

Association of Drainage Authorities

POLICY AND FINANCE COMMITTEE

Minutes of the Meeting held on Wednesday 14 May 2014 at the
The Farmers Club, London

Present: **Ian Thornton (IT) Chairman**
Peter Bateson (PB), Frances Bowler (FB), Henry Cator (HC), Nigel Everard (NE), Tim Farr (TF); David Hickman (DH), Stephen Morris (SM), Siobhan Sherry (SS) David Sisson (DS), Carol Tidmarsh (CT), Michael Watson (MW),

Apologies: Lewis Baker (LB), Craig Benson (CB), Karen Daft (KD), Jane Froggatt (JF), Jean Venables (JV) Phil Winrow (PW)

In Attendance: Sharon Grafton (SG) ADA
Tim Vickers (ADA)
Ian Russell (IR) EA/ADA

Ref	Minute	Action
1266	Declaration of Interest None	
1267	The Minutes of the meeting held on the 29 January 2014 were agreed as a true and fair record.	
1268	Matters Arising Min 1271: PB told the committee that some of Belwin claims had been submitted and settled, and advised any IDBs which have claims to submit them soon. Min 1264: CT updated the committee regarding the Environment Agency's decision to dissolve the management of eight IDD in Sussex and Kent (three in West Sussex, three in East Sussex and two in Kent). Steering groups in each of the areas were formed to investigate how the IDBs would be managed after 31 March 2015. In West Sussex it has been proposed that the management of the three IDBs will be transferred to the local authorities – no new IDBs have currently been proposed. In Kent there are currently no proposals regarding one of the IDBs, Commissioners of Sewers in West of Gravesend IDD, however the second IDD, Commissioners of Sewers in East of Gravesend IDD, have established a proposal to set up a new IDB. Medway IDB has been providing advice. There are currently no agreements for the three IDBs in East Sussex. The contact in Defra regarding this project is either CT or Lewis Baker. IT mentioned that Swale & Ure IDB have been approached to offer assistance to two new IDBs which are being established in the Lake District, however at present those setting up the new boards have said that they are not ready. IR added that Environment Agency representatives for the North West were on the groups looking into this.	
1269	ADA Incorporation, ADA Board, Branch Structure TV explained that the incorporation of ADA had been completed, and that as of 1 st April 2014 ADA was a company limited by guarantee. There will be no change to the services which are provided by the Association, but the incorporation has brought about a change to what was the Executive Committee, which is now the Board. The Board will be made up of 16 Directors: the Chairman, representatives of the 10 ADA Branches, the chairs of T&E and P&F and representatives of the Environment Agency, Lead Local Flood Authorities and RFCCs. DS added that the new organisation has elevated the role of the Branches and T&E and P&F Committees, as they feed directly into the board. It would also be good practice to encourage other flood risk management authorities (RMAs) to participate at branch level. IT commented that it was down to individual branches to ensure that they can get	

themselves to a workable level, and hoped that the new branch chairmen would push for the branches to be more than just a talking shop.

HC said that it is hoped that the devolvement of the role of branches will be more fitted to two way communication, and will assist in ADAs increasing role it is playing in responding to consultations.

1270 Legislation

a. Local Audit and Accountability Act

TV told the committee that the Local Audit and Accountability Bill became an Act in January 2014. This will remain an item on ADAs agenda as there will be implications which will become apparent over time. Jane Froggatt has produced a briefing note, titled “*ADA Briefing Note to IDBs and Local Authorities to explain the reasons for IDB ‘penny rate’ increases, the impact of this plus land transfers upon Special Levy and the relationship to Council Tax and possible referendums*” which was circulated prior to the meeting.

ADA have also received questions regarding three issues which could have implications for IDBs. These are:

- Part 2, Section 3 sub-paragraph 3 “A relevant authority, other than a health service body, must prepare a statement of accounts in respect of each financial year.” Does this mean that accounts must be produced by all IDBs and the annual return is no longer necessary?
- Part 6, Section 33 “Data Matching: Schedule 9 (data matching) has effect.”. Is it a necessity for IDBs to comply?
- Part 7, Section 38 “Duty of smaller authorities to publish information” This formally introduces data transparency for IDBs.

ADA have been asked whether IDBs need to comply with Part 2 and Part 6.

FB answered, explaining that it was her understanding the IDBs had to comply with all three points.

PB added that, with regards to the query about statements of accounts, the Act also covers parish councils, who don’t necessarily produce anything other than a statement of accounts. It was suggested that ADA should clarify these points with DCLG.

ADA to contact DCLG to clarify whether IDBs need to comply with the following sections of the Local Audit and Accountability Act: Part 2, section 3, sub-paragraph 3; Part 6, section 33 and; Part 7, section 38.

ADA

PB explained that the Audit Commission would be abolished on 31 March 2015. ADA have always been represented on the Audit Commission’s Joint Practitioners Advisory Group (JPAG), together with the National Association of Local Councils (NALC) and the Society of Local Council Clerks (SLCC), but also more recently on DCLGs Smaller Authorities Working Group (SAWG). SAWG is lead by DCLG and includes representatives from the smaller bodies sector (NALC, SLCC & ADA), LGA, CIPFA, DEFRA, the Audit Commission and the National Audit Office. SAWG are looking at a way forward to procure and appoint auditors after the Audit Commission disappears and when the current external audit contracts expire in 2017, with a possible solution being to either set up a sector lead body (SLB) with NALC and SLCC or be part of a single procuring and commissioning body for both smaller and principal authorities lead by the LGA. These two options being explored were referred to by DCLG as being the twin-track approach.

The running costs for this for smaller entities (NALC, SLCC & ADA) had previously been estimated to be £250,000 per year, plus an additional £250,000 towards procurement costs every five years. Phil Camamile, who sits on the SAWG on behalf of ADA has concerns about the sector led approach and felt that any start-up funding should come from DCLG and that ADA/IDBs should not be picking up any extra costs to setup a sector lead body post Audit Commission. However, in light of the new Local Audit and Accountability Act both he and PB believe that ADA should remain “at the table” in order to influence future developments, particularly with regard to the future of the limited assurance audit regime and the guidance that underpins this; currently controlled through JPAG. It was therefore agreed to support ADAs continued participation in developing the twin-track approach in principle for now. However it was envisaged that DCLG would be looking for ADA to make a decision on the SLB shortly after the next P&F committee meeting.

PB also said that there is still a desire to update the Practitioners Guide, however there needs to be clarity as to what will happen after the abolition of the Audit Commission before this

can take place.

HC suggested that it would be helpful to invite Phil Camamile and a member of staff from DCLG to the next P&F meeting in September in order to assist with the decision making process. The Committee agreed that this would be helpful.

ADA to invite Phil Camamile and DCLG to 9 September P&F meeting.

ADA

b. Water Bill

CT said that she believed the Water Bill would get Royal Assent on 14 May. Once this has taken place the bill will take effect two months later. The Bill has removed one of the advertising processes for IDBs and provided more flexibility regarding publishing notices. CT advised there are also provisions in the act that could allow for the scaling down of the requirement for the Secretary of State to approve byelaws, but this is on hold presently as Defra are awaiting a response from DCLG in relation to LA byelaws regarding this. It is hoped that something will be published, or a consultation will be released later in 2014.

1271 Long term investment in maintenance funding

DS explained that, in light of recent discussions of which body should be providing which service, there needed to be more certainty in the future regarding who should be delivering basic maintenance. A backlog of maintenance work has developed, some quite severe, to the extent that there is no certainty that the work could be carried out under current regimes. Current asset transfers from the Environment Agency to IDBs should trigger conversation to take place regarding whether funding will be given to bring the assets back up to the standard required of them, prior to the transfer happening.

HC added that, strategically, the UK was falling further and further behind in maintaining the assets it has. This is a worry when considering the changing climate and the predictions of the effect that this may have. The current cost benefit analysis which governs how the Environment Agency can spend money means that rural areas do not meet the criteria needed for work to be carried out. This leads to situations such as has happened around Canterbury, where a section of the River Stour which flows through Canterbury can be dredged, but areas up and downstream, which are more rural cannot. Another example in Kent was of a hole in a sea wall not being repaired, as the wall defends agricultural land. However, a pumping station which is also protected by the same sea wall is receiving funding for repair.

CT said that the Secretary of State was keen on partnership working and funding, and was looking into this with DCLG

FB added that the Secretary of State would be visiting the Bedford Group of IDBs in June.

TF commented that one of the biggest unanswered questions during the devolution pilots has been funding. The absence of maintenance over the years has put the work beyond local authorities and while it will be good for local riparian owners to look after watercourses it will be hard for them to take them on. There needs to be leadership nationally prior to handover.

PB said that there was disappointment that none of the benchmarks for valuing benefits have changed in the partnership funding report. Agricultural land values do not include the loss of future productivity, which would occur if land was under sea water. If this was included there would be a significant effect regarding the funding available.

MW suggested that a balance needs to be found, and that there is a need to spend the money which is available better. There is a perception that the WEM framework forces the Environment Agency to only use national contractors, when it may be more cost effective to use local contractors. There is also a perception that there is unlimited money available for biodiversity, but when it comes to revenue there is no money available.

DH told the committee that when looking for local contributions there needs to be a method to collect money, one method would be via Council Tax but at present there is a desire to reduce taxes.

IR agreed that it was best to make the most out of the money available.

TF commented that there were inconsistencies, mentioning the General Drainage Charge which is currently only charged in the Anglian Region but perhaps could be extended. This could be costly in terms of bureaucracy short term but could help.

Following the flooding in Somerset, and a conversation with Dan Osgood regarding

dredging it appears that nothing has changed in terms of policy, Somerset was only being treated as a special case. However now is the time for a debate, particularly when considering how close other areas came to suffering in the same way as Somerset. Some people are using policy as a barrier, when lack of funding is the real issue.

DS thanked the committee for their comments, and confirmed that ADA would continue to push for long term investment in maintenance.

ADA to continue to highlight the need for long term investment in maintenance of assets and watercourses. **ADA**

1272 Access to Rating Lists referred to in section 35 (7) of the LDA 1991

TV explained that a query had been raised by an IDB clerk who did not have access to the ratings lists which are referred to in section 37(5) of the LDA 1991. These Lists are important in order to be able to justify the calculation of the unit value per hectare of 'other land'. Lord Howard of Rising tabled an amendment to the Water Bill, however Defra did not approve this due to the lack of evidence as to how widespread the issue was, but there is a possibility that they could look into a non-legislative solution, and have also suggested that water companies may hold these details in their archives. ADA have requested IDBs look for this information.

PB said that he had asked local auditors about this issue, who could only think of one Board which they audit who had access to the lists.

CT explained that Defra had been in contact with Rob Wesley, Head of Policy at Water UK, who have spoken with four water companies (Anglian Water, Severn & Trent Water, Yorkshire Water and Wessex Water) who hold rateable values on their systems, although it is not easy to get this information once properties are put onto meters. Defra have a contact at Anglian Water who can discuss how easy it would be to extract data, if this is of interest.

SM commented that the only time North Level IDB would encounter a problem is if their district was extended.

FB understood that the rates can be used as evidence to back up special levy.

PB added that most boards have been using factors derived from 1991 data. There is a need to prove this factor.

NE asked whether it was worth having a safety measure in place to avoid any future challenges.

DS asked how high the risk to boards was in the short time.

CT replied, stating that it would be more of a problem for any new IDBs

FB asked whether, going forwards it would be possible to change to charging based on a properties council tax band. This could alleviate problems which might be encountered, particularly with new developments.

DS thanked to committee for their comments, and said that the item would be discussed again at the next P&F meeting in September when Phil Camomile, who raised the issue initially, would be in attendance.

1273 Surface Water Development Contribution Rate

SM explained that ADA annually distributes to all IDB clerks the Surface Water Development Contribution Rate that the Water Management Alliance charges which can be taken as the industry standard. He went on to explain that at present there are 7 IDBs in Lincolnshire, four of which are charging different rates. He enquired should there be a common development charge for IDBs which could be backed up if the charge was challenged.

DS added that King's Lynn IDB had put in place the system where it would charge a developer what it believed would be the cost to deal with additional drainage on site by way of a Development Contribution. The benefit to the developer being the ability to freely discharge surface water. When it was put in place it was thought that if the rate was published that other boards would be able to take advantage of it too, if they so wished. Alford DB (now part of Lindsey Marsh DB) was challenged around 20 years ago, and the legal advice at the time stated that there must be a fully justified case for levying the charges which must be based on the needs of the catchment.

SM felt that in future the figure should be justified, or not published at all.

FB added that although Bedford Group of IDBs see the figure they use their own, which is approved by the Board each year. It is rarely used, except for small developments.

PB said that there had been discussion that SuDS could remove the necessity for this charge.

DS confirmed that charges will not apply for sites where SuDS are in place.

DH added that although the expectation was that SuDS would commence in the second half of 2014, this has been put back. Lead Local Flood Authorities will be in a position to maintain new SuDS assets, although there could be some exceptions, however no final nation standards have been set.

NE asked whether it would be possible for ADA to come up with a method of calculating the rate, but not the actual figures.

DS added that generic sums will always be open to challenge. The item will be passed to the T&E committee to look into.

T&E

Surface Water Development Contribution Rate to be added as an agenda item for meeting on 9 September

1274 Updates

a. IR

IR began by thanking the committee for its continuing support. At present there is a focus on the Public Sector Cooperation Agreement, both in getting more in place and ensuring that they are used, and operational Environment Agency teams are being encouraged to see how the agreement will enable delivery on the ground. At present there are 14 agreements in place, 26 agreed in principal, with an aspiration to get agreements with all IDBs if possible. If any committee members are aware of meetings where the PSCA could be presented IR would be grateful to hear of them.

During the coming year tentative items with IR will be working with ADA regarding are

- Highland Water Contributions
- Good Practice
- Water Transfer Licenses

Once these have been confirmed then they will be circulated.

NE thanked IR for the support that has been provided, before asking whether precept and local levy monies can be used to fund work.

IR said that in the case of the local levies he believed so, provided the use was agreed by committees, as this is local money.

TF thought that precept money had to be spent in the district it was raised, but it is vague as to whether this is the entire district or the area where the money had been raised. There could be a strong case to suggest that the money be spent closer to home. It does also seem that, with regards local levies, different RFCCs have different views as to how the money should be spent.

b. IDB Membership and Representation Questionnaire – IDB Access to Environmental Expertise Guidance

TV explained that the IDB Membership and Representation Questionnaire, which was started over a year ago had now reached the stage when the information required had been received. This has now been written up and was presented at the Defra TAG on 29 April. Once this has been finalized it will be circulated.

c. Matters arising in the External Audit of IDB Annual Accounts relating to the treatment of Fixed Assets – Interim Guidance

FB updated the committee regarding the treatment of fixed assets in audited annual accounts, saying that at present conflicting advice was being received from auditors, so at present no further advice could be given. An update will be provided at the next P&F meeting.

Date of next meeting

Tuesday 9 September 2014 13.30 – 16.00

