necessarily short, so there is insufficient Parliamentary time for very large Bills.
- 5.2 The EFRA Committee argued that it is preferable to wait until it is possible to bring forward a single Bill, which makes all the necessary changes and brings them together with the current statute book. However, the UK Government is clear that it should legislate for the new clear roles and powers necessary to protect people from the risk of floods as soon as possible.
- 5.3 Furthermore, the EU Floods Directive is due to be transposed this month. Even if the UK Government agreed with the EFRA Committee's desire for delay, it could not wait for a further 12-18 months before bringing the Directive into UK law. The UK Government, supported by the Welsh Assembly Government, therefore is bringing forward:
- regulations under the European Communities Act to implement the EU Floods Directive;
 - the Flood and Water Management Bill in the current Session of this Parliament to implement the most urgent elements of our programme;
- and intends to bring forward:
- a Bill consolidating the existing legislation on reservoirs with that being made in this Session's Bill;
 - a Bill consolidating provisions relating to flood and coastal erosion risk management in the Land Drainage Act 1991, Coast Protection Act 1949, Water Resources Act 1991 and Environment Act 1995 (all as amended by the Flood and Water Management Bill), with new flood and coastal erosion risk management provisions in the Bill
 - legislation on the remainder of our programme, including further measures to consolidate legislation, as soon as Parliamentary time allows.

Annex A: Glossary

ALT	Agricultural Land Tribunal
COMAH	Control of Major Accident Hazards
Defra	Department for Environment, Food and Rural Affairs
EFRA	The Environment, Food and Rural Affairs Select Committee
IDB	Internal Drainage Board
NFU	National Farmers Union
OFWAT	The Water Services Regulation Authority
PPS25	Planning Policy Statement 25
SFRA	Strategic Flood Risk Assessment
SUDS	Sustainable drainage systems
UKCP09	United Kingdom Climate Programme 2009



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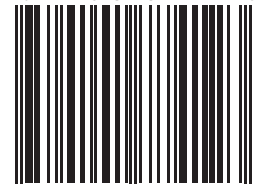
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