

What does the Flood and Water Management Bill mean for internal drainage boards (IDBs)?

The Bill recognises and builds on the key role of IDBs in managing flood risk.

A duty to act consistently with local and national strategies

The Bill will require the Environment Agency to develop a national strategy for managing coastal erosion and all sources of flood risk for England. This will need to be consulted on publicly before being approved by the Secretary of State and laid before Parliament. Local authorities and IDBs must act consistently with this national strategy in developing and implementing the local flood risk strategies, and then also act consistently with those local strategies.

IDBs will also have a duty to have regard to these strategies when performing wider functions.

A duty to co-operate and provide information

All relevant authorities will be required to co-operate with any other relevant authority exercising functions under the Bill. IDBs must also comply with reasonable information requests from the Environment Agency or lead local flood authorities.

Scrutiny by lead local flood authorities

IDBs will be subject to scrutiny by lead local flood authority overview and scrutiny committees when they are addressing flood and coastal erosion risk management. This will mean that they will need to provide information and respond to reports, and have regard to the recommendations of those committees. Ministers will be able to decide the procedure and this may include allowing local authorities to require the attendance of IDBs at scrutiny meetings.

Power to delegate functions

The Bill allows all relevant organisations to undertake flood and coastal erosion functions at the request of another body. IDBs will play a key role in local partnerships led by local authorities. Local authorities will be able to delegate work to IDBs. This will enable arrangements that best suit local needs and circumstances, making the most effective use of capabilities and resource available, to be put in place.

District local authorities and IDBs will continue to manage ordinary watercourses. The Bill now allows consenting powers to be delegated. This will mean county local authorities will be able to delegate direct responsibility for consenting of third party works, enabling district authorities and IDBs to have effective control of the watercourses they manage.

Powers of direction – defaulting authorities

The Secretary of State and the Welsh Minister will have powers to direct any flood authority to act in default of another flood authority. This is only intended to be used where that authority has failed to deliver and has been given a reasonable opportunity to improve.

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Designation of third party assets

The Bill provides lead local flood authorities, district councils, internal drainage boards and the Environment Agency with powers to designate structures and features that affect the risk of flooding or coastal erosion. These may include (but are not restricted to) things such as embankments and walls. The powers are designed to overcome the risk of a person damaging or removing a structure or feature that is on private land and which is relied on for flood or coastal erosion risk management.

Once a feature is designated, the owner must seek permission from the authority to alter, remove, or replace it. If someone does make a change to a designated feature, then the authority may issue an "enforcement notice" which will set out any steps that must be taken to restore a feature. An individual may appeal against a designation notice, refusal of consent to remove, alter or replace a feature, any conditions placed on such a consent, or an enforcement notice.

Sustainable development duty

The Bill includes a duty to contribute to sustainable development for local authorities and IDBs in discharging their flood and coastal erosion risk management (FCERM) functions. This complements the existing duty that the Environment Agency has under section 4 of the Environment Act.

It also provides environmental powers to local authorities, IDBs and the Environment Agency to carry out works that:

- a) have a net beneficial impact, taking into account all effects (both positive and negative);
- b) are consistent with the national FCERM strategy; and
- c) are deemed by the relevant authority to be desirable for the natural environment or other aspects of the environment, such as the historic environment, landscape, amenity or leisure benefits. This is in the context of ensuring that the overall programme of FCERM contributes to all three pillars of sustainable development.

The specific provision for drainage authorities to form consortia

The Bill includes a provision to allow IDBs to work in consortia. This will enable IDBs to share administrative, professional or technical services as well as perform flood risk management functions for one another. We see this as a progressive next step towards full amalgamation of IDBs based on sub-catchments by 2013.

Statutory consultees to the SUDS Approving Body on sustainable drainage

The Bill introduces a requirement for proposals for drainage systems in new developments to be approved by a unitary or county council SUDS Approving Body. This will ensure sustainable drainage systems are employed where possible, and that they are designed and built to National Standards. The Bill enables the Minister to define what requires approval, and to set exemptions, which can be used to make clear the arrangements for construction of IDB drainage assets.

The Bill now makes Internal Drainage Boards statutory consultees to the approval process in appropriate circumstances. The Approving Body must consult the relevant IDB if it thinks that the drainage system proposed may directly or indirectly involve the discharge of water into an ordinary watercourse within that board's district.

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What is not changing as a result of this Bill?

The consultation package issued alongside the draft Bill in April 2009 included a number of possible wider reforms for IDBs which are not included in the Flood and Water Management Bill.

Responses to the consultation identified a number of key issues which we need to explore before any decision on the future supervision of IDBs and associated activities can be made.

In the meantime, the Environment Agency will continue to supervise IDBs and consent to works they undertake. The Government will continue to consider the results of the consultation in deciding which authority should lead on this.

Working with stakeholders on further legislative changes

We are grateful for the consultation responses provided, and will continue to work closely with Association of Drainage Authorities, Natural England, Local Government Association and other key stakeholders to address the issues raised and develop policies for inclusion in future legislation.