

# Sustainability Committee

SC(3)-12-09 (p1): 24 June 2009

## Evidence from Jane Davidson AM, Minister for Environment, Sustainability and Housing

### Draft Flood and Water Management Bill

#### Purpose

1. This paper provides an overview of the draft Flood and Water Management Bill and associated issues.
2. The following areas are covered:
  - Background
  - Consultation Exercise on the draft Bill
  - Flood and Coastal Erosion Risk Management Policy Proposals
  - Water Policy Proposals
  - Finalising the draft Bill

#### Background

3. In May 2008, the UK Government indicated its intention to bring forward a Flood and Water Management Bill, in response, principally, to Sir Michael Pitt's Review of the floods of the summer of 2007 (1). That Review highlighted the need for a revised legislative framework, given its identification of gaps in the management of flood risk, particularly in relation to surface run-off and the need to take a more risk-based approach to reservoir safety. In addition to the delivery of the Pitt Review recommendations, there is the need to transpose certain new EU obligations, such as the Directive on the Assessment and management of Flood Risks (2007/60/EC of 23 October 2007) (the "Floods Directive"), and to legislate on the water management issues that have arisen since the Water Act 2003. There is also a desire to adapt to the reality of climate change and its effects on flood and coastal erosion.

#### Consultation Exercise on Draft Bill

4. A package of consultation documents was published on 21 April 2009 and encompassed the draft Bill, a consultation document, explanatory notes and impact assessment (2). Marked by a written statement to the National Assembly for Wales and electronic mail-shot, information was also made available on the Assembly Government website. Consultation events are planned for June and July.

5. The draft Bill consists of eight Parts, as follows:

- Part 1: Flood and coastal erosion risk management;
- Part 2: Risk management, designation of features;
- Part 3: Reservoirs;
- Part 4: Water Administration Regime;
- Part 5: Sustainable Drainage;
- Part 6: Water Industry Regulation;
- Part 7: Miscellaneous; and
- Part 8: General.

6. Parts 1, 2, 3 and 5 address flood and coastal erosion risk management provisions and 4, 6 and 7, water issues. Part 8 is supplementary and contains various ancillary provisions.

7. The consultation document is structured as follows:

- 1: Introduction;
- 2: Flood and Coastal Erosion Risk Management: issues covered by the draft Bill provisions;
- 3: Flood and Coastal Erosion Risk Management: policy issues not covered by the draft Bill provisions;
- 4: Water: issues covered by the draft Bill provisions;
- 5: Water: policy issues not covered by the draft Bill provisions; and
- 6: Next steps and how to respond to the consultation

8. The consultation document contains detail on the clauses contained within the draft Bill, the policy perspectives underpinning it and narrative on the work-streams where policy has yet to be agreed. The draft Bill extends to England and Wales and the majority of its provisions are drafted to implement policy in England and Wales. Part 1 of the Bill however, pending the outcome of the consultation, is drafted to implement new policy in England only and to maintain the status quo in relation to Wales. The consultation document also contains an annex entitled the "Policy Position in Wales" that clearly sets out each element in the draft Bill and how it is proposed to apply in Wales and poses specific questions in relation to the issues on which we are consulting. A copy of this paper is attached at annex A.

9. For clarity and ease of reference, a table is attached at annex B that summarises the status of each of the provisions, namely:

- The draft clauses that relate to each of the provisions;
- The relevant consultation document sub-section;
- Whether a provision implements new policy in relation to Wales and England, or England only (and the intended scope of Welsh Ministers' powers in relation to that provision); and
- Reference to the pertinent paragraphs of the Welsh policy position at annex A.

## **Flood and Coastal Erosion Risk Management Policy Proposals**

10. Across Wales there are approximately 170,000 properties at risk of flooding at any time, including homes and businesses with a value of £8-£12 billion. Each year flooding is estimated to cause in the region of £70 million of damage: the emotional distress caused is also very significant. A severe event can see people displaced, possessions lost and livelihoods destroyed. Wales has, in recent times, escaped flooding comparable to that experienced in other parts of the UK, but we face considerable risks. One Wales (3) acknowledged the serious threat posed by climate change and numerous studies highlight that flooding events are inevitable. The floods of 2007 in England highlighted the risks posed by surface water and groundwater, neither of which is adequately covered by the existing system.

11. Wales has a range of systems that address flooding and separate mechanisms concerned with coastal erosion, but all rely heavily on a defence infrastructure and have not been consolidated to form a single, coherent overarching approach. This creates the possibility of gaps in service provision, a difficulty compounded by a dated legislative framework, that does not permit the range of interventions needed to meet today's challenges.

12. As stated above, Parts 1, 2, 3 and 5 of the draft Bill relate to flood and coastal erosion risk management:

- Part 1: Flood and coastal erosion risk management;
- Part 2: Risk management, designation of features;
- Part 3: Reservoirs; and
- Part 5: Sustainable Drainage.

13. Part 1 of the draft Bill does not implement new policy in Wales, although it does contain certain provisions which relate to Wales to maintain the status quo, dependent on the outcome of the consultation. It is concerned with change in England on areas which Wales has yet to consult. That is being undertaken by way of the wider consultation on the draft Bill, with proposals set out in the Policy Position in Wales (annex A). Parts 2, 3 and 5, as drafted, would implement new policy in Wales and England.

14. The consultation invites views on the draft Bill's provisions or on the proposals for Wales set out in the consultation. These are as follows:

### **Part 1: Flood and Coastal Erosion Risk Management (4)**

#### **New Approaches to Flood and Coastal Erosion Risk Management (Clauses 2 - 14)**

15. Sub-section 2.1 of the consultation document addresses the need for a shift in focus from defence to risk management.

#### **Implications**

16. The introduction of a definition of flood and coastal risk management is proposed, which goes beyond the risks presented by rivers and the sea to encompass sources such as surface water and groundwater. Risk management might still involve the construction and maintenance of traditional defences, but would also aim to ameliorate the impact of a flood event on people, property, businesses and the environment. Measures proposed include using the natural environment, such as wetlands and salt marshes, identifying areas suitable for inundation and water storage and installing sustainable urban drainage systems (SUDS). Efforts will be made to improve the resilience of homes and communities and to promote an awareness of risk among the general population and develop advanced warning systems. Inappropriate land management can worsen the effects of flooding by removing natural defences, while sustainable development is critical: soakaways, salt marshes and wetlands are a more sustainable way of managing flood risks as they do not damage the environment or harm existing ecosystems.

#### **Future Roles and Responsibilities (Clauses 15 - 49)**

17. Sub-section 2.2 of the consultation document encompasses proposals for clarifying and, in some instances, augmenting the functions performed by all key operating authorities.

#### **Implications**

18. A clarification of roles and responsibilities is necessary to eliminate service gaps and to harmonise and reconcile flood risk management to coastal erosion risk management: in essence, the establishment of a co-ordinated and clearly delineated approach. The Policy Position in Wales suggests that the Environment Agency's (EA) general flood defence supervisory duty (by virtue of section 6(4) of the Environment Act 1995) be replaced with an enhanced flood and coastal erosion risk management oversight role. It is not proposed to remove any of the existing authorities from the delivery framework, but the roles of all key agencies - the Welsh Assembly Government, Flood Risk Management Wales (FRMW) and local authorities - would be updated.

## **Main River Mapping (Clauses 64 - 65)**

19. Sub-section 2.3 of the consultation document covers arrangements for the production of main river maps. Presently the responsibility of EA, changes to maps - via a process of variation - are submitted for the approval of the Welsh Ministers. The Welsh Ministers consider objections to changes and are legally obliged to send hard copy maps to EA when there is a change.

### **Implications**

20. The EA would be permitted to keep maps in electronic format and afforded the role of owning and consulting on all changes to them, the role that presently falls to the Welsh Ministers. Those objecting to changes would have a right of appeal to the Welsh Ministers.

## **Local Flood Risk Management (Clauses 19 - 22 and 42 - 49)**

21. Sub-section 2.4 of the consultation document addresses how best to ensure the management of local flooding and is a direct response to our marked vulnerability to surface water flooding - as demonstrated by the floods of 2007 and recent events in different parts of Wales - for which no authority in Wales has responsibility. It relates to the sub-section on "Future Roles and Responsibilities" outlined above, namely the proposition that local authorities have responsibility for local flood risks including the preparation of Local Surface Water Management Plans.

### **Implications**

22. The consultation invites views on the production of Local Surface Water Management Plans, including the implications of doing so and the appropriate operating authority to compile them. Local authorities (or some other operating authority) would lead on all matters relating to local flood risk, preparing local flood risk maps, communicating the risks of flooding and coastal erosion to local communities and improving the resilience of buildings, via the planning process. Where they exist, Internal Drainage Boards (IDBs) would manage flood risk from ordinary watercourses and local drainage in their area.

## **Duty to Co-operate and Share Information (Clauses 24 - 30)**

23. Sub-section 2.5 of the consultation document details the introduction of a requirement on all operating authorities to co-operate and share information.

### **Implications**

24. By sharing data, all authorities will be better placed to understand the risks they face. The draft Bill includes a duty on all relevant authorities to provide information, documentation and assistance as may reasonably be requested. The EA - as part of its revised oversight function - would review existing data standards, set and manage standards for the information to be shared and facilitate the use of databases.

## **Regional Flood Defence Committees (Clauses 66 - 73)**

25. Sub-section 2.7 of the consultation document considers the future role of Regional Flood Defence Committees (RFDCs). The Policy Position in Wales invites views on plans to reconfigure FRMW, the RFDC for Wales. Established in 2006 and an executive committee of the EA, it replaced a complex structure of local and regional committees and has fostered a more strategic approach.

### **Implications**

26. FRMW presently oversees the EA's flood defence functions, but this might not prove appropriate, given the intention to revise the functions of other authorities (as detailed in the "Future Roles and Responsibilities" sub-section). Views are therefore sought on the role and remit of FRMW and whether it should become an advisory committee, able to advise on the content of EA-produced plans and guidance, but not endorse or authorise action. EA would then no longer be required to conduct its activities via this body.

## **EU Floods Directive (Clauses 50 - 63)**

27. Sub-section 2.8 of the consultation document addresses the requirement on all EU member states to transpose the Directive into statute by November 2009. Developed in response to the floods across Europe between 1998 and 2004, all member states are obliged to draw up preliminary flood risk assessments (PFRAs) by 22 December 2011, flood hazard maps (FHM) and flood risk maps (FRMs) by 22 December 2013 and Flood Risk Management Plans (FRMPs) by 22 December 2015.

### **Implications**

28. The Policy Position in Wales suggests that local authorities and the EA be responsible for fulfilling these requirements in relation to local risk (surface water etc) and national risk (rivers and the sea) respectively. It is advocated that local authorities submit PFRAs to the EA which the Agency and an independent panel consider and decide where FHM, FRMs and FRMPs are required. The panel membership is likely to consist of representatives of the Welsh Local Government Association and EA along with independent drainage experts.

## **Water Framework Directive (Clause 15)**

29. Sub-section 2.9 of the consultation document considers the Water Framework Directive (WFD), which seeks to prevent deterioration in the quality of water bodies.

### **Implications**

30. All authorities would be required to comply with the Directive in undertaking their flood and coastal erosion risk management functions, including modifications to the physical characteristics of a water-body as part of their flood and coastal erosion risk management functions. Assessment would be carried out to demonstrate either that deterioration would either not occur, or if likely to occur, that the conditions for allowing deterioration were met. EA would lead on the development of a national strategy that could specify that all flood and coastal erosion risk management operational and consenting activities must be consistent with the requirements of the Directive.

## **Consenting and Enforcement (Clauses 46 - 48)**

31. Sub-section 2.11 of the consultation document is concerned with updating arrangements in light of revised roles and responsibilities (as outlined above).

### **Implications**

32. It is proposed - subject to it assuming the oversight role discussed above - that the EA will consent to works conducted in relation to sea and main river flooding and for coastal erosion, and for the enforcement of conditions set out in the consents. As regards ordinary watercourses and drainage works, consents would be issued by local authorities, subject to reasonable conditions where appropriate.

## **Part 2: Risk Management Designation of Features**

### **Third Party Assets (Clauses 75 - 97)**

33. Sub-section 2.10 of the consultation document covers the designation by authorities of third party assets crucial to flood and coastal erosion risk management activities. Such assets include highways, railway embankments, boundary walls, culverts and buildings. Owners can presently remove, damage or alter them without prior regulatory approval, leading to weaknesses and 'gaps'.

### **Implications**

34. The consultation proposes that the EA, local authorities and IDBs be empowered to designate certain assets as intrinsic to the defence infrastructure, preventing removal or alteration without consent: a process similar in principle to the Listed Buildings classification employed by Cadw.

## **Part 3: Reservoirs**

### **Reservoir Safety (Clauses 98 - 192)**

35. Sub-section 2.12 of the consultation document addresses amendments to the Reservoirs Act 1975, the essential features of which are unchanged since the Reservoirs (Safety Provisions) Act 1930. It seeks to reduce risk to public safety from a reservoir or dam failure, by implementing a risk-based approach to management and maintenance.

### **Implications**

36. Suggested is a requirement for all reservoirs above a minimum volume (10,000 cubic metres is suggested) to be included on an EA register and that each is classified according to the level of threat to human life. The duties of panel engineers assigned to each reservoir would be stipulated on the basis of that classification. The establishment of regularly-updated flood plans (possibly under section 12a of the Reservoirs Act 1975 and the Civil Contingencies Act 2004) is proposed, each including a Communications Plan, setting out how staff should respond to an incident and contact Category 1 responders, and an off-site response plan for the use of emergency services: supervising engineers would be obliged to include in annual statements advice on the updating of such plans. Duties on reservoir managers and engineers to report serious incidents within a specific time-frame are advocated.

## **Part 5: Sustainable Drainage**

### **Sustainable Drainage Systems (Clauses 217 - 233)**

37. Sub-section 2.6 of the consultation document addresses the installation of SUDS, an option preferred to the connection of surface water rainfall runoff to sewers.

### **Implications**

38. It is proposed that developers be obliged, where practicable, to include SUDS in new developments in accordance with national standards governing their construction and adoption, published by the Welsh Ministers and Secretary of State. Section 106 of the

Water Industry Act 1991 would be amended to make the right to connect to sewers conditional on compliance with national standards. Local authorities - or any other body selected by the Welsh Ministers - would be required to adopt and maintain new SUDS, approved as constructed in accordance with national standards and which affect the drainage of other properties. The consultation seeks views as to which is the most appropriate organisation to take responsibility for the adoption and maintenance of SUDS in Wales.

39. As stated above, the consultation also invites views on issues not covered by the draft Bill's provisions. These are as follows:

### **Possible Reforms to the Role and Governance of IDBs**

40. Sub-section 3.1 of the consultation document suggests changes to IDBs, independent statutory bodies responsible for land drainage in areas of special need that work to improve and maintain rivers, drainage channels and pumping stations.

41. Criticism of IDBs has focused on a perceived absence of accountability and transparency and a focus on agricultural drainage issues. Proposals include additional powers to undertake work on surface water and groundwater flooding (at the request of local authorities) and sea flooding and coastal protection (at the request of the EA) and a requirement to co-operate and share information with the EA and local authorities. Views are sought on various operational and structural changes including whether or not IDB consenting functions should pass to local authorities, whether they should be rebranded as Local Flood Risk Management Boards and if the Welsh Ministers should have powers to determine their size, shape and structure.

### **Current Funding Structure**

42. Sub-section 3.2 of the consultation document addresses proposals to revise current funding mechanisms. Although agencies such as EA receive grant-in-aid from the Welsh Assembly Government, operating authorities are able to raise funds by way of charges, such as EA's General Drainage Charge (presently used in the Anglian region only) and Special Drainage Charge (which is not used). It is proposed that the former be retained and transferred with the Agricultural Drainage Rates charged by IDBs to local authorities, in recognition of their envisaged lead in local flood management and in order to align funding to responsibilities. At present, local authorities are required to fund IDBs by way of a 'special levy' and it is suggested that this method is replaced by contractual agreements. Finally, views are invited on how developers might be required to compensate the public purse for the cost of protecting new developments in flood risk areas.

### **Reducing Property Owners' and Occupiers' Impact**

43. Sub-section 3.3 of the consultation document considers revisions to the responsibilities of riparian owners. A riparian owner is a person who owns land adjoining a watercourse - the ownership of a river bank extends beyond the bank itself up to the centre line of the watercourse, and riparian owners have certain legal responsibilities in consequence. It is asked how best to increase riparian owners' awareness of their own responsibilities, and how to communicate those responsibilities at the point of sale or transfer in ownership of the land.

44. It is also suggested that Agricultural Land Tribunals (ALTs) be renamed Drainage and Agricultural Land Tribunals," that their remit be extended from ditch drainage to include ordinary watercourses and, possibly, main rivers, and that the process by which they resolve disputes be amended to include a form of mediation. Alternatively, the creation of a new statutory nuisance of 'obstructing a watercourse' is suggested, administered either by the ALTs or local authorities. In addition, a statutory nuisance for run-off risk is proposed to address increased risk of surface run-off caused by the resurfacing of land, changes to land management and the absence of effective drainage systems.

### **Single Unifying Act**

45. Sub-section 3.4 of the consultation document addresses the Pitt Review recommendation that forthcoming flooding legislation should be brought under the umbrella on a single unifying act. While the draft Bill would begin moves toward this, other legislation will remain relevant, such as the Coast Protection Act 1949, Land Drainage Act 1991 and the Water Resources Act 1991. It is suggested that further necessary legislative restructuring be identified via discussion with key stakeholders, rather than by way of general consultation. Respondents are asked to comment.

### **Water Policy Proposals**

46. The Welsh Assembly Government provides the strategic direction for water policy in Wales. The Environment Strategy for Wales and One Wales: One Planet - the consultation on a new Sustainable Development Scheme for Wales (a scheme since launched on 22 May 2009) established the backdrop for a policy articulated in our Strategic Water Policy Position Statement". "The sections of the draft Bill that apply to Wales have been drafted so as to be consistent with the principles of that statement, as approved by Cabinet in October 2008.

## **Part 4: Water Administration Regime**

### **Special Administration Regime (Clauses 193 - 216)**

47. Sub-section 4.5 of the consultation document seeks views on a special administration regime for water companies, to simplify the process of transferring the ownership of a failing company and establish the rescue of a company experiencing financial difficulties as a viable option.

48. The Water Industry Act 1991 provides for a special administration regime which provides a mechanism to deal with a water company if it gets into financial difficulties. The intention is to bring the regime in line with modern insolvency practice. It will also streamline the procedures for transferring a failing company to new owners. The draft Bill provisions apply to Wales, with relevant powers conferred on the Welsh Ministers.

## **Part 6: Water Industry Regulation**

### **Environmental Permitting Programme (Clause 238)**

49. Sub-section 4.2 of the consultation document proposes an enabling power to allow licensing for water abstraction and impoundment to be included in a common system of environmental permitting.

50. The Environmental Permitting regime currently brings together the licensing for waste and environmental pollution into a single, integrated process. Following earlier consultations the intention is to bring aspects of water licensing into this regime.

51. There are limits to the activities that can be included under existing powers because those powers, under the Pollution Prevention and Control Act 1999, relate to 'emissions to the environment' whereas certain water licensing regimes, such as abstraction and impoundment, relate to abstractions from the environment.

52. The draft Bill provisions apply to Wales, with relevant powers conferred on the Welsh Ministers. The consultation document does not pose any specific questions in relation to these provisions.

### **Drinking Water Inspectorate (DWI) Recovery of Charges (Clause 237)**

53. Sub-section 4.6 of the consultation document proposes that DWI recover the cost of its regulatory functions via charges levied on water companies.

54. The water industry benefits from the regulatory services provided by DWI, so it is considered that they should bear the cost of these services. This would require the amending of the Water Industry Act 1991 and the aim is to encourage water companies to improve their water safety management, thereby resulting in fewer inspections and technical audits and so reduce the overall extent of DWI regulatory activities. The transparency of the charging scheme will provide additional information to the public on how well individual water companies have progressed with their risk management systems.

55. The draft Bill provisions apply to Wales, with relevant powers conferred on the Welsh Ministers. The consultation seeks views on the proposed new charging regime and its implementation.

### **Introduction of a Mandatory Build Standard for Sewers (Clause 252)**

56. Sub-section 4.7 of the consultation document addresses the requirement that all new sewers and lateral drains connecting to the public sewerage system are built to an approved standard to facilitate their adoption by water and sewerage companies. Developers have long sought a uniform standard to aid housing construction and to ensure that there is consistency in those standards that are required of them.

57. The draft Bill provisions apply to Wales, provide an appropriate power for Welsh Ministers and is an important step towards delivering the commitment in the "Strategic Policy Position Statement on Water" to stop the proliferation of poor quality sewers built to unadoptable standards. The consultation does not pose any specific question in relation to this provision.

### **Misconnections (Clause 253)**

58. Sub-section 4.8 of the consultation document addresses how to reduce water pollution by eliminating misconnections of sewers. These occur when drainage is connected to the wrong type of sewer, causing either untreated sewerage to flow into the water environment or rainwater to enter foul sewers. The number of misconnections is growing at a rate that far exceeds the number being resolved.

59. The proposals will give water companies similar powers as local authorities to rectify a misconnection, allowing them to deal with problems directly rather than via local authorities. This will reduce costs and inefficiencies, and increase the number of misconnections corrected within existing budgets.

60. Whilst the proposed changes in the draft Bill are principally aimed at misconnections from households, the changes would enable water companies to deal with misconnections from any property. The intention is to simplify the procedure that governs the rectification of misconnections so that they can be addressed more quickly and in greater numbers.

61. The draft Bill provisions apply to Wales. The consultation seeks views on the proposed new powers for sewerage companies.

### **Project-Based Delivery of Large Infrastructure Projects (Clauses 239 - 246)**

62. Sub-section 4.9 of the consultation document covers the development of regulations to govern the financing, and undertaking by specialist third parties, of large infrastructure projects, to be regulated under a revised legal framework based on the existing provisions of the Water Industry Act 1991.

63. The draft provisions give the Secretary of State and Welsh Ministers the power to develop Regulations that would require water companies to engage in a competitive tendering exercise to procure the services of a specialist third party infrastructure service provider in certain circumstances.

64. The draft Bill provisions apply to Wales, with relevant powers conferred on the Welsh Ministers. The consultation invites views on whether the proposed powers would raise funding efficiencies and benefit consumers. Views are also sought as to whether water companies would be best placed to manage the procurement exercise and whether there are any feasible alternatives to the process outlined in the draft Bill.

65. This proposal is in the early stages of development and application of this regime and thinking will evolve as we consult on the issues identified.

### **Complaint Handling Powers (Clauses 247 - 251)**

66. Sub-section 4.10 addresses the designation of responsibilities for resolving complaints against water companies.

67. The Water Industry Act (1991) assigns to Ofwat a role in handling certain complaints and disputes. It is proposed to enlist other bodies, in certain instances, so as enhance the effectiveness of the process for complainants. Four principal changes are suggested, namely that:

- The Consumer Council for Water handle complaints about the refusal by water companies to install meters (though it is proposed that customers will still be able to approach Ofwat if they wish);
- Adjudicators and arbitrators appointed by the Royal Institute of Chartered Surveyors address the complaints of landowners about the way in which water companies work on private land;
- The Institute of Civil Engineers appoint arbitrators for certain disputes about compensation payable in respect of other pipe-laying powers; and
- Disputes about the reasonable costs of work undertaken by water companies to divert their infrastructure within private land be referred for determination by Ofwat.

68. The draft Bill provisions apply to Wales. The consultation seeks views on the appropriateness of the changes suggested.

### **Securing Compliance (Clauses 234 - 236)**

69. Sub-section 4.11 suggests that Ofwat's enforcement powers be enhanced so it is better able to protect consumers' interests.

70. When taking enforcement action, Ofwat has a power to request information from a company that is or might be breaching its obligations, but this does not presently extend to information relating to a company's failure to achieve the minimum standards of performance set out in the Guaranteed Standards Scheme (GSS). It is proposed that the regulator be permitted to request information from companies regarding any standard of performance.

71. It is proposed that Ofwat be able to impose financial penalties that fully reflect both the duration of a contravention and the extent of any detriment to customers, by extending the time limit for which Ofwat can impose a penalty from one to five years. This enhancement of Ofwat's powers will place an added incentive on companies to comply with their obligations.

72. The draft Bill provisions apply to Wales, with relevant functions conferred on the Welsh Ministers. The consultation seeks views on the aptness of the proposed changes.

## **Part 7: Miscellaneous**

### **Hosepipe bans (Clause 254)**

73. Sub-section 4.1 of the consultation document addresses the proposal that water company hosepipe ban powers be extended to include a wider range of discretionary uses of water at the early stage of a drought. Climate change projections forecast hotter, drier summers and more frequent droughts. This will require water companies to achieve greater water savings by constraining demand and protecting the environment by conserving water resources.

74. The draft Bill provisions apply to Wales, with relevant functions conferred on the Welsh Ministers. The consultation seeks views on the suitability of the draft provisions.

### **Power of Entry (Clause 257)**

75. Sub-section 4.3 of the consultation document covers the enhancement of EA's powers of entry so that it is able to install the monitoring equipment that is key to its water resource management functions.

76. The draft Bill provisions apply to Wales, with relevant functions conferred on the Welsh Ministers. Views are sought on the suitability of the draft powers.

## **Amendments to the Water Resources Act 1991 and the Water Industry Act 1991 (Clauses 255, 256 and 258)**

77. Sub-section 4.4 of the consultation document considers the value of extending the charging regime governing spray irrigation to other forms of irrigation, easing the trading of abstraction licenses, making the running of water to waste drawn from a borehole an offence and removing the EA duty to maintain a register of waterworks.

78. The draft Bill provisions apply to Wales. The consultation document does not pose any specific questions in relation to these provisions

79. There are a number of additional areas of water policy where proposals may yet be brought forward subsequently for inclusion in the final legislation, these are:

### **Time-Limiting of Abstraction Licenses**

80. Sub-section 5.1 of the consultation document points to the negative environmental impacts of water abstraction and the suggestion that such licenses be time-limited, making possible the periodic amendment and adaption of licenses, thereby allowing environmental concerns to be addressed. These proposals are currently subject to a joint Welsh Assembly Government and Defra consultation that is due to conclude at a similar time to the consultation on the draft Bill.

### **Water Efficiency**

81. Sub-section 5.2 of the consultation document refers to the possibility of powers to place water efficiency commitments on water companies. Proposals will be informed by the recommendations put forward in the Walker Review (5).

### **Hydromorphological Powers**

82. Sub-section 5.3 invites views on powers for the EA to enter land and carry out works designed to improve the hydromorphological conditions (6) of water bodies and ensure compliance with the Water Framework Directive.

### **Cave Review of Competition and Innovation in Water Markets**

83. Sub-section 5.4 of the consultation document relates to Professor Martin Cave's Review of Competition and Innovation in Water Markets (7), the findings of which were announced on 22 April 2009. We are working with the UK Government to consider the recommendations in the Review report and establish what provisions should be included in the final Bill.

### **Walker Review of Charging and Metering**

84. Sub-section 5.5 of the consultation document refers to the independent review by Anna Walker, Chief Executive of the Healthcare Commission, of household charging and metering for water and sewerage services. The position of the Welsh Assembly Government on the Walker Review recommendations will be established when the final report is published and this is expected later this month.

### **Finalising the Draft Bill**

85. Workshops with key stakeholders are planned for late June and these will help us gauge views of the draft Bill prior to the conclusion of the consultation period on 24 July 2009. All responses to the consultation particular to Wales will be assessed, and a formal Welsh Assembly Government response will be prepared and published in parallel with that of the UK Government. Pre-legislative scrutiny at the UK level is being discharged by the Environment, Food and Rural Affairs Select Committee in the UK Parliament.

86. The views that emerge from the consultation exercise and scrutiny stages will directly inform the provisions included in the final Bill and we will be working closely with the UK Government on this.

Footnotes:

(1) <http://archive.cabinetoffice.gov.uk/pittreview/thepittreview.html>

(2) [www.official-documents.gov.uk/document/cm75/7582/7582.asp](http://www.official-documents.gov.uk/document/cm75/7582/7582.asp)

(3) <http://wales.gov.uk/about/strategy/publications/onewales/?lang=en>

(4) As stated above, Part 1 of the draft Bill does not currently implement new policy in Wales. The proposals listed here reflect the Welsh Assembly Government's policy proposals for consultation in relation to Part 1 provisions, as outlined in the Policy Position in Wales (at Annex A)

(5) The final report of Anna Walker's Review of Changing and Metering for Water and Sewerage Services has not yet been published. See [www.defra.gov.uk/environment/water/industry/water-charging-review/](http://www.defra.gov.uk/environment/water/industry/water-charging-review/)

(6) The physical characteristics of the shape, boundaries and the content of a water body. The hydromorphological elements are used as part of the classification of ecological status under the Water Framework Directive.

(7) The final report of Professor Martin Cave's Review into Competition and Innovation in Water Markets was published on 22<sup>nd</sup> April



2009. See [www.defra.gov.uk/environment/water/industry/cavereview/](http://www.defra.gov.uk/environment/water/industry/cavereview/).

(8) The final report of Anna Walker's Review of Changing and Metering for Water and Sewerage Services has not yet been published. See [www.defra.gov.uk/environment/water/industry/water-charging-review/](http://www.defra.gov.uk/environment/water/industry/water-charging-review/)