

Submission to the House of Commons Flooding and Water Management Committee scrutiny of the Flood and Water Management Bill (23/12/2009)

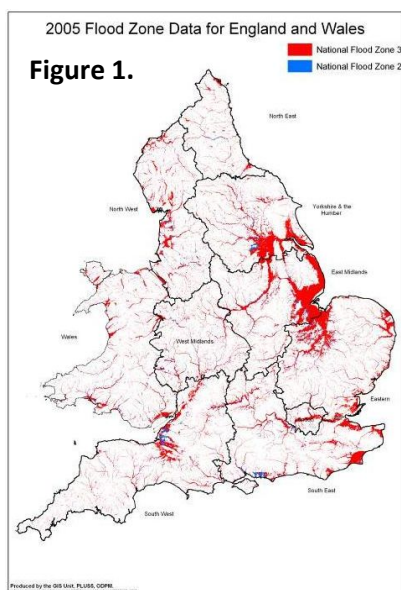
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Introduction to:

Association of Drainage Authorities (ADA)

The Association of Drainage Authorities (ADA) is the membership organisation for those involved in water level management. Its members include 152 Internal Drainage Boards (IDBs), the Regional Flood Defence Committees (to become Regional Flood and Coastal Committees (RFCCs) in England and Wales and the Northern Ireland Rivers Agency as well as 60 Associate Local Authority members. ADA is involved in a wide range of work for and on behalf of its members facilitating the exchange of ideas and promoting discussions to solve common problems and/or introduce new approaches to members' work. ADA responds to consultations from the Government and other organisations either on behalf of members or by facilitating individual member responses.

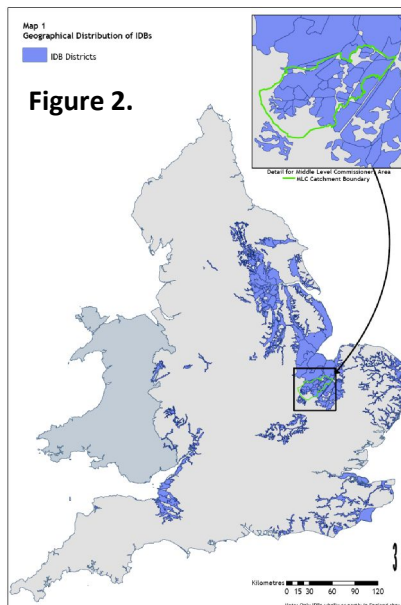
Internal Drainage Boards (IDBs)



Internal Drainage Boards (IDBs) are a type of operating authority that have been established in areas of special drainage need in England and Wales, with permissive powers to manage and maintain clean water drainage and water level management within Internal Drainage Districts. The area of an IDB is not determined by county or unitary council boundaries, but by the hydrology within a given region.

IDBs cover 1.2 million hectares of England (9.7% of England's total land area) and 28,500 hectares of Wales (1.4% of Wales' total land area), 90% of the indicative flood map zone 3 for England and Wales. IDBs are geographically concentrated in the Broads, Fens in East Anglia and Lincolnshire, Somerset Levels and Yorkshire.

IDBs are providing a important contribution to Defra's Making Space for Water Strategy by protecting and managing the water corridor. They provide a valuable service to the Town and Country Planning process by guiding and advising Planning Authorities regarding surface water management, flood risk and sustainable urban drainage, covering growth areas such as the Thames Gateway and Milton Keynes & South Midlands, and existing developed areas of the Thames gateway, East Midlands and the Humber Estuary. IDBs have responsibilities associated with 398 Sites of Special Scientific Interest plus other designated environmental areas.



For the full range of the activities and services provided by Internal Drainage Boards please visit <http://www.ada.org.uk> or http://en.wikipedia.org/wiki/Internal_drainage_board.

Figure 1. (top left), Indicative Flood Map from Office of the Deputy Prime Minister presentation on PPS25 (2006)

Figure 2. (bottom left) Geographical Distribution of IDBs in England <http://www.defra.gov.uk/enviro/fcd/studies/idbrev/map1.pdf>

The Flood and Water Management Bill

This document is the Association of Drainage Authorities' submission to the House of Commons Flooding and Water Management Committee scrutiny of the Flood and Water Management Bill. The issues below relate to the Flood and Water Management Bill and have been identified by ADA and its members. The importance of looking at watercourses and rivers for their hydrological function is fundamental for future management. Ignore this and flooding will occur.

1) Definition of "Flood"

In developing any Bill it is essential that terms used are accepted and understood by those involved. ADA is concerned with the definition of the term "Flood", as it does not include waterlogging or saturation of soils within 500mm of the ground surface where damages to property, infrastructure and vegetation can result, as detailed below:

- a. damage to property begins at 0.3metres below ground floor level (Penning-RowSELL and Chatterton, 1977¹);
- b. soil structure is affected by waterlogging – this can have adverse impacts on foundations of infrastructure;
- c. vegetation and crops cannot survive in conditions where high ground water levels persist (500mm below) (Morris and Sutherland, 1992²).

By failing to acknowledge that flooding begins before water reaches ground level a considerable risk could be placed on infrastructure across England and Wales as well as damage to properties, homes and land. It also prevents relevant authorities considering subsurface flooding when weighing up the costs and benefits of flood alleviation schemes, projects and actions. In many instances this may make the difference between a favourable cost/benefit assessment and failure, resulting in many essential schemes being sidelined.

2) Appeals procedure for the Environment Agency

ADA supports the requirement for the Environment Agency to develop maintain, publish and apply a National Flood and Coastal Risk Management Strategy. However, ADA is concerned that throughout the Flood and Water Management Bill the Environment Agency are given considerable duties and powers to give/withhold consent to activities and develop strategies without an appropriate appeals procedure for the decisions it makes. ADA believes additional clauses should be tabled which provide for an appropriate appeals system for decisions made by the Environment Agency.

3) Maintenance of hydrological systems

The fundamental objective of all responsible authorities should be the minimisation of flood risk through a sound policy of routine maintenance of existing river systems. There is deep concern that the Environment Agency has focused on policy decisions and processes such as modelling, mapping and flood warnings in recent years, which do not directly contribute to a reduction in flood risk. Whilst accepting that better scientific understanding of hydrological systems and flooding is essential, especially in a changing climate, a balance is needed that ensures the focus remains on meeting outcomes that benefit people, property and landscape. This means carrying out tangible work on the ground.

Developing and setting standards for watercourse maintenance should be an area that this Committee advise Defra to develop for future legislation, to avoid an irretrievable deterioration of England and Wales's Main River and Ordinary Watercourse networks. It would also be appropriate for the Environment Agency to publish an annual programme for its maintenance of Main River. Without routine maintenance watercourses are incapable of carrying the capacity and flows that they are designed and expected to take in times of need. This basic fundamental has too often been overlooked.

4) Lead Local Flood Authorities (LLFAs)

ADA believes that there are significant challenges facing Lead Local Flood Authorities as they take on responsibility for surface water flooding issues. Below is a summary of these key issues that must be overcome.

a) Insufficient funding ring fenced for flood risk activities

Local authorities have a multitude of functions to perform and limited budgets. Unless funding for flood risk management is ring fenced and made a priority it is unlikely they will be able to focus on delivering the Government's targets.

b) Lack of skilled staff

Many County and Unitary Authorities currently lack experience with almost no skilled staff dealing with flood risk and water level management, whilst in second tier authorities there are limited skilled staff dealing with these issues. Doubtless, these are challenges the local authorities will strive to meet, however ADA is concerned that Defra is overlooking the skills currently held within IDBs and the Environment Agency around the country. This falls at a time when flood risk management in the UK as a whole faces a significant shortage of staff, a shortage that needs addressing urgently by the Government. ADA supports the development of a Flood Risk Management Foundation Degree and the joint work programme on skills (technical and leadership / partnership, to include the apprenticeship proposals) being developed through the National Partners Group on Flood Risk Management.

c) The discrepancies between hydraulic catchment boundaries and political boundaries

Rivers often form the boundaries for local authorities, which is likely to result in the fragmented management of catchments. County and unitary authorities will wish to prioritise flood risk management within their boundaries, diverting funding and works from strategic actions that would be more beneficial to the whole catchment. ADA is also aware of difficulties with flood risk management works where beneficiaries lay the opposite side of the Anglo-Welsh border to the costs. Such decisions need to uphold hydrological catchment principles and not adopt isolationist approaches to flooding. Cooperation between bordering Lead Local Flood Authorities will be essential.

Case Study: Bedford Group of Drainage Boards

In the Upper Great Ouse Catchment the Bedford Group of IDBs work with 13 local authorities, 8 of which are either County or Unitary authorities. All of these cover at least two hydraulic catchments and some also fall into different EA regions. These authorities also have different political agendas and different views on flood risk management. There are already discrepancies in the Group's area, at one extreme an upper tier authority wishes to devolve all responsibility for flood risk management to the IDBs while at the other extreme another LA is unwilling to engage with its flood risk management responsibilities or other relevant authorities.

ADA considers that water level and flood risk management on a catchment basis should determine any strategic approach to flooding. This is a principle supported by the Water Framework Directive and Defra's Future Water strategy and upheld by IDBs in England and Wales, Waterschappen in Holland, Consorzi di bonifica in Italy and by other water level management authorities in many other countries across Europe, including Belgium, France, Germany, Hungary, and Spain.

d) Working with partners

ADA strongly believes that as Lead Local Flood Authorities take responsibility for local flood risk assessment, Internal Drainage Boards (where they occur) should provide LLFAs with a significant level of guidance and technical knowledge, carrying out delegated work as described within the Bill. It is essential that this is on a full partnership basis and does not diminish the responsibilities and role of Internal Drainage Boards, but instead boosts their influence and ability to deliver. There may be areas of special flood risk for which it would be beneficial for LLFAs to expand Internal Drainage Districts; either by expanding existing IDBs, or creating new IDBs managed by existing Consortia of IDBs.

5) Sustainable Drainage

These comments relate to the sustainable drainage provisions in Schedule 3 of the Flood and Water Management Bill.

a) Defining “Drainage System”

In paragraph 1 a “drainage system” is currently defined within the Bill as any structure designed to receive rainwater except a public sewer or a **natural watercourse**. While this latter term is then defined to mean a river or stream, it is still governed by the word ‘natural’. The difficulty here is that many watercourses in lowland areas of England and Wales are not ‘natural’ but are engineered channels created by man, under the Water Framework Directive they are defined as either Heavily Modified or Artificial Water Bodies (<http://www.eea.europa.eu/themes/water/european-waters/heavily-modified-and-artificial-water-bodies>). As presently defined, most Internal Drainage Board systems, certainly in the Fens, would be considered SuDS, with approvals needed from the Approving Body, before a discharge is permitted.

ADA is concerned by this definition as we do not believe it is the intention of these Sustainable Drainage provisions of the Flood and Water Management Bill to include such extensive hydrological systems as Internal Drainage Districts. ADA believes that in this context the exemption should apply to all watercourses, natural or not, or for a more defined definition to be sought.

ADA would like to add that Internal Drainage Boards play an important role in the creation, management and maintenance of a number of SuDS schemes, the Bedford Group of IDBs was the lead body in the development of the Marston Vale Surface Water Management Plan one of Defra’s leading Integrated Urban Drainage Pilot Projects (<http://www.defra.gov.uk/environment/flooding/manage/surfacewater/urpilotmars.htm>).

b) Consulting

In paragraph 11, the approving body are to consult with certain other bodies, the Environment Agency, British Waterways, highway authorities and sewerage undertakers are named. ADA considers that IDBs should be included here in name.

e.g. 11 (e) Internal Drainage Boards, if the approving body thinks that the drainage system may directly or indirectly involve the discharge of water into an Internal Drainage District.

6) Prohibition on obstructions in watercourses

These comments relate to Schedule 2 of the Flood and Water Management Bill where amendments are made to Other Acts. ADA is concerned with the following amendment to **Section 23 (1B) of the Land Drainage Act 1991**:

‘An internal drainage board or lead local flood authority must consult the Environment Agency before carrying out work within subsection (1)(a), (b) or (c) if the board or authority is “the drainage board concerned” for the purposes of this section.’

This amendment will impose a requirement on Internal Drainage Boards and Lead Local Flood Authorities to consult (and effectively seek consent from) the Environment Agency when they:

- (a) erect any mill dam, weir or other like obstruction to the flow of any ordinary watercourse or raise or otherwise alter any such obstruction; or*
- (b) erect a culvert in an ordinary watercourse, or*
- (c) alter a culvert in a manner that would be likely to affect the flow of an ordinary watercourse.*

This will apply to IDBs working on Ordinary Watercourses within their Internal Drainage Districts where IDBs already have a general supervisory role as defined by Section 1 (2)a of the Land Drainage Act 1991. ADA accepts that the intention may be to avoid an IDB, in effect, consenting itself to conduct works, which may be appropriate on larger scale works such as the construction of pumping stations. However, without setting a minimum scale of works below which this requirement will not apply will lead to a considerable administrative burden for both Internal Drainage Boards and the Environment Agency on minor works such as access culverts. ADA considers that, amendment 1(B) to Section 23 of the Land Drainage Act 1991 should either be removed or amended to set a *de minimis* scale of works.

7) Consortia working for Internal Drainage Boards

Internal Drainage Boards have long been encouraged by Defra (and MAFF) to seek administrative efficiencies and to build capacity through consortia working arrangements, sharing administrative, professional and technical services. ADA is content that appropriate express provisions for these working arrangements are facilitated within the Flood and Water Management Bill. ADA believes this is a positive step that will further enable IDBs to widen their realm of activity, deepen their ability to co-ordinate their activities, and provide a stepping stone to locally agreed hydrologically sound amalgamations between IDBs.

8) Regional Flood and Coastal Committees (RFCCs)

ADA strongly disagrees with the move to alter the status of RFCCs from an executive to an advisory role. The draft Flood and Water Management Consultation states that ‘They (RFDCs) ensure local democratic input into the decision making process’³, so altering their role to an advisory one would diminish their influence upon this process. RFDCs have already undergone a major amalgamation from the previous Local Flood Defence Committees and a further reduction in status is likely to undermine the ability of RFCCs to act on the current key strengths that they hold. It is also likely to deter Local Authority Councillors and others from joining the Committees if they are merely advisory.

9) Resilience

We must improve the resilience of properties especially housing to enable communities to return to normal as rapidly as possible following flood events. Too little continues to be done providing homes at risk of flooding with flood safe air bricks, non-return valves, flood gates and sockets not mounted at floor level.

Local authorities must be encouraged to take a lead on resilience, forming suitable planning regulations that ensure new developments take steps to improve resilience. At the same time insurance companies must be made to restore houses with greater resilience following a flooding insurance claim. These are simple steps which future legislation must address.

10) Levying powers and funding

ADA strongly believes that flood risk and water level management decisions must be made locally with the assistance of the community served. The importance of local knowledge and accountability must not be overlooked.

Internal Drainage Boards and Regional Flood Defence Committees provide the community with the democratic checks and balances to ensure decisions made consider the wishes of the local community. They are enshrined in the philosophy that:

- a) *'He who benefits – pays'* – IDB Special Levy and Agricultural Drainage Rates
- b) *'He who pays gets a say'* – IDB Board representation.

ADA therefore supports the retention of executive powers for the RFCCs to set levies and to decide where levy funding and IDB precept funding to the Environment Agency should be spent (Section 23 subsections (2) and (3) of the Flood and Water Management Bill). This ensures local democratic input to the prioritisation of these funds, which is especially important for ensuring IDB Precept income is spent on local priorities and not simply as part of the national pot (as has been the case in recent years).

Long-term certainty of finance is essential to sound water level and flood risk management. Water level management is a daily job, requiring regular action, which must be planned well in advance. In contrast, flood risk mechanisms may only be tested infrequently but must meet the standards demanded of them on these critical occasions. Both activities transcend political and spending periods as currently set out by the Government.

Through mechanisms such as the Special Levy and Agricultural Drainage Rate, an IDB raises secured funds locally for local need. IDB highland water contribution from the Environment Agency to IDBs provides funding to contribute to additional water management pressures caused by water from higher in a catchment entering an IDB's Drainage District. The Environment Agency precept allows local funds raised by an IDB to finance works essential to the Main River within an IDB's Drainage District. These mechanisms may appear complex but ensure accountability and the appropriate degree of financial security to Internal Drainage Boards.

References

¹ Penning-Rowse, E. C. & Chatterton, J. B. (1977) The benefits of flood alleviation. A manual of assessment techniques. Saxon House ISBN 0 566 00190 8.

² Morris J., Sutherland D.C. (1992) The evaluation of river maintenance. Silsoe College, Cranfield. Paper presented at MAFF Conference of River and Coastal Engineers.

³ Defra (April 2009) Draft Flood and Water Management Bill, Consultation Paper. Paragraph 240, Page 52.