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ICE response to the Defra consultation on Securing the future availability and affordability of home insurance in areas of flood risk

The Institution of Civil Engineers

The Institution of Civil Engineers is a UK-based international organisation with over 75,000 members ranging from professional civil engineers to students. It is an educational and qualifying body and has charitable status under UK law. Founded in 1818, the ICE has become recognised worldwide for its excellence as a centre of learning, as a qualifying body and as a public voice for the profession.

ICE would like to thank Defra for the invitation to take part in this consultation exercise and submits the attached comments.

Yours sincerely,

Andrew Wescott
Policy Manager

ICE response to the Defra consultation on Securing the future availability and affordability of home insurance in areas of flood risk

Q1. Do you have any evidence of small businesses experiencing difficulty with the availability and affordability of property insurance due to the risk of flooding?

No comment

Not directly, but we are aware that this is a problem of concern to a range of small companies around the Welsh Coast

Q2. Do you agree with the Government's policy objective for flood insurance?

The Flood Summit Keystone Principles in Figure 1 on p.16 are all important aspects of flood risk management, which should be at the centre of the approach to determining flooding insurance. ICE considers that resilience is the key aspect of flood risk management. Flooding cannot be avoided; therefore, it is important that communities and individuals make themselves as resilient to the impacts of flooding as possible. While doing this, they should ensure that they are not shifting their flood risk on to another community or individual.

The risk of flooding is also highly sensitive to Indicative Flood Maps and these maps are very dependent on highly technical information (such as bed roughness, numerical model details etc.). In Wales a large number of river basins (including catchments) are short and steep and traditional modelling tools may often not be sufficiently accurate. It is therefore imperative that more information should be provided to the public in terms of the technical aspects relating to the prediction of Indicative Flood Maps.

Individuals may be impacted in ways over which they have no control. Communities and individuals must be aware of all the consequences they face from flood risk. A register of these possible consequences of flooding should be made for each community. For example, the consequence of road closures caused by bridge collapse and the impacts on businesses, public transport and commuters; impacts of hospitals and emergency responders' premises being flooded and so unavailable at these critical times; road surfaces or railway lines damaged, affecting transport and the ability to provide an emergency response.

Then, if there is a requirement for individuals and communities to invest to improve the resilience of their homes, businesses and infrastructure, decisions can be made based on a clear understanding of flood consequences; however, it is important that if individuals and communities invest in resilience then this action does not significantly increase flood risk upstream.

Effective incentives must be in place. Insurance companies should ensure that if homeowners reduce their risk from flooding by investing in flood resilience techniques this should be reflected in the insurance premium being offered. If this is not the case then there is little or no incentive for homeowners to take on responsibility for reducing risk. Furthermore, flood hydraulics/hydrology is

highly technical and there is an increasing need for specialist engineers to become involved in advising home and business owners when and how best to protect their homes from flood risk. There should be incentives for the insurance industry to encourage the use of qualified engineers and a register of appropriate engineers may be valuable, similar to the case for reservoir engineers.

ICE also agrees that the transparency and timeframe for resolving insurance claims must be improved. The length of time that people and communities are displaced due to flooding should be reduced significantly. The recovery from flood risk very often depends on the level of resilience in place, which makes a stronger case for improving, investing and incentivising resilience against flooding. A Community Flood Consequence Register would help this.

UK Government and Devolved governments also need to do more to incentivise private investment in flood risk management schemes. Although it is encouraging that in England an additional £148 million of external funding to supplement the UK Government's £2.3 billion investment has already been raised, this is a mix of Local Authority, RCFC and private funding. ICE supports continued public sector investment in Flood Risk management in the Devolved Administrations; however, genuine private investment is the only way to reduce the pressure on the public purse.

Q3. Do you agree with the approach taken to analysing the different potential solutions in the Impact Assessment?

The approach to analysing the different solutions in the Impact Assessment is comprehensive. Although it is not one of the preferred approaches, it would have been beneficial to provide an assessment of a solution that allowed for State provision of flooding insurance. The Impact Assessment alludes to the international precedent for State provision of flooding insurance. The overall analysis would have benefitted by including this option for flooding insurance, if only to provide a comprehensive analysis of all the options.

The options provided, particularly the preferred options, assume that the insurance industry will map flood risk accurately and also take account of individual and community action to reduce flood risk. Both of these aspects should be mandated for insurance companies otherwise there is a danger that homeowners and communities will invest in flood risk resilience measures, but not necessarily see a return in the premium offered to them. This may disincentivise individuals and communities to take such measures. However, it should be appreciated that it is much more difficult to predict flood risk accurately in river basins (including catchments) where the river basin is short and steep and where the flow velocity (or to be technically correct the Froude number) is particularly high. In Wales, in particular, there are a relatively high proportion of the river basins which have short steep catchments and the level of confidence in predicting flood risk to a reasonable level of accuracy is much lower (e.g. the St Asaph floods of 2012).

The public and insurers in general don't fully understand what flood risk is or what the term "flood risk" means, and that the concept is applied inconsistently. More work is required to ensure a consistent approach and understanding. The standard of detail in the Environment Agency's flood

mapping is inconsistent and not made easy to challenge as different methodologies for hydrology are adopted or accepted.

Q4. Do you agree with the evidence presented in the Impact Assessment?

Figure 4 does not include the value of the excess applied. These can be thousands of pounds and should be considered in addition to the premiums.Q5. Do you have any further evidence which has not been considered in the Impact Assessment?

Research undertaken by Northumbria University shows that reinstatement with resilient measures following the first flood event is critical to recovery from future floods when high excesses prevent full reinstatement if resilient measures have not already been implemented. This should be addressed by all flood insurance.

The “robust approach to new development in areas of flood risk” relies on flood maps for river and sea flooding only. This leaves some new development at risk from surface water flooding. Two thirds of flooding in 2007 floods was caused by surface water. Surface water flood risk (and flood risk from other sources) is only considered for domestic properties being developed on sites of less than 1 ha if the Code for Sustainable Homes is applied, as it is in Wales.Q6. Do you support the Government's proposed approach?

The proposed approach appears to be the closest alternative to the Statement of Principles. This is positive in the sense that it provides some continuity; however, there are still uncertainties with this approach. The length of time required to deliver and implement Flood Re is concerning. The requirement on the Government to seek approval from the European Commission may take between eighteen and twenty four months; however, it may be longer. If this is the case, will the Statement of Principles be further extended?

Regardless of which approach is taken the current situation will remain whereby those making claims for flooding cannot claim for betterment and are only cover to repair or replace what is damaged. If insurance companies contributed to betterment that would mitigate future flooding, may be subsidised by government, this could benefit those at flood risk and in the longer term may even bring down insurance costs.

Q7. If the remaining challenges associated with Flood Re prove too difficult to overcome, what factors do you think should be taken into account ahead of any decision on whether or not to introduce the Flood Insurance Obligation?

According to the consultation documents, Flood Re has support from the insurance industry. It is not clear if this is the case with the Flood Insurance Obligation. In order to have this as a feasible Plan B, the UK and devolved governments should ensure that the insurance industry agrees with this approach, otherwise the time delay for implementing an alternative to the Statement of Principles could roll on into the next decade.

The importance of understanding and allocating flood risk accurately appears even more important if the Flood Insurance Obligation is to be used (particularly since current widely used models cannot be particularly accurate in terms of predicting flood peak levels for short steep catchment, e.g. St Asaph flood of 2012, where many post 2009 houses turned out to be in the floodplain). As the consultation document states *if the register misclassified a household's flood risk this could lead to either unnecessary discounting of premiums (and therefore additional costs for other policyholders) or high-risk households left without the support the obligation would provide*. Neither of these outcomes is acceptable; therefore, a great deal of preparation work has to be put in place to ensure that the risk register is as accurate as possible.

Flood Re

Q8. Do you agree that setting the eligibility thresholds according to council tax bands (or their equivalents in the Devolved Administrations) will help ensure Flood Re support is targeted towards those households who need it most, without requiring significant administration? Is there a better method?

Council Tax Bands are based on property values from over 20 years ago, so it is not the most accurate threshold. It is assumed that the valuation of the home is a representation of the wealth of the householder; however, with potentially inaccurate figures this may not be the case. As the eligibility criteria also rely on local flood risk modelling, it is also important that the most accurate, technically relevant and up-to-date flood risk assessment tools are being applied and at a level which provides an accurate local risk.

The thresholds should be adjusted for the Council Tax bands in Wales which have been re-assessed and no longer match those in England.

Q9. Do you have any views on the proposed initial "eligibility thresholds" within Flood Re (table 1 above), which would effectively cap the technical flood risk premium paid by high risk households?

No comment

Q10. Do you agree that the following should be excluded from Flood Re:

a. Band H properties?

This depends somewhat on properties being banded correctly. Affordability and access to flooding insurance are important aspects of any proposed approaches to future flooding insurance schemes. The emphasis on targeting high risk, low income households is welcome; however, it should be noted that according to insurance industry figures, income levels have a strong correlation with the uptake of building insurance. It has been reported that only 28% of the lowest earning 10% of the UK take out cover for building insurance. If Flood Re is being targeted at those high risk, low income members of society then more has to be done to educate people regarding their flood risk. Excluding Band H from Flood Re is appropriate in the attempts to offer flood insurance to high risk, low income households.

b. New homes built after January 2009?

Yes. Properties built after January 2009 should have had a comprehensive and competent Flood Risk Assessment carried out to ensure flood risk is minimised. However, as stated previously for regions where the river basin is short and steep then accurate tools – with appropriate data (e.g. bed roughness) - are not widely available. If a decision to build in an area of high flood risk is taken by a developer/builder and these householders are subsequently unable to obtain insurance then the onus should be put on the developer/builder who created the risk in the first place. Flooding from sources other than rivers and sea will not have been addressed for all homes built after January 2009.

Where developers go out of business or bankrupt and their obligations should not rest with the residents that have purchased the property. Also if the flooding is caused as a result of failure to maintain flood defence assets by some other person or organisation then the owners of new homes would suffer.

c. Genuinely uninsurable properties? If so, how would you define these in a consistent way that insurance companies can apply?

A property that floods on a regular basis, once a year or one in every five years, would fall within this category. It is important that an accurate flood risk assessment is utilised to ensure that homes are not being unfairly categorised as uninsurable, with the proviso that accurate flood risk assessment is not always possible in regions of short steep river basins. Clarity is required on who pays for this and what are the incentives for the State and/or the insurance companies to ensure fairness in the categorisation.

Q11. Should other exemptions also apply?

This would have to be judged based on a thorough flood risk assessment and dealt with on a case-by-case basis.

Q12. Do you agree that Flood Re should apply to both buildings and contents insurance?

Yes; however, excesses should be considered as well as premiums.

Q13. Do you have any comments on this proposed way of managing Flood Re's exposure to large losses?

No comment

Q14. Do you think a levy equating to around £10.50 per UK household, which the ABI estimate is equivalent to the current cross-subsidy, is acceptable to help address the problem of securing affordable flood insurance for high risk households?

It is important to clarify that the levy applies to insured households and not all households. It is acknowledged in the consultation document that households may opt out of flood insurance due to increased costs. This would impact on the size of the fund available for Flood Re and may increase

the levy per insured household above the estimated £10.50. If the levy is broadly equal to the current cross-subsidy then that is appropriate; however, if the levy is above the £10.50 stated then an explanation as to why it is higher than the current subsidy should be provided and actions to reduce it explored.

There are caveats to this that require attention. The consultation states that *the levy rate would be agreed between insurers and the Government of the day, and would initially be set for a five year period*. When a new government is in place when will negotiations over the levy begin? Based on the length of time the replacement talks for the Statement of Principles have taken it is understandable that confidence in the government and insurance industry's ability to negotiate and agree in a reasonable amount of time is very low. To mitigate this problem, ICE recommends that all parties agree a rate with the insurance industry prior to a General Election and that this figure is published in party manifestoes.

This is also an issue that impacts devolved governments. What is the procedure for managing a disagreement between the incoming government in Westminster and an incumbent in one or more of the devolved countries? Finally the consultation document states *if the total income from the levy and from policies placed within Flood Re is not sufficient to meet Flood Re's outgoings, the shortfall would be made up by ad hoc payments from insurers*. ICE would like clarification on the level to which this will be passed on to the householder through increased premiums.

Q15. Do you agree that Flood Re will secure the availability and affordability of household flood insurance in the UK?

There is a clear attempt to provide available and affordable household flood insurance; however, as discussed above low income households are less likely to take out household insurance. It is important that those at risk from flooding are made aware of the consequences so that they are able to make an informed decision about whether to take up flooding insurance.

The consultation document states that *the Government is continuing to discuss with the insurance industry what other arrangements might be needed to limit Flood Re's impact on the public finances*. This suggests that there are still areas of uncertainty regarding Flood Re which need to be resolved. ICE cannot confidently say that the proposed approach will provide available and affordable insurance to all until these uncertainties have been resolved.

From experience the public in general, don't understand flood risk or its consequences until after suffering or experiencing flooding when it is too late to take action. More work is required to ensure those in flood risk areas appreciate the risks and take timely action. Those living in socially deprived areas are even less likely to take time to understand the risk or take an interest in taking action. Areas blighted by flooding are likely to become socially deprived.

Flood Insurance Obligation

Q16: Do you agree that the Flood Insurance Obligation has the potential to meet the policy objective?

There is a clear attempt to provide available and affordable household flood insurance; however, as discussed above low income households are less likely to take out household insurance. It is important that those at risk from flooding are made aware of the consequences so that they are able to make an informed decision about whether to take up flooding insurance.

Again, it is important that flood risk assessments are accurate and up-to-date to ensure that the correct flood risk is ascertained so that those at high risk are not excluded from the obligation.

More government funding is required to enhance community resilience to flooding and raising awareness of flood. Barriers to public engagement and understanding of flooding still exist which need to be overcome if the policy objectives are to be met.

Q17: Do you agree that the Secretary of State should have the power to exempt some firms operating in the UK domestic insurance market from the Obligation, e.g. those with market share below a de minimis?

Further details explaining the size of the firms in question is required. There is the potential that larger firms could use loop holes to ensure that they are part of the Obligation. Clarity with respect to the Devolved Countries is also required.

Q18. Do you agree that at this stage Ministers should have the option of applying the Obligation to both buildings and contents insurance?

Yes. Clarity with respect to the Devolved Countries is also required.

Q19: Do you agree that the Environment Agency should be granted powers to act as a “lead administrator”, working with the devolved administrations to compile a UK-wide register that lists by address each domestic property at high risk of flooding?

Yes but consultations with similar bodies in the devolved Countries is required e.g. Natural Resources Wales rather than the devolved administrations. Furthermore, the Environment Agency must appreciate the terrain and coastal erosion difference in the devolved regions and that the level of predictive accuracy may be much less in some of these regions, e.g. large parts of Wales.

ICE would also like clarity on how the UK register of domestic properties is administered and how properties are classified as being at high risk is required.

Q20. Do you agree with the broad duties envisaged for the regulator? Is anything missing?

Yes

Q21. Which of the above approaches to supervising compliance with the Obligation do you believe is best suited to delivering the policy objective whilst minimising the burden on businesses and consumers? Is there another approach not considered here?

Q22. Which of the above approaches to imposing sanctions for non-compliance with the Obligation do you believe is best suited to delivering the policy objective whilst minimising the burden on businesses and consumers? Is there another approach not considered here?

Q23. Do you agree with our preference that the Financial Conduct Authority should supervise compliance with the obligation, and be responsible for taking regulatory action against insurers who fail to meet their obligation, or should it be or the Environment Agency?

As the FCA already has a regulatory role in financial services and a relationship with aspects of the insurance industry it makes sense that they should regulate the industry; however, ICE seeks clarification regarding the process for collaborating with the EA in its role as the lead administrator. As we have seen in the regulated water sector, unforeseen tensions between regulators can occur if primary agreements over collaboration are not clearly established. This issue requires attention before a decision on which organisation should regulate the industry is decided. Clarity with respect to the Devolved Countries is also required.