



27 Heol y Wig / 27 Pier Street,
Aberystwyth,
SY23 2LN
01970 611621
enquiry@waleslink.org
Cadeirydd / Chair : Russel Hobson
Cyfarwyddwraig / Director : Susan Evans www.waleslink.org

Wales Environment Link evidence for the Sustainability Committee Inquiry into the draft Flood and Water Management Bill

June 2009

Wales Environment Link (WEL) is a network of environmental and countryside Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the government and the environmental NGO sector in Wales. Its vision is to increase the effectiveness of the environmental sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector.

Wales Environment Link values the opportunity to take part in this important inquiry.

1. Executive Summary

WEL believes the draft Flood and Water Management Bill provides an important opportunity to deliver the step-change needed in the way in which we regulate, fund and implement water management in the UK. There is a need to bring forward modern legislation to reflect new approaches to flood and water management and to address the urgent need to mitigate and adapt to climate change.

WEL believes there is significant potential for land management to play a part in flood risk management and improving water quality. Such an approach can bring additional benefits for biodiversity, and reduction of greenhouse gas emissions. The Bill should be used as an opportunity to enable this approach.

WEL supports much of what is contained within the draft Bill. In particular, we welcome the shift of emphasis from flood defence to flood risk management. The term flood defence is outdated and does not reflect current policy or practice. It is time that the underlying legal framework was amended to reflect this.

The Bill should be used to create a new framework for a sustainable, catchment focused approach to flood risk management. This should place greater emphasis on working with natural processes in statute, promoting action to protect, restore and emulate the natural regulating function of catchments, rivers, floodplains and coasts.

While the majority of the proposals within the draft Bill are positive, there are concerns, including wide use of 'enabling' powers and lack of detail on costs and funding. We are also concerned that there is much which is missing from the draft Bill. Recommendations from the Walker Review on charging and metering for households, the Cave Review of competition and innovation, and the consultation on time-limiting abstraction licenses will be brought into the Bill later. This is regrettable because they will miss the important pre-legislative scrutiny process.

We are also disappointed that the draft Bill does not include a Water Efficiency Commitment, placing an obligation upon water companies to incentivise water saving and introducing a water service rather than a water supply culture.

Flood and Coastal Erosion Risk Management

WEL strongly supports the Welsh Assembly Government's New Approaches agenda for flood risk management. We would welcome publication of an action plan to set out in greater detail how this will be implemented. This would help stakeholders to understand the shift in policy focus, enable cooperation, integrate current activity and focus delivery.

Appropriately managed land can play a part in absorbing and storing water, slowing the speed at which it moves downstream and reducing the flood risk. An evidence-based review commissioned by the National Trust and quoted in the final report of the Pitt Review concluded that, for small river catchments (typical of 97% of England and Wales), land management has a significant impact upon run-off and can be used as part of an integrated approach to flood risk management. Other studies, including those undertaken by the Forestry Commission, concur with this conclusion. The Pitt Review found that there is currently a lack of incentives for land managers to change practice to mitigate flood risk.

Land management schemes have the potential to reduce flood risks. Broadleaved woodland can reduce small floods at a local scale as a

result of improved soil infiltration. Targeted woodland creation on floodplains could also mitigate large flood events by absorbing and delaying flood flows. Other land management techniques for reducing flood risk include floodplain restoration, managed coastal realignment and raising water levels.

WEL supports the intent to make space for water by managing all aspects of flood risk strategically, within the context of the catchment or shoreline as a whole, and sustainably, through respecting natural processes.

Unfortunately, there is little evidence of this approach being delivered on the ground. Studies have already been undertaken that show the benefits of utilising natural processes in flood risk mitigation and their results require greater recognition in flood risk management strategies. Public investment is locked into provision of hard defences even if more cost-effective alternatives exist. There is a need for further practical projects to test and demonstrate approaches to land management for flood risk mitigation, including the use of native woodland creation in riparian zones, the creation/restoration of wetland habitats and changes to grazing regimes.

WEL is, therefore, highly supportive of the draft Bill provision which will put in place a new approach to flood and coastal erosion risk management, based upon greater working with natural processes. This will help deliver Water Framework Directive objectives relating to natural river morphology, as well as delivering a wide range of additional benefits for wildlife, landscape, cultural heritage and public access.

However, Government needs to ensure that bodies which undertake these activities have the powers they need to undertake the portfolio of measures required to deliver this new approach, including risk maps, awareness campaigns, flood warnings, emergency planning and response management, community defences, resilience measures, installation of sustainable drainage systems (SUDs), changes to land management and support to individuals or communities to adapt to change. There is no presumption that the full range of options listed (including working with natural processes) must be considered so there is no guarantee operating authorities will act. WEL wants to see how the package of legislation, guidance and appraisal ensures this leads to delivery.

There is also a need to develop the skills and competencies of those developing and implementing approaches to flood management on the ground to ensure more effective delivery of strategic objectives and exploration of alternatives.

Roles and Responsibilities

WEL supports the Bill's intention to clarify responsibilities with regard to flood and coastal erosion risk management, which was a key recommendation of the Pitt Review. We are concerned that the proposed arrangement for Wales does not resolve the need for complete clarity and accountability. We are concerned that the Welsh Assembly Government lacks capacity and resources to develop policy and guidance, and fulfil its other responsibilities. This is currently evident with the relatively slow progress of coordination of Shoreline Management Planning in Wales, and the lack of tangible impact of the introduction of the New Approaches agenda.

We support the enhanced oversight role for the Environment Agency Wales and suggest they are given responsibility for the national strategy for flood and coastal erosion risk management. This would be in line with their role as competent authority under the European Floods Directive. It would make use of the Agency's skills, knowledge and expertise, and would be more efficient given the parallel roles the Agency would then have in England and Wales.

Part of the national oversight role should be to investigate and promote a range of approaches to managing flood and erosion risk, including novel measures. Too often the default approach is to employ hard defences and there is a need for a champion and facilitator of the alternatives. Either WAG or the Environment Agency should be responsible for monitoring local delivery to ensure that the full range of measures promoted through New Approaches are adopted and that national guidance is adhered to.

WEL is not convinced that the Welsh Assembly Government is best placed to promote public awareness of flood risk to the public. Experience from other fields suggests that the public do not always respond favourably to Government communications, and that local activity is more effective. There is also potential for overlap and duplication with the responsibilities of the Environment Agency (providing flood warnings) and local authorities (communicate risks to local communities).

It is not clear why local authorities will be responsible for assessing coastal erosion risks when the Environment Agency already undertake erosion mapping. This and similar duplications in relation to data collection should be addressed.

Sustainable Urban Drainage Systems

WEL strongly supports the clauses (217-233) on Sustainable Urban Drainage Systems (SUDS) which will require developers to include sustainable drainage in new developments, and the proposed amendment to Section 106 of the Water Industry Act (1991) to make the right to connect surface run-off to public sewers conditional on meeting standards which both reduce flood risk and improve water quality.

Removal of this automatic right of connection to sewers would provide a strong message to planners and developers that the ability of infrastructure and environment to cope with new drainage demand cannot be taken for granted. This would provide further incentive to consider sustainable drainage management early in the design process. We therefore support the proposal to amend the right to connect to a public sewer.

Uncertainty over responsibility for ownership and maintenance of SUDS has been the biggest single issue that has limited their use in Wales. We welcome the inclusion of consultation on which is the appropriate organisation to take responsibility for adoption and management of SUDS in Wales. It is vital that Government takes the opportunity provided by this Bill to rectify this uncertainty by

placing responsibility on Local Authorities. Consideration will also have to be given as to how Local Authorities will raise revenue associated with adoption and ongoing maintenance of these systems. Comprehensive and extensive staff training is also required so that regulatory staff have the technical knowledge to assess proposed SUDS designs.

Reservoir Safety

WEL welcomes proposals for the Bill to introduce a more risk-based approach to reservoir safety which better reflects the danger that reservoir failures may pose to human health. In classifying risk, it is important that a proportionate approach is adopted which prioritises high risk reservoirs rather than applying a blanket approach leading to over-engineering of lower risk water bodies. It is also important that the risk assessment not only considers the water body itself, but also the characteristics of the catchment upstream in order to give a more accurate assessment of risk.

Internal Drainage Boards

The draft Bill consults on views on how Internal Drainage Boards (IDBs) might be reformed but does not present a preferred option. This is a welcome opening of the debate but we feel the Bill should go further, turning IDBs into Water Level Management Boards with a focus on public and environmental benefit from public investment.

IDBs are statutory bodies with a history rooted in single-minded pursuit of agricultural land drainage. Even today, after numerous attempts at reform, their environmental performance remains poor. Re-constituting IDBs as Water Level Management Boards in both name and practice would be a key step in reforming these statutory bodies.

Public Awareness

WEL welcomes the proposed new powers for local authorities to provide public awareness campaigns and to provide support to individuals and communities in dealing with local flood risk management. This should be accompanied by a power to provide support to individuals or communities in dealing with local flood risk management including financial support, advice or equipment. However, we believe these powers alone will not be sufficient. We believe there should be a duty upon all competent authorities to proactively communicate flood risk to the public, not only to raise general awareness, but to facilitate practical adaptation through promoting actions that people can take in everyday life.

2. Water

WEL supports the proposal of a ban on domestic laundry cleaning products which contain phosphorous which we believe should cover all detergents, soaps and shampoos. Any amendment to regulation under Section 2(2) of European Communities Act 1972 which introduces such a ban should apply to England and Wales.

Hosepipe Bans (clause 254)

Water shortages are already experienced in Wales and these are predicted to increase. Shortage of water has serious impacts on communities, fish, wetland birds and other wildlife that need ponds, rivers and streams struggle to survive when these dry up or run low.

WEL, therefore, welcomes proposals to provide an enabling power to allow Welsh Ministers to extend water company hosepipe ban powers to other discretionary uses of water in order to conserve water during a drought. This will help maintain essential supply whilst reducing the impact on environment by reducing the need for further abstraction.

WEL members are disappointed that the outcomes of the consultation on time-limiting abstraction licenses will be brought into the Bill later. This is regrettable because they will miss the important pre-legislative scrutiny process.

Water Efficiency

WEL members are disappointed that the draft Bill does not include a Water Efficiency Commitment, placing an obligation upon water companies to incentivise water saving and introducing a water service rather than a water supply culture.

Whilst we welcome the water efficiency targets for the water industry introduced by OFWAT, we would like to see them tightened as the evidence base for water efficiency grows, and as climate change bites harder. We believe targets should be enshrined in statute, as with leakage targets, which have driven performance to a large extent. WEL also believes other measures are needed to reform the water industry, such as a change in UK accounting rules to remove the incentive for companies to build supply-side measures (which can be treated as Capex, capital expenditure) over large-scale demand-side measures (which must be treated as Opex, operational expenditure). This would help the nation to achieve water use which is sustainable in the long-term.

We further believe the Bill should be used to introduce a duty on OFWAT to promote sustainable climate change mitigation and adaptation. OFWAT have indicated that they may not be able to award funding for climate-change based measures prior to the release of the UKCIP 09 results later this year. As a result water companies have not submitted climate change measures in their PR09 business plans. We believe a specific duty would help solve this as it would give Ofwat the formal role in planning for climate change, enabling demand management schemes to be treated equally with supply-side measures.

Water efficiency measures are essential in mitigating and adapting to climate change and in ensuring the UK meets its legally binding 80% greenhouse gas emissions reduction target. The duty as proposed would help ensure that Ofwat work more closely with Ofgem

and others to help frame the regulatory structure to enable and deliver joint energy and water retrofitting schemes.

We are disappointed that recommendations from the Walker Review on charging and metering for households and the Cave Review of competition and innovation will be brought into the Bill later. This is regrettable because they will miss the important pre-legislative scrutiny process.

The following WEL members support this response:

Butterfly Conservation
Campaign for National Parks
Coed Cadw / The Woodland Trust
CPRW - Campaign for the Protection of Rural Wales
National Trust Wales
RSPB Cymru
Wildlife Trusts Wales
WWF Cymru

Wales Environment Link unites voluntary bodies whose primary aims include the conservation, protection or quiet enjoyment of landscape, wildlife or amenity in Wales

Mae Cyswllt Amgylchedd Cymru yn uno cyrff gwirfoddol sydd â'u hamcanion pennaf yn cynnwys cadwraeth, gwarchodaeth neu fwynhad tawel o dirlun, bywyd gwylt ac amwynder yng Nghymru

Reg. Charity No: 1022675 Rhif Elusen Gofrestredig: 1022675