

**National Assembly for Wales**  
Public Accounts Committee

**Caldicot and Wentlooge Levels  
Internal Drainage Board**

October 2013



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

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## Public Accounts Committee

The Public Accounts Committee was established on 22 June 2011.

### Powers

The Committee's powers are set out in the National Assembly for Wales' Standing Orders, with its specific functions of the Committee are set out in Standing Order 18 (available at [www.assemblywales.org](http://www.assemblywales.org)). In particular, the Committee may consider reports prepared by the Auditor General for Wales on the accounts of the Welsh Government and other public bodies, and on the economy, efficiency and effectiveness with which resources were employed in the discharge of public functions.

The Committee also has specific statutory powers under the Government of Wales Act 2006 relating to the appointment of the Auditor General, his or her budget and the auditors of that office.

### Current Committee membership



**Darren Millar (Chair)**  
Welsh Conservatives  
Clwyd West



**Mohammad Asghar (Oscar)**  
Welsh Conservatives  
South Wales East



**Jocelyn Davies**  
Plaid Cymru  
South Wales East



**Mike Hedges**  
Welsh Labour  
Swansea East



**Sandy Mewies**  
Welsh Labour  
Delyn



**Julie Morgan**  
Welsh Labour  
Cardiff North



**Jenny Rathbone**  
Welsh Labour  
Cardiff Central



**Aled Roberts**  
Welsh Liberal Democrats  
North Wales

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## The Committee's Recommendations

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The Committee's recommendations to the Welsh Government (and one to the Wales Audit Office) are listed below, in the order that they appear in this Report. Please refer to the relevant pages of the report to see the supporting evidence and conclusions:

**Recommendation 1.** We recommend that the Welsh Government publish clear guidance regarding the accountability of Internal Drainage Boards operating wholly or mainly in Wales. (Page 19)

**Recommendation 2.** We recommend that the Welsh Government set out a clear framework for joint working between Internal Drainage Boards, and other organisations accountable to Welsh Government including local authorities and Natural Resources Wales, for flood risk management. This framework should include details of roles and responsibilities of each organisation. (Page 19)

**Recommendation 3.** We recommend that the Welsh Government review the governance arrangements of Internal Drainage Boards operating wholly or mainly within Wales and that a system of monitoring of governance arrangements, including procurement processes and financial management, be introduced to ensure that they are transparent and consistent with best practice elsewhere in the public sector and have appropriate documents and plans in place. (Page 19)

**Recommendation 4.** We recommend that the Welsh Government works with Internal Drainage Boards operating wholly or mainly in Wales and other small public bodies to ensure that there are clear lines of accountability for their public facing activities, including maintenance of web sites. (Page 20)

**Recommendation 5.** We recommend that the Welsh Government re-issues guidance on Governance, citing the problems experienced at Caldicot and Wentlooge Levels Internal Drainage as an illustration of what can go wrong. (Page 21)

**Recommendation 6.** We recommend that the Welsh Government work with Natural Resources Wales, the Association of Drainage Authorities and other appropriate bodies to review the size,

composition and functioning of Internal Drainage Boards operating wholly or mainly in Wales, and Boards for other small public bodies.

(Page 25)

**Recommendation 7.** We recommend that Internal Drainage Boards should be mindful of the other commitments of Board Members (particularly Appointed Members from Local Authorities) when setting agendas and timetabling meetings to ensure improved attendance.

(Page 25)

**Recommendation 8.** We recommend that in developing systems for monitoring the governance of Drainage Boards and other small public bodies, consideration is given to mechanisms for monitoring the performance of appointed board members, particularly those from local authorities.

(Page 25)

**Recommendation 9.** We recommend that consideration should be given to improving communication channels between Appointed Board Members and the local authority they represent. This should include guidance to Appointed Board Members on the escalation of concerns about governance arrangements and a reporting mechanism to enable details of the Boards activities to be scrutinised.

(Page 25)

**Recommendation 10.** We recommend that the Welsh Government work closely with public bodies to ensure that the remuneration of senior staff is fully transparent and that consideration of proposals for increasing the pay of senior managers is within the Wales Audit Office guidance on good governance.

(Page 30)

**Recommendation 11.** We recommend that the Welsh Government uses this episode to illustrate the need for all public bodies to be mindful of the importance of being able to demonstrably justify public expenditure, with decisions on use of public money supported by clear business cases and measurable outcomes.

(Page 31)

**Recommendation 12.** We recommend that the Welsh Government, in collaboration with Natural Resources Wales, works closely with Internal Drainage Boards operating wholly or mainly in Wales to ensure that a robust, effective and monitored induction and training programme is in place for new Members, and that all existing Members complete regular performance management plans and are regularly encouraged to review their training needs.

(Page 32)

**Recommendation 13.** We recommend that the Welsh Government considers whether there is a need to review the provision of training to Board Members on small public bodies in Wales, including bodies such as Community Councils. (Page 33)

**Recommendation 14.** We recommend that the Wales Audit Office appear before the Public Accounts Committee with the results of the review of its auditing methodology and proposals on how it intends to make improvements in the future. (Page 36)

**Recommendation 15.** We recommend that the Welsh Government seeks to bring the audit arrangements for the Lower Wye and Powysland Internal Drainage Boards in line with those currently in place for the Caldicot and Wentlooge Levels Internal Drainage Board.

(Page 36)

**Recommendation 16.** We recommend that the Minister for Natural Resources and Food makes a statement on the possible transfer of the functions of existing Internal Drainage Boards to Natural Resources Wales (NRW) as soon as possible. (Page 38)

## Chair's foreword

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The Appointed Auditor's report on the 2010-2011 Audit of Accounts for Caldicot and Wentlooge Levels Internal Drainage Board details a breakdown of relationships, staffing disputes and infighting.

There were no clear lines of accountability for the Board and it was not effectively monitored in developing and implementing a strategic plan for flood-risk management in the Gwent Levels. We believe that this potentially put the lives and property of thousands of people at risk. We noted that the Board has taken action to address many of the issues highlighted by the Appointed Auditor's report. As such, the existing Board was not the primary audience of our inquiry.

However, we were not convinced that the issues which arose at Caldicot and Wentlooge Levels Internal Drainage Board were necessarily unique to that organisation and we believe that the lessons to be learned from events at the Board should be considered by other public organisations across Wales to ensure that there is a clear understanding of the need for, and importance of, good governance, clear lines of accountability and the effective safeguards in the management of public money.

Whilst we are grateful for the decision by the Appointed Auditor to publish this report in the public interest, we were concerned to find that the methodology adopted by the Wales Audit Office in auditing the Drainage Board left something to be desired. This is something that must be addressed immediately to ensure that the public sector can feel fully confident in utilising its expertise.

# Introduction

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## Background

1. The Appointed Auditor's report on Caldicot and Wentlooge Levels Internal Drainage Board was published on 8 October 2012. It was issued in the public interest under Section 22 of the Public Audit (Wales) Act 2004.

2. The Appointed Auditor I stated that he had issued his report to:

“[...] draw the public’s attention to a failure in governance arrangements and inadequacies in management and internal control at Caldicot and Wentlooge Levels Internal Drainage Board. As a result of such failures the Drainage Board has, in my view, acted unlawfully on occasions.”<sup>1</sup>

3. The report concluded that:

- the Drainage Board’s governance arrangements had been inadequate and ineffective;
- some members and officers had acted in a way which was likely to undermine public confidence in the Drainage Board;
- the Drainage Board had not exercised good financial management and control at a corporate level; and
- the Drainage Board had failed to demonstrate that it has achieved value for money and acted lawfully in some key areas.<sup>2</sup>

4. However, the Appointed Auditor told us that the existing Board had already responded to the issues identified in the report with an improvement plan:

“In September 2011, some of the issues emerging from the current audit were communicated to the Drainage Board’s Interim General Manager (in March 2012 the Interim General Manager was appointed as Clerk and General Manager, and is referred to in this report as the General Manager). I am pleased to report that the Board has put in place a programme of

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<sup>1</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Page 3

<sup>2</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 4

organisational improvement. The improvement programme is well underway.”<sup>3</sup>

5. The Public Accounts Committee does not usually take evidence on public interest reports made on the governance of local bodies. Rather, our inquiries are more usually based upon reports conducted under the Auditor General’s value for money powers. However, in this instance we considered that the implications of this report had clear ramifications for the Welsh Government and other public bodies across Wales, rather than just the Drainage Board itself

6. We took evidence from the Welsh Government, the former Clerk and Chief Engineer of Caldicot and Wentlooge Levels IDB, the current General Manager of Caldicot and Wentlooge Levels IDB, the Association of Drainage Authorities, the Wales Audit Office, the Audit Commission and a former board member of Caldicot and Wentlooge Levels IDB. We considered that this range of witnesses would give us perspectives on:

- the Welsh Government’s actions to reassure itself that there are approved decision making frameworks for Drainage Boards in Wales;
- the Welsh Government’s role in working with Caldicot and Wentlooge to deliver the improvements needed;
- the future of Internal Drainage Boards in Wales;
- the role of civil servants and why concerns were not raised sooner;
- local authorities’ presence on public boards and bodies; and
- the Wales Audit Office methodology for the audit of small public bodies, in particular its method for auditing the 2010-2011 accounts of the Caldicot and Wentlooge Internal Drainage Board.

### **What is a drainage board?**

7. Internal Drainage Boards (IDBs) are independent statutory bodies operating mainly under the Land Drainage Act 1991. Their role is to take responsibility for land drainage in areas in England and Wales (often referred to as districts) where there are specific drainage needs.

8. There are three IDBs operating wholly or mainly in Wales:

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<sup>3</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 8

- Caldicot and Wentlooge Levels IDB which is wholly in Wales;
- Lower Wye IDB which is mainly in Wales (and partly in England); and
- Powysland IDB which is also mainly in Wales (and partly in England).

9. Caldicot and Wentlooge Levels IDB (the Drainage Board) is responsible for the day-to-day management of the drainage system on the Gwent Levels. This is an area of land between Chepstow and Cardiff, south of the M4 motorway and bordered by the Severn Estuary. This is an area where, in the absence of a well-maintained drainage system, valuable agricultural, commercial and residential land would be more vulnerable to flooding on a periodic basis.

10. The operations of the Drainage Board are financed from the following sources:

- levies raised upon Monmouthshire, Newport and Cardiff local authorities (currently constituting 72% of finances);
- private drainage works undertaken on behalf of landowners or other organisations at their request (18%);
- other miscellaneous income (8%); and
- rates payable by landowners with property on the Gwent Levels (2%).

# 1. Governance arrangements at Caldicot and Wentlooge Levels Internal Drainage Board

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## Lack of key strategic documents

11. The Appointed Auditor's report states that the Drainage Board did not have a number of key strategic documents in place, including:

- a strategic plan including corporate/strategic objectives and performance measures;
- operational plan(s) clearly linked to the corporate/strategic objectives;
- an organisational budget (capital and revenue) prior to 2010-11;
- overall work programme for the Drainage Board;
- private works policy which links to the overall agreed work programme; and
- a workforce plan.<sup>4</sup>

12. The report states that the Board was not providing strategic leadership. The minutes of meetings often indicated that the Board was not giving sufficient attention to setting the Drainage Board's overarching purpose, strategic objective and priorities. Rather the Board had been too focussed on the detailed day-to-day operations of the organisation.

13. We queried the lack of specific strategic documents at the Drainage Board with witnesses throughout our inquiry. When questioned on the lack of a strategic plan, operational plan and work programme at the Drainage Board, the former Clerk and Chief Engineer stated that:

"I did not have extensive documents in place, but there is a lot of history behind it."<sup>5</sup>

14. The former Clerk and Chief Engineer believed that the Drainage Board had been successful, but also accepted that the organisation had had its failings:

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<sup>4</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 22

<sup>5</sup> National Assembly for Wales Record of Proceedings (RoP) - Public Accounts Committee – 16 May 2013 – Paragraph (Para) 579

“Capacity is an issue. Certainly, the legislation that the board had to comply with, not only in terms of audit, was highly disproportionate to its size as a small body. The biggest issue with the board was that, because its turnover exceeded £1 million, it fell into the next raft of criteria, which would be incumbent on a large statutory body, such as a county council.”<sup>6</sup>

15. We noted a number of key documents and records which were inadequately maintained. For example, the Drainage Board’s ‘Establishment Committee’ had inadequate records of its proceedings prior to 2011. In particular no formal minutes were kept of meetings of the Establishment Committee prior to 2011. We were told by the Appointed Auditor that before 2010 the only records retained were short, handwritten notes of the meetings. These notes, whilst recording resolutions of the committee, did not provide any record of the considerations of the committee or of the rationale for decisions reached.<sup>7</sup>

16. We wish to note our disappointment that the Board’s updated Standing Orders remained unavailable on the Board’s webpages during our inquiry.

17. With regard to budgetary control, the Appointed Auditor’s report stated that:

“Budgetary control is a fundamental aspect of good financial management for all organisations. Where budgetary control is not strong, it exposes the organisation to financial risk, overspending and can threaten the ability of the organisation to meet its objectives. I consider that the Drainage Board did not have adequate budgetary control arrangements in place in respect of financial years prior to 2011-12.”<sup>8</sup>

18. When questioned on the adequacy of records for the Establishment Committee, the former Clerk and Engineer acknowledged that previous audits conducted by Newport City Council

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<sup>6</sup> RoP - Public Accounts Committee - 16 May 2013 - Para 587

<sup>7</sup> Wales Audit Office report - Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 42

<sup>8</sup> Wales Audit Office report - Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 164

had raised concerns about the lack of governance documents. He stated that:

“The board took that point on board and we got what documents we could from the Association of Drainage Authorities, and those documents were in place... The technicality that had arisen, which nobody was ever aware of, was the fact that they did not have Ministerial approval. Having said that, those documents were there. They were taken to the board in good light, the board subscribed to those documents in good light, and they were there. The audit office (Wales Audit Office) had copies of them. If there was an issue—and, certainly, I can accept that—why did somebody not tell us?”<sup>9</sup>

19. We heard that a similar absence of Ministerial approval occurred for other key documents, such as the implementation of updated Standing Orders. The Appointed Auditor’s report stated that:

“In order to operate effectively, internal drainage boards need to adopt and obtain ministerial approval for a scheme of rules. I would expect these rules to constitute the Drainage Board’s standing orders.”<sup>10</sup>

20. The Appointed Auditor’s report stated that:

“The minutes of a meeting of the Board’s Governance/Establishment Committee on 30 June 2008 record that the former Clerk and Engineer told the committee ‘the Regulations and Standing Orders for the Board date back to 1943. There is urgent need for these to be updated in line with best practice...’ In June 2008 therefore, the Board had not adopted and received approval for rules of procedure in accordance with legislative requirements. This is despite the fact that in 2005 the Department of the Environment, Food and Rural Affairs (DEFRA) had issued model standing orders which were available for adoption and approval by internal drainage boards.”<sup>11</sup>

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<sup>9</sup> RoP - Public Accounts Committee - 16 May 2013 - Paras 590-591

<sup>10</sup> Wales Audit Office report - Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 26

<sup>11</sup> Wales Audit Office report - Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 27

21. When questioned on the use of out of date Standing Orders at the Drainage Board, the former Clerk and Chief Engineer stated that, following a recommendation by Newport City Council as appointed auditors, the Board had put in place governance documents provided by the Association of Drainage Authorities (ADA).<sup>12</sup> However, we heard that the implementation of these Standing Orders had not received Ministerial approval.<sup>13</sup>

22. When questioned on how the implementation of Standing Orders in Internal Drainage Boards operating mainly in Wales and partly in England are monitored, the Audit Commission told us that:

"It would not have been for the Audit Commission to provide advice. That is not a role that we have in relation to IDBs. The responsibilities of the auditors of those boards relate to the preparation of the annual return, and they would have reviewed the annual return and looked at the assertions made in the governance statement supporting the annual return."<sup>14</sup>

23. With regard to the absence of key strategic documents, including the use out-of-date Standing Orders, the Director General of Sustainable Futures explained to us that, under the Land Drainage Act 1991:

"[...] establishing those rules and the framework within which they operate is not a mandatory requirement. So, the answer to your question is that, while the internal drainage board, in this case, will have had plenty of guidance as to the sort of rules, documentation and standing orders that it should produce, if it chose not to, or if it chose to continue to operate under what were, in this case, pretty ancient rules, dating back to the 1940s, then that was a matter for it and not something in which we (the Welsh Government) could intervene."<sup>15</sup>

24. He also stated that the Welsh Government would have relied largely on the Environment Agency in monitoring the Drainage Board to ensure that it was performing its statutory duties.

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<sup>12</sup> RoP - Public Accounts Committee – 16 May 2013 – Para 591

<sup>13</sup> RoP - Public Accounts Committee – 16 May 2013 – Paras 591 to 592

<sup>14</sup> RoP - Public Accounts Committee – 11 June 2013 – Para 44

<sup>15</sup> RoP - Public Accounts Committee – 16 May 2013 – Para 12

25. The newly established Natural Resources Wales (NRW) has taken responsibility for all of the Environment Agency duties in Wales. When we questioned the Chief Executive of Natural Resources Wales whether it had responsibilities for holding organisations such as Caldicot and Wentlooge Levels Drainage Board to account, he said that:

“We have no formal role to play in the governance of this organisation, but we deal with its operational issues.”<sup>16</sup>

26. With regard to responsibilities held by the Environment Agency, we were told that they had a strategic flood-risk management plan in alignment with the Welsh Government national flood and coastal risk-management strategy, and that:

“In the national strategy, I believe that there was a requirement that all flood operating authorities, which would include the drainage board and local authorities, had plans in place to explain how they were going to manage flood risk. In terms of policing those documents, the Environment Agency did not have a role. We had no legislation that permitted us to regulate in that regard. So, that is something that we were not monitoring.”<sup>17</sup>

27. Clearly, the Drainage Board should have had in place a detailed strategic plan and up-to-date governance documents to meet its statutory requirements.

28. We also believe that a robust system for regularly monitoring performance and governance arrangements should have been in place - both for the Board and other small public bodies across Wales.

29. We asked the Director General, Sustainable Futures whether there were any deficiencies in the relationship between the Welsh Government and Caldicot and Wentlooge Levels Internal Drainage Board. He said that the Welsh Government was working closely with the Wales Audit Office to support the Drainage Board to implement its action plan. He added that:

“when we found out about this issue via a whistleblowing event, we would have relied firmly on the governance procedures that were in place and local authority

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<sup>16</sup> RoP - Public Accounts Committee – 16 May 2013 – Para 176

<sup>17</sup> RoP - Public Accounts Committee – 16 May 2013 – Para 180

representation on the boards to manage it successfully. We would have relied on the annual reporting, accounting and audit processes that were undertaken by the Wales Audit Office.”<sup>18</sup>

30. The Former Clerk and Engineer of the Drainage Board described the long-term relationship between the Board and the Welsh Government as “Amicable, fruitful, professional.”<sup>19</sup> He considered that they related to each other with:

“mutual respect and understanding. There was never any issue with anybody at the Assembly Government. The board worked very closely with it. It attended many meetings with it.”<sup>20</sup>

31. However, when questioned on the frequency of reporting to the Welsh Government, the former Clerk and Engineer stated that there “were no regularly scheduled meetings, as in, ‘Give us an update every four months on what you are doing’.”<sup>21</sup>

32. He also stated that, when problems were being highlighted to him in 2010/11, he wrote to the Welsh Government raising concerns and requested meetings with officials. However, the Welsh Government “ignored every request for advice and a meeting made by me, and maybe those made by the chairman as well.”<sup>22</sup>

33. The Appointed Auditor’s report stated that Welsh Government officials were made aware of concerns about the administration of Caldicot and Wentlooge Levels Internal Drainage Board in February 2011. The report states that shortcomings in governance arrangements and financial management were underpinned by the lack of an approved decision-making framework. This resulted in public funds being spent inappropriately, and there was a lack of accountability for this.<sup>23</sup>

34. In its response to the Appointed Auditor’s report, the Welsh Government said that its officials were working with the Caldicot and Wentlooge Levels Internal Drainage Board to deliver the improvements

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<sup>18</sup> RoP - Public Accounts Committee - 16 May 2013 - Para 25

<sup>19</sup> RoP - Public Accounts Committee - 16 May 2013 - Para 711

<sup>20</sup> RoP - Public Accounts Committee - 16 May 2013 - Para 713

<sup>21</sup> RoP - Public Accounts Committee - 16 May 2013 - Para 717

<sup>22</sup> RoP - Public Accounts Committee - 16 May 2013 - Para 729 to 735

<sup>23</sup> Wales Audit Office report - Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 18

needed. The Director General of Sustainable Futures stated that the Welsh Government had contacted the other two Drainage Boards in Wales and the Environment Agency to seek reassurance that they had proper decision-making frameworks for their drainage boards and districts. The Welsh Government said it would consider a wider review of the governance arrangements of all IDBs operating in Wales if it was not reassured of this.

35. We were told that, ultimately, Welsh Ministers are responsible for the Internal Drainage Boards wholly or mainly in Wales. The Director of Sustainable Futures stated that:

“In terms of where the buck stops with regard to the future existence, if you like, of this particular drainage board and its legislative framework—in other words, how it is established and how it runs in future—lies with my Minister and with the advice that my colleagues and I will give him with regard to accountability arrangements that will need to be set up for the future operation of this important function.”<sup>24</sup>

36. When questioned on who he thought the Drainage Board was accountable to, the former Clerk and Engineer stated that:

“As far as I could see, it would originally have been DEFRA, and after that, it would be, indirectly, Environment Agency Wales—or Natural Resources Wales, as you would call it now.

Ultimately, as flood-risk management is a devolved matter.”<sup>25</sup>

37. He also stated that he felt that the Environment Agency was responsible for the quality of the work and the functions that they delivered, although he also informed us that the Environment Agency did not request sight of plans prepared by the Drainage Board.

38. We were not convinced that the Drainage Board was fully aware to whom it was accountable, and we are concerned that this might be the case for other Drainage Boards operating in Wales. We consider that the Drainage Board’s failure to obtain Ministerial approval of its strategic documents was symptomatic of the fact that most of the time the Board did not require any form of approval for its actions. Indeed, ironically, the only time Ministerial approval appears to have been

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<sup>24</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 156

<sup>25</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 595

required was when the Board was actually trying to improve and update its documents, rather than maintain a status quo dating back to 1943.

39. Given that flood risk management is a devolved matter it seems clear that responsibility for Internal Drainage Boards should be a matter for the Welsh Government.

40. However, it is clear from the responses of witnesses that there has been a failure by the Welsh Government to clarify lines of accountability with the Internal Drainage Board and to those organisations which work in partnership with the Board.

**We recommend that the Welsh Government publish clear guidance regarding the accountability of Internal Drainage Boards operating wholly or mainly in Wales.**

**We recommend that the Welsh Government set out a clear framework for joint working between Internal Drainage Boards, and other organisations accountable to Welsh Government including local authorities and Natural Resources Wales, for flood risk management. This framework should include details of roles and responsibilities of each organisation.**

**We recommend that the Welsh Government review the governance arrangements of Internal Drainage Boards operating wholly or mainly within Wales and that a system of monitoring of governance arrangements, including procurement processes and financial management, be introduced to ensure that they are transparent and consistent with best practice elsewhere in the public sector and have appropriate documents and plans in place.**

41. The Drainage Board has now updated its Standing Orders, and provided us with a copy. However, we also noted at our meeting of 16 May 2013 that the out of date Standing Orders (based on the Land Drainage Act 1930) were still available on the Board's web site.<sup>26</sup>

42. In response, the current General Manager of the IDB told us that the Drainage Board's web site was maintained by a contractor employed by the Association of Drainage Authorities (ADA), who would

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<sup>26</sup> RoP - Public Accounts Committee – 16 May 2013 – Paras 462 to 467

be responsible for the publication of material for Drainage Boards throughout England and Wales.

**We recommend that the Welsh Government works with Internal Drainage Boards operating wholly or mainly in Wales and other small public bodies to ensure that there are clear lines of accountability for their public facing activities, including maintenance of web sites.**

### **Register of interest**

43. We noted that board members were expected to complete on election or appointment a form to register their interests, including interests in property, contract and any financial and/or business interests and memberships of other organisations. Members were also expected to complete updated forms if their interests changed. The requirement to disclose this information appears to have been introduced in 2008.

44. However, the Wales Audit Office's review of the file held by the Drainage Board indicates that not all members completed these forms and they found no evidence that officers undertook any follow-up to ensure that the forms were submitted.<sup>27</sup>

45. When questioned on the effectiveness of record keeping at the Drainage Board, The Director of Sustainable Futures stated that:

"One thing that I would say is that this is part of the pretty rich landscape of a spectacular failure in governance in this organisation. I am pretty sure that, if I were to run the Sustainable Futures directorate-general in this way, certainly my internal auditors would have something to say about it and would provide me with pretty damning reports about the way in which I was managing the organisation. As far as I am aware, that did not happen here, although the internal drainage board had internal auditors, which were in Monmouthshire County Council."<sup>28</sup>

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<sup>27</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 63

<sup>28</sup> RoP – Public Accounts Committee – 16 May 2013 - Para 103

46. With regard to forms to the register of Members interests, he stated that:

“[...] there was no requirement for such forms to be submitted, and I am not aware that any were. That would again have been a matter for the board itself, and for the chair of the board to satisfy himself, as it was a ‘him’, that people were declaring... conflict of interest et cetera as they should.”<sup>29</sup>

47. We expect every public body in Wales to have robust and effective record management, including the recording of declarations of interest, as a core principle of its operations and that each body should take responsibility for ensuring that its records are accurate and continuously updated. We note that the Welsh Government has previously issued good practice guidance on Governance (provided by the Wales Audit Office and including the Nolan seven principles of public life) to all public bodies in Wales.

**We recommend that the Welsh Government re-issues guidance on Governance, citing the problems experienced at Caldicot and Wentlooge Levels Internal Drainage as an illustration of what can go wrong.**

#### **Attendance of Members and the Size and Make Up of the Drainage Board**

48. The Appointed Auditor’s report sets out that:

“The operations of the Drainage Board are overseen by a Board. The Board, until elections in May 2012, comprised 37 members. Eighteen of the members were elected from amongst the ratepayers and 19 were appointed to the Board by the local authorities on whom levies are raised.”<sup>30</sup>

49. In this report, we have referred to:

- Board Members elected from amongst the ratepayers as ‘Elected Members;’ and
- Board Members appointed from Local Authorities as ‘Appointed Members.’

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<sup>29</sup> RoP – Public Accounts Committee – 16 May 2013 - Paras 103 - 104

<sup>30</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board – Para 11

50. Under the Land Drainage (2001) Act, the Drainage Board was required to ensure that the Appointed Members (i.e. those appointed to the Board by local authorities) outnumbered the Elected members by at least one. This was to reflect the funding levels provided to the Drainage Board by the local authorities.

51. Whilst the historic composition of the Board has technically reflected this statutory requirement, we were told by the Appointed Auditor that not all Appointed Member vacancies on the Board were filled, resulting in a majority of Elected Members on the Board.

52. Moreover, we were told that many of the Appointed Members did not attend meetings of the Board or its committees. The failure of several Appointed Members to attend meetings contributed to an impression that the Drainage Board was being run by the Elected Members to the exclusion of the Appointed Members.<sup>31</sup>

53. When questioned on the attendance of appointed members at Board and Committee meetings, the former Clerk and Engineer stated that:

"if you look at the minutes carefully, you will see that there are numerous references to concern at the lack of attendance by councillors and officers at IDB meetings."<sup>32</sup>

54. When questioned on whether he felt that Appointed Members should have acted sooner to address the issue of out-of-date Standing Orders and the lack of an effective system of managing conflicts of interest, the Director of Sustainable Futures stated that:

"It is firmly the responsibility of the board to deal with those conflicts of interest. I have to say that I would have expected the appointed members of the board to have taken a much more robust line about that sort of thing before then."<sup>33</sup>

55. On the absence of Appointed Members at regular meetings, the Director General of Sustainable Futures told us that:

"It is clearly not acceptable. I have described the relationship as one of, at best, benign neglect in that the appointed members

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<sup>31</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 33

<sup>32</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 751

<sup>33</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 78

of the board were not always being appointed timeously and, even where they were appointed, they were not always, as you said, turning up to meetings. That effectively left the management of the organisation in the hands of elected members and officials in the organisation, which is clearly not acceptable.”<sup>34</sup>

56. However, a former Appointed Member of the Internal Levels Drainage Board told us that:

“We tried to take control of the drainage board in the election, but, unfortunately, as you know, councillors have full diaries—there are clashes with all sorts of things, there is work with constituents and so on. So, we could not take control... We knew that things were wrong and, as councillors, we tried very hard. For three years, it had a tremendous impact on my life and other people’s lives. However, I can tell you that we tried. It was not for want of trying.”<sup>35</sup>

57. On the model used by the Drainage Board to appoint members, the Appointed Auditor told us that:

“Being a small body and, in the case of the drainage board, requiring a large number of members and, at the time, having particular quorum rules that made things quite difficult, was not particularly conducive to the delivery of good business.”<sup>36</sup>

58. We agree with the Appointed Auditor’s conclusion that there was a perception that elected members had an undue influence over the Board’s proceedings and that this was due mainly to the fact that many appointed members did not attend Board meetings.<sup>37</sup>

59. We consider that the sheer size of the Board contributed to some Appointed Members not attending meetings. The Appointed Auditor’s report stated that:

“The Board, until elections in May 2012, comprised 37 members. Eighteen of the members were elected from amongst the ratepayers and 19 were appointed to the Board by the local

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<sup>34</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 81

<sup>35</sup> RoP – Public Accounts Committee – 18 June 2013 – Para 124 and 130

<sup>36</sup> RoP – Public Accounts Committee – 11 June 2013 – Para 193

<sup>37</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 35

authorities on whom levies are raised. In recent years, not all 19 seats on the Board for local authority appointed members were filled resulting in a majority of elected members on the Board. Following the elections in May 2012, Newport City Council has yet to appoint representatives to the Board.”<sup>38</sup>

60. The Director General of Sustainable Futures agreed that the size of the Board was an issue. He stated that:

“My experience of chairing boards is that anything much greater than 12 is almost impossible to manage, and often pretty unruly.”<sup>39</sup>

61. He also told us that:

“In this case, Newport, which put forward 15 individuals to the IDB, put forward a mixture of members and officers... It is a very large number of people to find—and a very large number of people to feel that they are obliged to go.”<sup>40</sup>

62. The former Clerk and Engineer emphasised that:

“a whole raft of county councillors sat on the board, and it must be appreciated that county councillors were in the majority on the IDB. There were not only county councillors, but senior staff appointed by the county councils from the three authorities, as you know, to the board.”<sup>41</sup>

63. We believe that the sheer size of the Board created risks that Appointed Members would not be able to attend, or choose not to attend. For example, we anticipate some Appointed Members might assume that they did not need to turn up to Drainage Board meetings as their authority was already being represented by a number of other people at the meeting.

64. In addition, there would be a risk of Appointed Members experiencing diary clashes between attending Drainage Board meetings and local authority meetings or other business. In such circumstances, it seems inevitable that at least some persons would

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<sup>38</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 11

<sup>39</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 96

<sup>40</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 96

<sup>41</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 600

prioritise attending local authority meetings over Drainage Board meetings.

65. The General Manager of the Board concurred that:

“Everyone agrees that the Board is too large, and the Board has committed to reducing its size but will have to wait for the decision of the Minister about the future of IDBs in Wales before it can start the lengthy process of reducing the number of elected members which would also provide the opportunity for a commensurate reduction in ‘appointed members’. The consensus seems to be that a Board of between 12 and 20 would be appropriate.”<sup>42</sup>

66. We believe that events at Caldicot and Wentlooge Levels Internal Drainage Board reflect a need to review the size of Boards for small public bodies in Wales, to ensure that they are effective and fit for purpose. Given the constraints on Appointed Members’ time there may be merit in considering creative options to facilitate more effective functioning of Boards.

**We recommend that the Welsh Government work with Natural Resources Wales, the Association of Drainage Authorities and other appropriate bodies to review the size, composition and functioning of Internal Drainage Boards operating wholly or mainly in Wales, and Boards for other small public bodies.**

**We recommend that Internal Drainage Boards should be mindful of the other commitments of Board Members (particularly Appointed Members from Local Authorities) when setting agendas and timetabling meetings to ensure improved attendance.**

**We recommend that in developing systems for monitoring the governance of Drainage Boards and other small public bodies, consideration is given to mechanisms for monitoring the performance of appointed board members, particularly those from local authorities.**

**We recommend that consideration should be given to improving communication channels between Appointed Board Members and**

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<sup>42</sup> Further Submission to the Public Accounts Committee, Richard Penn, General Manager, Caldicot and Wentlooge Levels Internal Drainage Board, 9 July 2013.

**the local authority they represent. This should include guidance to Appointed Board Members on the escalation of concerns about governance arrangements and a reporting mechanism to enable details of the Boards activities to be scrutinised.**

## **2. Actions of the former Clerk and Engineer of Caldicot and Wentlooge Levels Internal Drainage Board**

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### **The former Clerk's participation in discussions about enhanced voluntary redundancy**

67. In April 2011 the former Clerk and Engineer drew up a proposal that he be granted 'enhanced voluntary redundancy from the Board with the signing of the relevant compromise agreement with effect from the 30th June 2011.'<sup>43</sup>

68. The proposals also highlighted that the former Clerk and Engineer would be willing to be re-engaged as a consultant to the Drainage Board. Whilst the paper is primarily related to the former Clerk and Engineer's post, it also briefly set out wider Board restructuring proposals, identifying posts which were 'safe' and others which were 'unsafe'. The paper provides no rationale to support the need for restructuring. Furthermore, it gives no basis for determining which posts were 'safe' and which posts 'unsafe'. In the WAO report, the Appointed Auditor noted that whilst the paper designated the former Clerk and Engineer's wife's post as 'safe', he designated the posts of two other members of staff with whom he and his wife had an on-going employment dispute as 'unsafe'.<sup>44</sup>

69. On 31 May 2011, a slightly revised version of this paper was considered by the Drainage Board's Establishment Committee.<sup>45</sup> The Appointed Auditor states that it is not clear why the paper was not provided to members in advance of the meeting.

70. The minutes of the meeting recorded that the former Clerk and Engineer (and his wife) left the room whilst the proposals were considered. The minutes record that the Establishment Committee resolved to:

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<sup>43</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 75

<sup>44</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 75

<sup>45</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 82

“recommend to the full Board to accept the restructuring proposals of the CEO’s report and to pursue a course of restructuring for the Board.”<sup>46</sup>

71. The restructuring proposals were included on an agenda for a meeting of the Board on 13 June 2011, however a paper on these proposals prepared by the former Clerk and Engineer to members was not provided in advance of the meeting with Members only receiving a copy at the meeting.<sup>47</sup>

72. The Appointed Auditor’s investigation found that there was no minute of the discussion which ensued regarding the former Clerk and Engineer’s restructuring proposals. However, the Board rejected the former Clerk and Engineer’s proposals despite the Establishment Committee’s recommendation that they should be accepted.<sup>48</sup>

73. When questioned on the Welsh Government’s awareness of the governance issues at the Drainage Board, the Director General of Sustainable Futures stated that it was not until February 2011 that the Welsh Government were first made aware of concerns.<sup>49</sup>

74. On his participation in discussions about his pay rise, the Former Clerk and Engineer stated that his pay review was given the same consideration as any other staff. He said that his “pay review by the Board...was no different to any other member of salaried staff within the internal drainage board.”<sup>50</sup>

75. However, he also acknowledged that, in hindsight, it was not appropriate for him to be involved in discussions about his pay review, even though his involvement was accepted as standard procedure by the Drainage Board members:

“There should have been an independent organisation overseeing any pay within the Internal Drainage Board, not only mine, but that of all the other salaried staff.”<sup>51</sup>

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<sup>46</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 83

<sup>47</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 87

<sup>48</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 88

<sup>49</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 29

<sup>50</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 613

<sup>51</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 621

76. We also heard that when responsibilities and capacity were increasing at the board, senior managers would approach the board to consider their grading within the organisation. If the board agreed that a review was overdue or should be taken, it would:

“appoint a sub-committee or panel – for the want of a better word—that would hear the case. The panel would consist of the Chairman and the Vice-Chairman. It would also consist of one local authority Member... That was a balanced approach: one from the county councils, one from the landowners and the chairman and vice-chairman.”<sup>52</sup>

77. The Appointed Auditor’s report stated that:

“On 26 November 2001, only eight months after his appointment as Clerk and Engineer, Mr Jackson-Johns submitted a request to the Board’s Works and General Purposes Committee for his post to be re-graded. The minutes refer to a ‘very detailed report that [Mr Jackson-Johns] had prepared regarding proposals to review his grading to fairly reflect his position as Clerk and Engineer to the Board from 1st April 2001’. Whilst the minutes refer to the report as ‘Appendix VI on the yellow sheets’, the Board has been unable to locate a copy of this report.”<sup>53</sup>

78. The Appointed Auditor’s report stated that:

“Public bodies should establish robust and effective governance arrangements which set out the parameters within which the organisation operates and which help direct and guide the conduct and behaviour of members of staff and Board members. I expect all public bodies to have in place...policies which provide guidance for staff and Board members on dealing with personal and/or pecuniary interests which arise in the course of their work, including requirements for declaration and recording of interests and participation in decision making.”<sup>54</sup>

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<sup>52</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 772

<sup>53</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 94

<sup>54</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board – Paras 56 - 57

**We recommend that the Welsh Government work closely with public bodies to ensure that the remuneration of senior staff is fully transparent and that consideration of proposals for increasing the pay of senior managers is within the Wales Audit Office guidance on good governance.**

79. Furthermore as part of our future work, we are intending to conduct our own inquiry into senior officers' pay.

### **Inspection visits undertaken by the Drainage Board**

80. The Appointed Auditor found that, owing to poor record keeping and a lack of a business case, it was not possible to conclude whether inspection visits to the Netherlands in 2000, Italy in 2005 and Northern Ireland in 2008 represented good value for money.<sup>55</sup> His investigation found that the Drainage Board delegation to Italy in 2005 comprised 37 people for a two day visit of drainage works, wetlands and a tour of Venice. The report stated that:

"The Drainage Board delegation comprised 13 members and three officers of the Board and 21 'guests'. The 'guests' were mainly the spouses or parents of Board members and officers."<sup>56</sup>

81. When questioned on whether these visits were appropriate, the former Clerk and Engineer stated that:

"The visits abroad were also duly minuted. Also, every time the board went on a visit abroad, it was cleared with the audit office. Its advice was, 'Keep full records and financial accounts of what happened'".<sup>57</sup>

82. The Drainage Board spent £12,233 to make the Italy visit. However, Board members and officers were asked to pay £100 each towards the visit and guests £300 each. The payment from guests was calculated to cover the full cost of their attendance. We were informed that the Drainage Board received the contributions due from Board members and their guests. The net cost to the Drainage Board after contributions was £4,333.

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<sup>55</sup> RoP – Public Accounts Committee - 5 February 2013 - Para 666

<sup>56</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board – Paras 186

<sup>57</sup> RoP – Public Accounts Committee – 16 May 2013 - Para 776

83. The Appointed Auditor's General's report concludes that:

"The Drainage Board spent taxpayers' money funding 'inspection' visits by Board members and officers without having any business case to justify these visits or any effective means of assessing the benefits realised from these visits. I consider that the expenditure did not represent value for money and that the expenditure was contrary to law."<sup>58</sup>

**We recommend that the Welsh Government uses this episode to illustrate the need for all public bodies to be mindful of the importance of being able to demonstrably justify public expenditure, with decisions on use of public money supported by clear business cases and measurable outcomes.**

### **Training for Board Members**

84. When questioned on the training available for all Members of the Drainage Board, a former member of the Board, James Harris stated that:

"There was no training. Although I had training as a county councillor, you must accept that the landowner farmers came from their daily work. There was no training for the farming community. I feel that it was just a case of, 'You have arrived'. There were no issues around health and safety, and there was no training."<sup>59</sup>

85. He also told us that, on appointment to the Board, his attempts to introduce an ethos for rules, Standing Orders and training at the Drainage Board resulted in him being excluded by staff and being kept at arms-length by other Board Members.

86. However, the former Clerk and Engineer to the Board stated that Caldicot and Wentlooge Levels Internal Drainage Board was the first Internal Drainage Board in England and Wales to send every board Member on a course which focused on Members' duties and responsibilities, hosted by JBA Consulting in April 2008.<sup>60</sup>

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<sup>58</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board – Page 40

<sup>59</sup> RoP – Public Accounts Committee – 18 June 2013 - Para 18

<sup>60</sup> RoP – Public Accounts Committee – 16 May 2013 - Para 751

87. Similarly, the General Manager of Caldicot and Wentlooge Levels Internal Drainage Board stated that:

“All Board members are subject to an induction process and are made fully aware of their accountabilities and responsibilities as Board members rather than as representatives either of agricultural ratepayers or of the local authorities that appoint them to the Board. The governance documents that were provided to the committee included a ‘*Schedule of Matters Reserved for the Board*’ as well as a document setting out clearly the roles of the Board, Board Members, the Chair and the General Manager. So far as appointed members specifically are concerned, the relevant Council Officer (usually the Head of Democratic Services) is provided with written guidance with guidance on the role of appointed members to assist with the selection of appropriate appointed members.”<sup>61</sup>

88. The Appointed Auditor told us that:

“It is useful for any member, whether they be appointed from a local authority or elected directly, to have some training provided to them. I would expect appointed members from local authorities to have had access to general training through their local authority, but other members may not, and we see this as well on community councils.”<sup>62</sup>

89. We expect any Board receiving public money to implement a programme of effective training for newly appointed Members and on-going training for existing Members. We believe that the findings of the Appointed Auditor’s report highlight historic weaknesses in attitudes towards training for Members of Internal Drainage Boards throughout the UK. It is notable that the 2008 JBA Consulting course on duties and responsibilities was reportedly the first of its kind to be undertaken by Members of any Internal Drainage Boards throughout the UK.<sup>63</sup>

**We recommend that the Welsh Government, in collaboration with Natural Resources Wales, works closely with Internal Drainage Boards operating wholly or mainly in Wales to ensure that a**

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<sup>61</sup> Further Submission to the Public Accounts Committee, Richard Penn, General Manager, Caldicot and Wentlooge Levels Internal Drainage Board, 9 July 2013.

<sup>62</sup> RoP – Public Accounts Committee – 11 June 2013 - Para 195

<sup>63</sup> RoP – Public Accounts Committee – 16 May 2013 - Para 757

**robust, effective and monitored induction and training programme is in place for new Members, and that all existing Members complete regular performance management plans and are regularly encouraged to review their training needs.**

**We recommend that the Welsh Government considers whether there is a need to review the provision of training to Board Members on small public bodies in Wales, including bodies such as Community Councils.**

### **3. Methodology adopted by the Wales Audit Office in auditing the accounts of the Drainage Board**

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90. The Appointed Auditor's report stated that:

"Since 1 April 2005, the Auditor General has appointed auditors to undertake the annual audit of the accounts of the Drainage Board. These audits identified some matters of concern and made recommendations for improvement, particularly in respect of the financial management and budgetary control within the Drainage Board. The audit which led to this report has been far more extensive than would be the case in conducting an annual audit of the financial statements. I have therefore considered matters that the auditor would not routinely consider. However, the number of issues identified within the current audit and the scale and significance of some of these issues raises legitimate questions regarding the effectiveness of previous audits. I am currently considering what improvements need to be made to our methodology for the audit of small public bodies and for staff training to ensure that key audit issues are identified and reported on as early as possible."<sup>64</sup>

91. During an oral briefing on the content of his report, we asked the Appointed Auditor why his office had not picked up on concerns around the Board's governance arrangements at an earlier stage. In response, he stated that:

"In relation to the audit, the amount of work that we have done as part of this and the issues that we have looked at go far beyond what we would routinely do as part of our financial audit work. We would not normally expect to look at the standing orders and the way in which committees et cetera would be constituted as part of financial audit work. We would focus on the extent to which the accounts presented were a true view of the finances of the organisation. In doing this, we have gone way beyond what we would normally do as part of our audit process."<sup>65</sup>

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<sup>64</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board - Para 7

<sup>65</sup> RoP – Public Accounts Committee - 5 February 2013 - Para 40

92. We asked the Appointed Auditor what issues had previously been in the scope of reasonable assurance audits previously conducted by the Wales Audit Office. The Appointed Auditor told us that:

“standing orders and standing financial instructions being out of date or being updated but not being formally approved, the lack of a corporate strategy and business plan, policies and procedures for budgetary control, human resources and information technology not being in place, a lack of internal audit arrangements going back a few years ago, and the lack of a medium-term financial strategy. Those were the areas that fell within the scope of the audit in terms of reporting on those issues. What we failed to do is to follow those issues up sufficiently robustly, largely because it is a small body, and, if you are going to add more time to the audit, it is going to cost even more. That is no excuse, but that is some of the background.”<sup>66</sup>

93. A Wales Audit Office official told us that, owing to the fact that the Wales Audit Office were responsible for auditing only one Drainage Board (the other two are partly in England and currently subject to the English audit regime), they had historically not appreciated the complexities associated with the audit. He continued:

“There are peculiarities, if you like, in terms of the way that drainage boards are set up, the way that they set their rates, the membership of the board and in relation to needing ministerial approval for standing orders. Therefore, when we made certain recommendations, such as the need to implement standing orders, it is probably the case that we did not appreciate at the time that those standing orders required ministerial approval... One of the things that we have learned from this exercise is the need, when you have unique audited bodies, to get a better understanding of the nature of that organisation. That is the only way, ultimately, that you can improve the standard of the audit.”<sup>67</sup>

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<sup>66</sup> RoP – Public Accounts Committee – 11 June 2013 - Para 79

<sup>67</sup> RoP – Public Accounts Committee – 11 June 2013 - Para 114 and 115

94. We are disappointed that the Wales Audit Office failed to address issues at Caldicot and Wentlooge Levels Internal Drainage Board earlier. However, we note that the Wales Audit Office has recognised these failings and has committed to reviewing its auditing methodology to better ensure that key audit issues are reported and addressed as soon as possible.

**We recommend that the Wales Audit Office appear before the Public Accounts Committee with the results of the review of its auditing methodology and proposals on how it intends to make improvements in the future.**

95. Moreover, we believe that, as a result of its work in this area, the Wales Audit Office has developed an improved understanding of the particular demands associated with the auditing of drainage boards. Indeed the Auditor General for Wales told us that he considered that the Wales Audit Office was now “well placed to undertake audit work on any other drainage boards and would be pleased to do so.”<sup>68</sup> As a result, in our recent report on the Local Audit and Accountability Bill, we recommended that the Welsh Government:

“should take this opportunity to bring the audit arrangements for the Lower Wye and Powysland IDBs in line with those currently in place for the Caldicot and Wentlooge Levels IDB.”<sup>69</sup>

96. We repeat this recommendation here for clarity.

**We recommend that the Welsh Government seeks to bring the audit arrangements for the Lower Wye and Powysland Internal Drainage Boards in line with those currently in place for the Caldicot and Wentlooge Levels Internal Drainage Board.**

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<sup>68</sup> Letter, Auditor General for Wales, 13 June 2013

<sup>69</sup> Report on the Legislative Consent Memorandum for the Local Audit and Accountability Bill

## **4. The future of Drainage Boards in Wales**

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97. On 22 November 2012 the National Assembly for Wales' Environment and Sustainability Committee asked the recently appointed Chief Executive of Natural Resources Wales (NRW), Dr Emyr Roberts, about the transfer of functions of Internal Drainage Boards to NRW. He stated that this was an issue the Welsh Government may wish to discuss with NRW, and that in NRW's view this was a discussion that should take place at later date.

98. Following the publication of the Appointed Auditor's report, the Minister for Environment and Sustainable Development issued a written statement on 13 November 2012. This stated that:

"Public funds have been spent inappropriately and poor record keeping undermined accountability. This is unacceptable behaviour on the part of any public body, and, while the Welsh Government provides no core or ongoing funding to CWLIDB or any IDB in Wales, the correct usage of and accountability for public funds is something the Welsh Government takes very seriously. During the summer the Welsh Government consulted on proposals for reforming the way IDB functions are delivered in Wales. These were set out in our paper Internal Drainage Districts and Internal Drainage Boards Wholly or Mainly in Wales: A Consultation. The consultation was developed in support of the work on the establishment of Natural Resources Wales and the wider Living Wales Programme. It built on previous reviews of IDBs carried out in 2005 and 2009 and was aligned with the Welsh Government's commitment to public service reform in Wales. The consultation was not linked to the WAO audit of CWLIDB, which was underway at that time, although it did include a commitment to consider the outcome of the audit. We intend to publish a summary of the responses later in the autumn and will announce the outcome of the consultation in the New Year."<sup>70</sup>

99. The previous Minister for Environment and Sustainable Development, stated on 21 February 2013 that he hoped to make an announcement as quickly as possible on the transfer of the functions

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<sup>70</sup> Written Statement- Caldicot and Wentlooge internal drainage board.  
<http://wales.gov.uk/about/cabinet/cabinetstatements/2012/caldicotwentloogedrainageboard/?lang=en>

of existing Internal Drainage Boards to NRW. He stated that his officials were carefully considering the responses to the consultation in the context of the audit reports, as some of the responses would have been given without knowledge of that report. We are disappointed, that at the time of publishing this report, the Minister for Natural Resources and Food had not yet made a statement to this effect. We recognise that there is merit in bringing responsibility for Internal Drainage Boards under the ambit of the NRW.

**We recommend that the Minister for Natural Resources and Food makes a statement on the possible transfer of the functions of existing Internal Drainage Boards to Natural Resources Wales (NRW) as soon as possible.**

100. Views expressed by those consulted on the future of Drainage Boards by the Welsh Government were wide spread. We were told that the majority of those who responded preferred IDBs to remain as they are, with enhanced governance arrangements, whilst local authorities indicated a preference to take control of the Drainage Boards.<sup>71</sup>

101. However, when questioned on whether the Welsh Government's had a preference for Natural Resources Wales to take responsibility of the Boards, the Director General of Sustainable Futures stated that:

"I do not want to put words in the Minister's mouth, because it will be his decision, not mine, as to what option is decided upon. However, we have established Natural Resources Wales to manage Wales's natural resources. Effectively, it is already the internal drainage board for 11 internal drainage districts in north Wales. It has established modern, successful governance arrangements very recently. So, it is fair to say that transferring responsibility to it must be seen as a front runner."<sup>72</sup>

102. We note that the Appointed Auditor's report sets out that the Land Drainage Act 1991:

"empowers internal drainage boards to set a drainage rate on the occupiers of all agricultural land within its area and to set special levies on local authorities. The legislation includes a complex formula which drainage boards must use when determining the rate payable by the landowners. In summary,

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<sup>71</sup> RoP – Public Accounts Committee – 16 May 2013 – Paras 57 to 71

<sup>72</sup> RoP – Public Accounts Committee – 16 May 2013 – Para 72

the rate is calculated by taking the number of hectares of land within the Drainage Board's boundary and its total potential annual rent. This provides an annual value figure which is then multiplied by a rate set each year by the Board. The legislative formula requires that the financial amount to be raised by rates and levies shall be determined using the same ratio between agricultural and non-agricultural land values respectively."<sup>73</sup>

103. As such, the implications of Internal Drainage Boards levying powers will need to be carefully considered, should their functions be transferred to NRW.

104. We consider that, whatever decision is made on the future of Drainage Boards there must be clear lines of accountability, as the Welsh Government is ultimately responsible for flood-risk management in Wales.

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<sup>73</sup> Wales Audit Office report – Audit of Accounts 2010-11 Caldicot and Wentlooge Levels Internal Drainage Board – Para 168

## **Witnesses**

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The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at:

[www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?Id=1311](http://www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?Id=1311)

*16 May 2013*

Gareth Jones, Director General, Sustainable Futures	Welsh Government
Jo Larner, Acting Head of Flood and Coastal Erosion Risk Management	Welsh Government
Emyr Roberts, Chief Executive	Natural Resources Wales
Tim England	Natural Resources Wales
Richard Penn, General Manager	Caldicot and Wentlooge Levels Internal Drainage Board
Dr Jean Venables	Association of Drainage Authorities
Dean Jackson-Johns, Former Clerk and Engineer	Caldicot and Wentlooge Levels Internal Drainage Board

*11 June 2013*

Anthony Barrett, Appointed Auditor of Caldicot and Wentlooge Levels Internal Drainage Board	Wales Audit Office
Mike Usher, Technical Director for Financial Audit	Wales Audit Office
David Rees, Governance Manager	Wales Audit Office

*18 June 2013*

James Harris, Former Board Member	Caldicot and Wentlooge Levels Internal Drainage Board
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## **List of written evidence**

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The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at:

[www.senedd.assemblywales.org/ieIssueDetails.aspx?Id=5690&Opt=3&AID=10315](http://www.senedd.assemblywales.org/ieIssueDetails.aspx?Id=5690&Opt=3&AID=10315)

<i>Organisation</i>	<i>Reference</i>
Caldicot and Wentlooge Levels Internal Drainage Board	PAC(4) 14-13 – Paper 1
Association of Drainage Authorities	PAC(4) 14-13 – Paper 2
Wales Audit Office	PAC(4) 17-13 – Paper 1
Wales Audit Office	Additional information
Caldicot and Wentlooge Levels Internal Drainage Board	Additional information
James Harris	Additional information
Richard Penn, General Manager	Additional information