

Supporting statement to the National Assembly for Wales Public Accounts Committee on 16 May 2013

Caldicot and Wentlooge Levels Internal Drainage Board, 2010/11 Accounts - Wales Audit Office Report in the Public Interest

This statement is intended to assist the Public Accounts Committee with its inquiry into the findings of the Wales Audit Office Report in the Public Interest (October 2012) following its review of the 2010/11 Accounts of the Caldicot and Wentlooge Internal Drainage Board. It supports the oral evidence that will be provided by Richard Penn, Clerk General Manager of the Board at the meeting of the Committee on 16 May 2013.

The Public Interest Report set out findings following the WAO's long investigation into concerns brought to its attention in its capacity as the external auditor of the Drainage Board. The overall conclusions and recommendations in the Report related to the Board's operations between 2003 and 2011, and with regard to land values since 1992. During the investigation all relevant documentation (including minutes of all meetings, supporting working papers for financial transactions and all internal audit reports carried out by Newport City Council) were provided to the WAO, but it is a fact that all this documentation had already been made available to the WAO auditors during the external audit process that takes place each year. Many of the detailed issues covered in the document were only highlighted by the WAO as a result of its investigation following the 'whistle blowing' allegations during 2011, despite the fact that the WAO had carried out an annual audit (at a not inconsiderable cost to the Board) since at least 2003/04. The Board was very concerned that any concerns by the WAO about these issues had not been followed up in subsequent audits as a way of checking that they had been dealt with by the Board. Organisations like IDBs which, by their very nature, are small in size and focussed on the operational side of their role, rely heavily on the regular external annual audit programme to ensure their financial and governance probity. The Board does not have the capacity to undertake the necessary work internally and it did seem grossly unfair to Board members that the CWLIDB should be subject to such a negative report by the same organisation that has been responsible for its routine annual audit programme. The view was that the detailed criticisms of deficiencies and shortfalls should have been made as part of the annual audit programme rather than be dealt with only following 'whistle blowing' allegations.

The Caldicot and Wentlooge Levels IDB, like all other IDBs, is a 'public body' under the provisions of the Land Drainage Act 1991. IDBs are unusual as public bodies for a number of reasons:

- they have a long history prior to becoming public bodies in 1991. Most IDBs have been in existence in one form or other for centuries and have the fundamental quality of local cooperative working to address common local drainage and water management problems

- they are essentially self-funding. For the purposes of rating, properties are divided into ‘agricultural land and buildings’ and ‘other land’ (such as domestic houses, factories, shops etc.). A drainage rate is collected from the former whilst occupiers of all ‘other land’ pay Council Tax or Non-Domestic Rates to the relevant local authority through a ‘Special Levy’. The Board, therefore, only demands drainage rates direct for agricultural land and buildings. The collection of the drainage rate from ‘other land’ is in fact a streamlining mechanism for collecting the drainage rate and is not actually a payment from the local authority’s own financial resources
- unlike other public bodies IDBs do not receive any Grant in Aid or other similar funding from either the UK or the Welsh Government
- IDBs are characteristically small in size, particularly with respect to non-operational and support staff, offices and administrative support. CWLIDB employs only two people in its financial/resource management function and they perform more general administrative roles as well
- the governance of IDBs is carried out by Board members who are volunteers receiving no remuneration. Whilst this is no reason to excuse failings in governance it does merit consideration when drawing comparisons with other public bodies, such as local authorities, whose members receive substantial payment, allowances and staff support
- IDBs have in the main had their ‘public body’ roles and responsibilities superimposed on an existing structure and operation, which is in stark contrast to the majority of public bodies which have been set up or established specifically for their purpose.

The Board contends that all of these features of IDBs justify a more understanding and sympathetic approach to their audit as public bodies. Any audit review should consider the CWLIDB in the context generally of other IDBs in the UK and in particular its unusual characteristics as a public body. It is not objective or balanced to make comparisons with other much larger and much better resourced public bodies in Wales.

It was difficult for the Board to accept the conclusion that CWLIDB has not been delivering value for money. During a period when many parts of Wales and the UK have suffered significant flooding this Drainage District has remained unaffected. This is a remarkable record given the nature of the District and the surrounding catchment, large areas of which have been the subject of major industrial and residential development in recent decades, all significantly adding to the risk of flooding. The Board believes that the review has not assessed this true measure of the Board’s effectiveness as well as its accountability to the people living on the Gwent Levels. All of the local communities and the local business and industrial infrastructure have been very well-served so far as drainage and water level management is concerned throughout a particularly challenging period.

The nature of the Board's structure and its operational arrangements has contributed significantly to this successful track-record, as land owning and other relevant interests have had direct control over the operation of the Board at the local level. It may be correct to question the large number of Board members, and the Board accepts that reform of its structure is inevitable, but it has ensured that all interests have been directly involved and that the Board's operational work has been accountable to those directly affected.

However, the Board accepted without reservation the findings set out in the Wales Audit Office Report, and publicly acknowledged that there had been significant and unacceptable failings in the way the organisation was governed and managed in the period prior to 2011. In its response to the Report the Board emphasised that the organisation that was described in the Report was very different from the current organisation. The four managers involved in the conflict that is highlighted in the Report have all left the Board's employment, the Board itself is significantly changed in terms of its membership (and with a new Chair), the processes and procedures (both operational and in terms of governance) are very different as a result of the work carried out by myself as the Interim General Manager with others in the period from August 2011 to the Report's publication in October 2012 work. With unwavering support from the Board and the staff who remained significant progress was made towards the objective I set out of ensuring that the organisation would be a 21 Century organisation that is 'fit for purpose'. Yet, despite a number of references to positive changes over the 12 months to October 2012, the Report still gave an overwhelming impression that the organisation is currently very badly managed, very poorly governed and not 'fit for purpose'. This is not correct and was particularly of concern as the Board was at that time in the middle of a consultation process by the Welsh Government about its future. I did request when I saw the draft Report that it should reflect much more accurately and positively the current state of play, the changes that had already taken place and the Board's commitment to continuing and completing its improvement programme as quickly as possible. There has been a radical and comprehensive reform of the Board's governance, business planning, financial management and employee reward and management arrangements that is scheduled for completion in the near future. However, few changes were made to the draft report to reflect this.

In addition to the points made above the Board believed that there was a strong case to be made for not issuing the Report 'in the public interest', based in particular on the following factors and considerations:

- there are no similar or equivalent public bodies in Wales which would be likely to benefit from the type of issues raised and 'lessons to be learnt' from this audit report
- many of the incidents and admitted failings identified in the draft document relate to the period around 2009/10 and before, and as indicated above, these have little or no direct relevance to the current situation
- the IDBs wholly or partly in Wales are currently the subject of a Welsh Government consultation in respect of their future management. It would be highly inappropriate if a historical review such as that represented in the draft consideration document played a key part in determining the future of an organization that should be assessed instead on its current state of 'fitness for purpose'.

The Board did not wish to minimise or to hide the criticism of its past governance and performance, and had formally resolved to place the final report in the public domain as an alternative to its publication ‘in the public interest. However, the Appointed Auditor concluded it should be published ‘in the public interest’

Since the publication of the Report the Board has continued with the programme of organisational improvement that had started in August the previous year. At its meeting on 15 October 2012 the Board resolved:

‘That recommendations R1 to R3 of the Wales Audit Office Report be accepted, and that with regard to recommendation R3 a standing item be included on the agenda for future Board meetings every two months: “To review progress against actions arising from the Wales Audit Office Report”’.

In line with Recommendation 1 above the first bi-monthly progress report was on the agenda for the Board meeting on 17 December 2012. A copy of the latest progress report that was on the agenda for the Board meeting on 15 April 2013 is attached for information showing the significant improvements that are now in place.

Recommendation 2 of the Report required the Board to commission an independent review of progress with the improvement programme to be carried out in October 2013, 12 months after the Report was published, to assess the impact and effectiveness of the programme. Arrangements are in hand to procure an independent organisation to carry out this review.

Finally, it may be of interest to members of the Committee to know how the Board sees the future for itself and the other IDBs wholly or mainly in Wales. A Welsh Government consultation last year set out options for the future delivery of IDB functions in the context of the Welsh Government’s ‘Living Wales’ agenda, the creation of the new single environmental body Natural Resources Wales and the wider reform of public service delivery in Wales.

The Consultation Document presented three options for the future delivery of the functions of the IDBs operating wholly or mainly in Wales. These are:

- Option 1 – Delivery through IDBs in line with current arrangements
- Option 2 – Delivery through IDBs, with changes to organisational arrangements
- Option 3 – Delivery through any new single body for natural resource management in Wales

The Consultation Document made it clear that, on the basis of an assessment of these three options using criteria developed by Welsh Government officials, Option 3 was the preferred option for the Government.

The response from the CWLIDB to this consultation by the Welsh Government provided detailed comments on the Consultation Document - particularly on the three options, the criteria used and the assessment that results - as well as answers to other questions posed in the Document. It also provided details about the work of the Board, but the main thrust of the response was to clearly state the Board's preferred option and the reasons for this preference. The CWLIDB Board strongly supported Option 2 – '*Delivery through IDBs, with changes to organisational arrangements*' - but with an important variation that promoted the development of a Water Management Alliance for Wales that will administer the three existing IDBs and any further IDBs in Wales created to administer the eleven IDD in North and West Wales currently administered by the Environment Agency Wales. The CWLIDB Board believes that there is great value in involving local communities in decisions that affect water level management in those parts of Wales with specific drainage needs. Internal Drainage Boards provide locally representative bodies to manage water levels in these areas and have important longstanding experience, skills and expertise essential for managing the risks within their districts. IDBs work closely with local farmers, residents and businesses in their districts and their understanding of local land use can help unlock local issues. That is why the Board believes that there is a continuing need for independent IDBs working in close partnership with Natural Resources Wales, local authorities and other key stakeholders. The Flood & Water Management Act already gives all of these bodies the power to work in partnership and share resources, and IDBs are using these powers extensively to assist Lead Local Flood Authorities within and beyond their boundaries on local flood risk management plans, strategies, sustainable drainage systems, consenting and enforcement, and planning matters.

The Board accepted that there is a need to simplify and modernise the size, shape and structure of Internal Drainage Boards including the CWLIDB, so that IDBs can adapt in response to local needs. This could facilitate forming a *Water Management Alliance for Wales* of the three existing IDBs in Wales. The Alliance would provide specialist staff and services to these Boards that would retain local offices and local staff/contractors to undertake work on behalf of the local Boards in line with their locally-determined priorities and resources. These Boards would continue to meet as independent Boards in their own right. The Alliance would offer a single point of contact for the new single body in Wales to communicate with Welsh IDBs, improving partnership working and local consultation. The Alliance would also provide a structure to explore the potential for creating Boards for the 11 Drainage Districts in North Wales currently administered by the Environment Agency. Farmers and landowners in a number of these districts are keen to have a greater say on the water management of their local area and are interested in re-forming IDBs. This would not result in a significant new financial burden for local authorities or ratepayers in those districts as they currently already pay special levies and rates to the Environment Agency that would transfer to an IDB.

Richard Penn
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May 2013