

## DRAFT FLOOD AND WATER MANAGEMENT BILL

### RESPONSE (OFFICER LEVEL) – TONBRIDGE & MALLING BOROUGH COUNCIL

*Note<sup>1</sup> - Questions Numbered as in the consultation document*

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
	<b>Style and accessibility of draft legislation</b>	As a shire district land drainage operating authority, this Council's interest is more focused on the technical detail rather than the presentational style of the consultation document and draft Bill and will pass on Q1 to 7.		
1	How far, in general, would you say that the draft legislation is written in a reasonably clear style that is likely to be understood by readers?			
2	In general, do you think the individual clauses are too long, too short or about the right length? How far is their overall order in the draft legislation reasonably logical and easy to follow?			
3	In general, do you think the individual sentences in the draft are too long, too short or about the right length and is their structure too complex, too simple or about right?			
4	Please give examples of anything in the style of the draft legislation that you particularly liked or disliked. Please also give your reasons.			
5	Please give examples of provisions that you thought helpfully simple or well expressed or ones that could be made simpler or otherwise improved. Please also give your reasons.			
6	Are there any drafting techniques (such as cross-references to other provisions of the draft legislation) that you would like to see used more or less?			
7	Please suggest any improvements to the way in which legislation is drafted that you think would make it easier to understand and apply.			

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
	<b>New approaches to Flood and Coastal Erosion Risk Management</b>			
8	Are you content with the definitions of “risk” and “risk management” in the draft Bill?			
9	Are you content that the draft Bill should enable a wider range of approaches to managing flood and coastal erosion risk than is currently allowed under existing legislation, such as resilience, and that it should be sufficiently flexible to accommodate new approaches which may be developed in future?			
10	Does the approach in the draft Bill to flood and coastal erosion risk management adequately cover adaptation?			
11	Does the proposed approach to flood and erosion risk management: <ul style="list-style-type: none"> <li>• facilitate and encourage authorities to make effective links between land management and flooding and erosion?</li> <li>• enable and encourage authorities to play an appropriate role in the delivery of wider multiple objective projects through the use of their flood and erosion management functions, including projects that are specifically required to achieve environmental, cultural and social outcomes?</li> </ul>	It may well do but much will depend on how all the relevant authorities work together in partnership, a very difficult process to legislate for.		
12	Are there any approaches to flood and coastal erosion risk management that should be adopted but which the draft Bill would not allow?	The draft Bill is unspecific about what techniques and methods might be adopted to achieve flood risk mitigation and management.		
13	Should all operating authorities be required to contribute to sustainable development objectives when carrying out flood and coastal erosion risk management?			
	<b>Future roles and responsibilities</b>			
14	Are the component parts of the EA strategic overview clear and correct and do they achieve the objectives?	See answer to Q15		
15	If not, what further changes should be made?	There is still potential for the public to be unclear about who has responsibility for different aspects of flooding. The EA needs to have a stronger obligation to engage with Lead Authorities in practical operational response to deal with flooding rather than strategy and policy formulation.		

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
16	Do you have any comments on the proposal that the EA issues a National Strategy for FCERM with which all operating authorities will be required to act consistently when delivering their FCERM functions?	A national FCERM is unlikely to be able to reflect local or even regional variations in conditions and circumstances and risks being a very general type of document. If this is the case, its utility and effectiveness will be questionable. Nevertheless, local operating authorities should have regard to such a document insofar as its contents are relevant.		
17	Do you have any comments on the proposal that other bodies would have to have regard to the EA's National Strategy and guidance? Do you consider that any other bodies should be added to the list in clause 23? In particular, how should the sewerage industry be brought into the new framework?	It would be inconceivable for a national strategy to be created and then for those engaged in local flood risk management to be in a position to ignore it. The list appears to be comprehensive. The list makes reference to water companies and places new duties to share and partner upon them.		
18	Do you think that the EA should be required to consult as part of preparing or publishing its strategy?			
19	Should the EA have a regulatory role in relation to coastal erosion risk management, in particular for consenting and enforcement as set out in paragraphs 103-105? What alternative arrangements might be preferable?			
20	Should the Secretary of State have the power to direct the EA to undertake local flood risk management work in default of local authorities, and recover reasonable costs?	It is puzzling that a draft Bill that contains much about partnership working and consensual arrangements should contain such an incongruent reference to default action and cost recovery. This needs further explanation of what scenarios the DEFRA envisage might occur to warrant this.		
21	Should the EA be able to undertake coastal erosion risk management works concurrently with local authorities where appropriate to support the delivery of the strategic overview role?			

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
22	The EA is drawing up a coastal map showing which operating authority will exercise FCERM powers on each length of coast. Should the EA maintain this and should the procedure for amending the map be the same as for main river maps, or should it be a non-statutory process?			
23	<b>Main River Mapping</b> Do you have any comments on the proposed changes to main river maps as set out above?	The proposed changes appear practical.		
	<b>2.5 Local Flood Risk Management</b>			
24	The Government's response to Sir Michael Pitt's Review accepted that county and unitary local authorities should have the 'local leadership' role described above. Does the draft Bill implement this effectively and support the development of effective local flood management partnerships?	Yes, provided that the Lead Authority and District Councils are granted the correct resources to fulfil their obligations and that a full range of partners, especially the water companies, play their full part in local partnerships.		
25	Do you have any comments on the proposal that the county and unitary local authorities will develop a strategy for local flood risk management and that district local authorities and IDBs would be required to act in a manner which is consistent with that strategy in delivering their FCERM functions?	For such local strategies to have practical value it is essential that all relevant authorities have due regard to its contents.		
26	Do you have any comments on the proposal that other bodies would have to have regard to the local flood risk management strategy and guidance? Do you consider that any other bodies should be added to the list?	See previous answer.		
27	Do you think that the county and unitary local authorities should be required to consult the public as part of preparing or publishing their strategy?			
28	Further to its duty to investigate flooding incidents, should the county or unitary local authority have powers to carry out works of an emergency nature? If so, what powers would be needed?	Powers similar to those currently held by Districts and IDBs.		
29	Do you think that the EA and county and unitary local authorities should be able to gather information from private landowners and individuals about flood drainage assets related to their respective responsibilities? What if any sanction is needed to ensure information is provided?			
30	Should county and unitary local authorities be legally required to produce annual reports on the way that they are managing local flood risk? Should this requirement be annual?	A reporting obligation would be a practical way of ensuring that there is a continuing priority for LFRM and, providing the reporting burden is proportionate, annual frequency		

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
		sounds reasonable.		
31	Should the EA provide support and advice to the local overview and scrutiny functions as part of the exercise of its strategic overview role?			
32	Should the list of bodies required to cooperate with overview and scrutiny committees be extended to encompass all relevant authorities and as a result pick up IDBs and water companies?			
33	Should Regional Flood and Coastal Committees (or another body) be involved in peer reviewing any annual reports produced by local authorities?			
34	Should district local authorities and IDBs continue to manage flood risk from ordinary watercourses, taking account of Local and National Strategies?			
35	Should county and unitary local authorities have powers, concurrent with district local authorities and IDBs, to manage flood risk from ordinary watercourses in their areas? Or should they remain able to act only in default?	If County Councils are to carry responsibility for LFRM it seems only reasonable that they should be granted the powers to act concurrently with other local operating authorities.		
36	Should any sea flooding works that a local authority wants to undertake require the consent of the EA?			
37	Should all relevant organisations have the power to undertake any flood and coastal erosion risk management at the request of another body?			
38	Should the functions of consenting, and the production and coordination of the strategy (for both EA and county and unitary local authorities) remain as ones which cannot be carried out by another authority?	There should be scope for consenting and the production and coordination of the strategy to be carried out by agreement by other authorities in the light of local circumstances.		
39	Are these assumptions reasonable? Is further evidence available to improve the analysis? Are the measures detailed proportionate with the scale of benefits assumed?	There is a significant emphasis on plans, policies and strategies with perhaps less of a focus on operational action to positively reduce flood risk and a reluctance to accept that additional financial resources will be needed to achieve this.		

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
	<b>Duty to cooperate and share information</b>			
40	As agreed in the Government response to Sir Michael Pitt's Review, there will be a duty on relevant organisations to cooperate and share information. Do you think the list of relevant authorities to whom this applies is comprehensive?			
41	Should the EA and county and unitary local authorities be able to specify the format and standards for information to be shared between organisations?	Yes, subject to the requirements being reasonable.		
	<b>Sustainable Drainage Systems</b>			
42	Do you agree that national design, construction and performance standards for sustainable drainage of new developments and re-developments should be developed and approved by the Secretary of State and Welsh Ministers?			
43	Are there particular issues which must be addressed in the standards to make them effective, that have not been mentioned?	This will become apparent in detailed guidance once it becomes available.		
44	Are there examples where this form of approval, for the surface water drainage system associated with a new development, is not appropriate?			
45	Does the process for adoption and connection described here provide a clear and workable approach for developers, local authorities and water and sewerage companies? Do you have any suggestions which would make the process simpler, speedier or lower cost?			
46	Are there examples where a communal SUDS should not be adopted by the SAB?	If the intention is to have a comprehensive control of LFRM, it is difficult to suggest circumstances where there would not be a requirement for installation of a SUDS to be to adoptable standards.		
47	Do you agree with how the envisaged arrangements for replacing the automatic right to connect will work?			
48	Can the use of National Standards as a material consideration for the purposes of s115(4) of the Water Industry Act 1991 provide sufficient legal certainty to prevent inappropriate agreements to drain highways to sewer?	This question demonstrates a focus on process and policy rather than on the end objective which is proper arrangements to reduce flood risk. The LLFA is the highway authority and will have robust pressures on it in any event to secure adequate drainage measures that reflect local circumstances		

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
		without the need for national standards.		
49	What is the appropriate balance to enable good SUDS designs that work with the lie of the land, can discharge to watercourse, and can be accessed for maintenance and inspection, whilst protecting the rights of landowners?	<p>The draft Bill appears to focus entirely on SUDS associated with new development. So there should be no real issue with balancing landowner rights since people buying into a new development will be aware of what arrangements are already in place.</p> <p>If there is any intention that the draft Bill should allow for the retrospective installation of SUDS then there will have to be more detail on how this is envisaged to operate in practice.</p>		
50	How wide should the SABs' ability to delegate be?	As wide as required for the LLFA to be able to adequately fulfil its obligations in the Bill.		
51	Are additional enforcement powers needed – in particular, should the SAB have an independent power to enforce the approved SUDS? How would this work?			
52	Views are welcomed on how best to ensure the maintenance of private SUDS, and ensure that they are not redeveloped.	In the interests of proper control of local flood risk, there should be an objective that all SUDS are publicly owned and maintained and that adequate financial resources are available to fund this, be it from the existing residents directly benefiting from the arrangement or from specific government funding for this purpose.		
53	Is there any legal impediment to prevent a SAB from adopting an existing SUDS?	Whether there is or not will depend on local circumstances in each case.		
54	Do you agree that performance management of SUDS maintenance should be included within the local government performance framework, as part of their climate change adaptation function?			

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
	<b>2.7 Regional Flood Defence Committees</b>			
55	Do you agree that Regional Flood Defence Committees should be renamed as Regional Flood and Coastal Committees?	There is no real purpose served by such a change of name.		
56	Should RFCC status be predominantly advisory rather than executive?	There should continue to be some democratic overview of the EA.		
57	Should the focus and roles of RFCCs be as described in above? If not, do you have any other proposals?	See answer to previous question.		
58	Do you agree that the membership of RFCCs should be appointed as outlined above in future? If not, do you have any other proposals?	If there are to be any changes, it should be in the direction of reinforcing local democratic accountability.		
59	Should RFCCs' levy-consenting powers be extended to coastal erosion issues?	This really depends on the long term arrangements for funding flood and coastal erosion risk management actions.		
60	Are there any other issues that you wish to raise in regard to RFCCs?			
	<b>EU Floods Directive</b>			
61	Should flooding from sewerage systems caused solely by system failure be excluded from transposition of the Floods Directive? If not, how might such flooding be integrated?	No because it is critical that the LLFA investigates all instances of flooding to ensure that public has clarity about who is responsible for dealing with such matters.		
62	Should the EA and county and unitary local authorities assume responsibility for implementing the Floods Directive, with the EA focussing on national mapping and planning and local authorities having specific responsibilities in relation to local flood risk? If not, what other arrangements would you suggest?	The EA must have an operational role in local flood risk management and not just an advisory one.		
63	Should county and unitary local authorities be responsible for delivering PFRAs for local flood risk as described above? If not, who should be responsible?	SFRA production is already a part of the spatial planning system and the work for this should already be well advanced nationally. Quite apart from the duplication of effort that such a proposal would create and waste of scarce resources, there are fundamental operational reasons why assessments of strategic flood risk should be carried out by Local Planning Authorities in conjunction with the EA.		



Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
64	Is this framework a suitable approach for determining 'significant risk' or are there alternative approaches to consider?			
65	Should county and unitary local authorities be responsible for determining significant local flood risk (ordinary watercourses, surface water and groundwater)? If not, who should be responsible?			
66	Should the proposed selection of 'significant risk' areas by local authorities be moderated along the lines of the arrangements set out above?	The mechanism for moderating the choices appears to be significantly disproportionate, especially as the matter in hand is at its heart local in nature and should be amenable to local settlement and agreement by the relevant authorities working in partnership.		
67	Do you agree with the proposed mapping arrangements set out above? If not, what alternative arrangements do you suggest?			
68	Should the EA and local authorities have the discretion to determine whether or not to produce flood maps, as described above? If not, what other arrangement should apply?	There should be some discretion and flexibility but this should not remove a basic obligation to produce the relevant mapping.		
69	Should the arrangements for FRMPs be as set out above? If not, what alternative arrangements do you suggest?	Subject to an over-riding need to rationalise what is required and to clarify the timetable for all the various and overlapping plans and strategies.		
70	Do you agree with the co-ordination arrangements set out above? If not, what alternative arrangements do you suggest?			
71	Should the first cycle PFRA be brought forward one year, as proposed above, to enable mapping to take up to two years in common with the rest of the mapping and planning cycle?			
72	Do you agree with the other proposals set out above for reporting and review? If not, what alternative arrangements do you suggest?	Subject to the general comment above that there needs to be clarity and a robust aim of avoiding duplicated effort.		
	<b>Water Framework Directive</b>			
73	Do you agree that the duty to act in accordance with WFD requirements should apply equally to all FCERM authorities?			

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
74	Do you think this approach provides a satisfactory mechanism for ensuring that the relevant bodies deliver the requirements of the WFD?			
	<b>Third Party Assets</b>			
75	Should we introduce a system of third party asset identification and designation, as set out above?			
76	Is there a case for greater powers on third party assets than we have suggested?	If there is such a need, the legislation should be drafted to allow for this to be addressed through subsequent regulation.		
77	Are there assets that are not 'structures or natural/man-made features' that should also be designated?	This will depend on circumstances and the legislation should provide sufficient flexibility if it proves to be required in practice.		
78	Should there be a duty on those responsible for third party assets in England and Wales to maintain them in a good condition?			
	<b>2.11 Consenting and enforcement</b>			
79	Should regulation of the ordinary watercourse network (where there are no IDBs) transfer to county and unitary authorities? Or should this role in future sit with the district and unitary authorities?	Current arrangements work satisfactorily and there is no justification for the proposed change/transfer. It may well be that there is a case for extending the role of LLFAs to allow concurrent regulation but the legislation should be framed in a way that encourages partnership working to share the experience and local knowledge that resides in the district tier.		
80	Should it be possible to make consents subject to reasonable conditions?			
	<b>2.12 Reservoir safety</b>			
81	Views are sought on whether the minimum volume figure should be 5,000 or 10,000 cubic metres, or another figure.	Q 81 - 88 In this section, the approach appears to have moved away from a risk based one to a more prescriptive absolutist one. The criterion should be based on the consequences of a failure rather than a specific volume.		
82	Views are also sought as to whether criteria for inclusion and/or exemption can be based on other objective criteria such as embankment height, elevation, type of construction etc.	See Q81		

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
83	Do you have a view on what information should be requested at the point of registration to enable an effective risk based approach thereafter? How can we design this and the collection process to minimise the burdens imposed by registration?	See Q81		
84	Do you agree the proposed classification is appropriate and that the EA should have responsibility for classifying all reservoirs under the new regime?	See Q81		
85	Do you believe there might be a role for insurance in improving reservoir safety and, if so, how might this work?	See Q81		
86	Do you have a view on whether and how the Government could most fairly keep to a minimum the financial burdens placed on the owners of those reservoirs which are being brought within the regulatory regime for the first time?	See Q81		
87	Again, we welcome views on how to ensure charges within a scheme can be made proportionate.	See Q81		
88	<p>No decision has yet been made about making use of the existing power to give Directions contained in the Reservoirs Act 1975 (as amended by the Water Act 2003). Views are invited on whether to proceed ahead of enactment of the proposals in the draft Bill. Points to bear in mind are:</p> <ul style="list-style-type: none"> <li>• The existing power to give a Direction would apply only to LRRs; and the costs of offsite planning would not be borne by the undertaker.</li> <li>• The power to give a Direction under the new Bill proposals could apply to all high Risk reservoirs above the minimum volume criterion; and could provide for the reservoir manager to meet the costs of off-site planning should a specific emergency response plan be needed. Views are sought on whether the Bill should provide for this.</li> </ul>	See Q81		
	<b>Possible reforms to the role and governance of Internal Drainage Boards</b>			

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
89	Do you consider that there is a direct conflict or inconsistency between the IDBs' supervisory role and the local leadership role of the county and unitary local authorities?	Potentially there is but the extent to which this might be a problem depends on how well local partnership works in practice.		
90	If the IDBs' supervisory role was repealed, what would IDBs no longer be able to do that they currently can?	One for the IDBs to explain.		
91	Should regulation of the entire ordinary watercourse network (including within IDB watercourses) transfer to county and unitary authorities in order to provide a consistent approach?			
92	Do you think that IDBs should have specific powers to share services and form/participate in consortia?	They should be able to make local arrangements that provide the best results in terms of local flood risk management.		
93	Do you think that IDBs should have specific powers to form/participate in limited companies/limited liability partnerships for the purposes of sharing services?	See previous answer		
94	What negative impacts might there be from providing IDBs with these specific powers?	This would depend on the practical details of any such arrangements.		
95	Do you agree the proposals outlined are the best way to simplify these procedures? If not, what alternative approaches should be considered?	The Council neither agrees or disagrees with this but is concerned that there is muchj in the Bill about the minutiae of arrangements for operating, managing and amalgamating IDBs, which risks deflecting attention away from the overall thrust of the Bill; viz, a focus on flood risk management.		
96	Do you agree that the title of IDBs should change in the future to reflect the wider approaches that IDBs will undertake now and in the future?			
97	Do you agree that 'Local Flood Risk Management Board' is an appropriate new title, or is here a better alternative?			
98	Do you agree that the principles of the Medway Letter should be relaxed allowing IDBs to expand their boundaries beyond their traditional areas?			
99	Do you agree that there should be a specific requirement for IDBs to produce an impact assessment demonstrating the cost benefit implications of a boundary expansion?			

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
100	Do you agree that the future supervision of IDBs would fit better with county and unitary local authorities rather than the EA in the future?	If it is accepted that the LLFA has a focus of responsibility for local flood risk management and surface water management, there is some justification for it to have a supervisory role over the IDBs to ensure proper ring-mastering of local flood risk management activity.		
101	Do you think that county and unitary local authorities should take over the lead on amalgamation (etc.) schemes from EA in the future under this supervisory role?	Possibly.		
102	Do you agree that lifting the bare majority limit on local authority membership of IDBs will allow for fairer representation on boards in the future?	Local democratic representation is vital for IDBs		
103	Are there other models of membership that you think would be more appropriate?	Possibly but it would be best to work with what already exists and adapt it to suite future needs.		
104	Do you agree that the Secretary of State should have powers to determine the size, shape and structure of IDBs in the future?			
105	What consultation would need to occur before individual changes in size, shape and structure of IDBs were to take place? What sort of powers would be most appropriate?	See answer to Q95		
106	Views are sought on whether the assumptions are reasonable. Can further evidence be made available to improve the analysis? Are the measures proportionate with the scale of benefits assumed?	See answer to Q95		
107	<b>Note - No question 107 in the document</b>			
	<b>Current funding structure</b>			
108	Do you agree that there is a case to retain powers for the EA to levy (a) general drainage charges, and for IDBs to retain similar powers to levy (b) agricultural drainage rates in England and Wales?			
109	Do you agree that EA's current powers to levy special drainage charges should be repealed?	The EA does not use this levy so it appears to be a redundant mechanism		

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
110	Do you agree that only county and unitary local authorities should be funded for local flood risk management to allow them to prioritise funding based on where benefits would be greatest?	There is significant difficulty in this proposal because it would result in a source of local expertise in dealing with flood risk being denied funds essential for dealing with local problems.		
111	Do you think that replacing the IDB special levy in England and Wales with agency or contractual arrangements between IDBs and the relevant local authorities would improve the delivery and prioritisation of local flood risk management?	It would all depend on how well such agency arrangements could be set up.		
112	Are there other arrangements that would remove or reduce the problems associated with the special levy in England and Wales, including those referred to above?	There are clearly other mechanisms for funding IDBs but these considerations are more relevant to an overall consideration of the role of IDBs than the aims and objectives of the draft Bill in dealing with flooding.		
113	Is there a case to end both IDB highland water charges and EA's precept on IDBs in England and Wales?	These charges are one example of just how unnecessarily complicated the arrangements for funding land drainage are.		
114	If the Medway letter were retained, would there still be a case to end the payments?	Yes because the whole system is counter-intuitive.		
115	What additional steps or measures could be taken to make sure developers in England and Wales contribute towards the pressures new developments place on future local and central government budgets?	Provision for commuted sums in respect of SUDS and other drainage assets constructed as part of new developments.		
	<b>Reducing property owners' and occupiers' impact upon local flood risk</b>			
116	How can people be made aware of their riparian responsibilities when they first buy properties that include riparian land?	Make it a legal requirement that this is explained as part of the conveyancing process.		
117	117. What else could be done to improve existing riparian owners' awareness and understanding of their responsibilities?	Notice from the LLFA specifying riparian obligations backed up with enforcement action where a riparian owner is in default.		
118	What examples are there of strategies that have succeeded in increasing the engagement of riparian owners and improving their contribution to maintenance?	Local flood partnership at East Peckham in Kent focused on construction of a flood alleviation scheme centred on a dam to attenuate peak flows in a local stream. This included participation by local residents, frequent newsletters and a post scheme		

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		maintenance plan to explain the responsibilities of all parties including riparian owners.		
119	How could the powers provided to drainage bodies by section 25 of the Land Drainage Act 1991 be improved?	Existing power works satisfactorily.		
120	Do you agree with the suggestion that ENI be offered to applicants and respondents in all ALT land drainage cases?	This is in line with current trends towards dispute resolution through mediation.		
121	Do you agree with the introduction of a fee for all applications to the Agricultural Land Tribunal that concern land drainage? This would not affect hearings for agricultural tenancies.			
122	If an application fee were introduced, at what level should it be set?	The £100 quoted in the draft sounds about right for the purposes of discouraging vexatious applications.		
123	Do you agree that a fee should be charged for an ALT hearing on drainage? Should that fee be paid by the losing party or should this be decided by the ALT?	It is difficult to find justification for land drainage disputes through the ALT being met entirely from public monies. There should be a fee and it should be decided by the ALT.		
124	If a hearing fee were introduced, at what level should it be set?	The £1000 suggested is at the lower end of what should be charged.		
125	What cases are you aware of where people might have made use of the ALT had its remit extended beyond ditches and included all ordinary watercourses?	Not aware of any.		
126	Do you think that it would be a good idea to extend the remit of the ALT to include all ordinary watercourses? Do you think that it should also be extended to cover the main river network?	It is not really clear why the remit of the ALT needs to be expanded in this way because, properly applied, S25 of LDA1991 is effective in securing a proper resolution of land drainage problems created by default of a private party.		
127	In what other ways, if any, could the regulations and processes of the ALT be improved as regards cases involving drainage issues?	Nil response.		
128	Do you think the ALT should be renamed? If so, what name do you suggest?			
129	Do you believe that failure to maintain the flow of water through watercourses should be described in law as a statutory nuisance?	This is a far more complex subject than is apparent in the text of the document.		

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
130	If a statutory nuisance were created concerning “obstructed watercourses”, should it be administered by the ALT, by district and unitary local authorities or by some other body/bodies?	If there is to be such a statutory nuisance, it should be administered by the local operating authority for the watercourse.		
131	Do you agree that a new statutory nuisance should be created to tackle the risk of runoff flooding?			
132	If a statutory nuisance were created for run-off risk, which public bodies should be responsible for its administration and enforcement – the ALT, unitary and district local authorities, or unitary and county local authorities?	This type of flooding is local in its impact but can be distressing nonetheless for those affected and frustrating to resolve. If there is to be such a statutory nuisance, it should be dealt with by the LLFA.		
133	What is the range of costs involved in conducting expert investigations into potential surface run-off statutory nuisance?	It depends on the circumstances of each case.		
134	What sized reductions in damages can be expected when run-off risks are eliminated?	Impossible to say because this depends on the individual circumstances of each case.		
135	Should the owners of properties that cause a surface run-off statutory nuisance have to pay the entire cost of eliminating the nuisance? What would happen if the owner was unable to afford the work? How else could the works be paid for?	These are questions that would need to be answered in the context of the details of specific cases.		
136	Should local authorities be encouraged to make more use of their Article 4 powers to reduce the growth in surface run-off risk?	This should be a general national policy in much the same way that direction exists to control frontage surfacing in excess of 5 sq m. Otherwise, there is an inefficient and hugely duplicatory process of Article 4 directions from many different Local Planning authorities.		
137	Please tell us of any recent occasions you are aware of in which run-off from farmland caused substantial disruption or damage to neighbouring property.	At East Peckham at the start of 2003 which led to the implementation of a flood alleviation dam.		
138	Do you agree that local authorities should, in areas of high risk of run-off flooding, be given powers to impose restrictions on management practices and oblige landowners to make improvements to drainage in particular portions of land implicated in run-off flooding?			



Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
139	If you do agree with the above proposition, what land management practices should be included in the national list of possible restrictions?	The approach should be flexible.		
140	What would be the administration costs of working with a landowner to convince them to change the way they managed their land and support them with doing so?	Dependant on individual circumstances.		
	<b>Single Unifying Act</b>			
141	Do you agree that any proposed changes to the existing legislation, not contained in the draft Bill or covered elsewhere in this consultation document, should be discussed directly with relevant organisations in England and Wales so that changes might be introduced in the resulting legislation, without the need for further general consultation?	No, subject to concern that the draft Bill is attempting too much in the potentially limited legislative time remaining to allow the Flood Management aspects of the Bill to be successfully introduced.		
142	If so, are there any particular or general issues on which you would want to be involved in this way?	It would be necessary to have some awareness of what the Department has in mind before being able to comment on this.		
	<b>Hosepipe bans</b>			
143	What non-essential uses of water do you think should be restricted in order to save water in times of drought?	Those already provided for within existing legislation.		
144	144. For those domestic uses of water which are not covered by the existing hosepipe ban powers, but which may be prohibited as a result of any changes, for example the cleaning of patios with a hosepipe or pressure washer or filling of domestic swimming pools, how can the cost of inconvenience to the householder be measured? Are you able to provide an assessment of the impacts?	It is difficult to quantify such intangibles.		
145	Some businesses could be affected at an earlier stage in a drought if further uses are prohibited. Are you able to provide any assessment of the likely impact and costs for businesses should they be unable to use water supplied through a hosepipe or similar apparatus?			
146	Do you agree that the legislation should not set a standard notice period? If not, what period would you suggest?	It is not really material provided that there is adequate effort to ensure that the local community is aware of the planned actions of the water company.		
	<b>Power of entry – water resources functions</b>			

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
147	Do you agree that a power of entry should be introduced to cover the EA's functions to measure and manage water resources?			
	<b>Water Administration Regime</b>			
148	Should the special administrator be required to pursue the rescue objective for viable water companies that experience financial difficulties?			
149	Should a hive-down provision be available in the water administration regime to make the transfer process more efficient?			
150	Do you agree that we should remove the right of an undertaker to veto a transfer?			
	<b>DWI Recovery of Charges</b>			
151	Do you agree that DWI should introduce charging to recover the cost of their regulatory activities from water companies and licensed water suppliers in line with other water regulators?	Yes but the outcome of this is likely to be that the costs are simply added on to customers directly.		
152	Do you agree with the principle that charges to individual water companies and licensed water suppliers should be proportional to the relative regulatory burden they represent?			
153	<b>Misconnections</b> Do you agree that powers should be given to sewerage companies to require householders to rectify misconnections as described above? Are there alternatives?	It is fundamental that misconnections are dealt with but there needs to be some allowance for the fact that circumstances will vary from case to case.		
	<b>Development of a project based delivery approach for large infrastructure projects in the water sector</b>			
154	Do you agree that a project-based approach would reveal optimal funding structures?			
155	Are there alternative approaches to securing effective and properly regulated collaborative projects that could be explored?	It depends on the nature of each proposal and how readily it can attract the requisite investment.		

Q <sup>1</sup>	Consultation Document Question	Comment	Yes	No
156	Do you agree that consumers would benefit from a project-based approach to suitable large projects?			
157	Do you agree that existing water companies would normally be best placed to manage the procurement exercise?			
158	What types of projects should be covered by the regime?	Projects that cut across the operational area of single water companies.		
	<b>Complaint handling powers</b>			
159	Do you agree that these changes provide for the most appropriate body to handle complaints?	Subject to effective communication to ensure that customers are aware of the different roles and responsibilities of the Consumer Council for Water and Ofwat, the changes are appropriate.		
	<b>Securing compliance</b>			
160	Do you agree that these changes will enhance Ofwat's ability to protect customers?	These changes will achieve this up to a point, but there must be assurance that any sanctions penalising a water company for failure should not be implicitly passed on to the customer.		
161	<b>Hydromorphology powers</b> Do you agree that a power to improve the hydromorphological condition of water bodies in England and Wales is necessary to deliver WFD requirements on hydromorphology? Please state why.	Given that EA assessments indicate the dependence between good ecological status and hydromorphological conditions, then such powers would appear to be prerequisite to meeting the needs of the Water Framework Directive.		
162	Do you agree with these criteria for the use of the power?	Yes, subject to the safeguards and caveats described in the consultation document.		
163	Do you think this proposal provides an appropriate mechanism to enable improvement of hydromorphological conditions?			
	<b>Annex A – The policy position in Wales</b>			
	<b>Questions 164 to 188 concern the policy position in Wales</b>	<i>These questions are not relevant to T&amp;MBC and no answer is provided.</i>		