Upper Ouse
Water Management Board

Planning and Byelaw Strategy

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** Unless revisions to Government legislation or guidance require modifications of the document ahead of the next review date in order for the Board's to be legally compliant.*

Abbreviations

Abbreviations used in this document are set out below:

BRE	Building Research Establishment
DEFRA	Department for Environment, Food and Rural Affairs
EA	Environment Agency
FCERM	Flood and Coastal Erosion Risk Management
FRA	Flood Risk Assessment
FRMP	Flood Risk Management Plan
GIS	Geographic Information System
ha	Hectares
HRA	Habitats Regulations Assessment
IDB	Internal Drainage Board
IDD	Internal Drainage District
LDA	Land Drainage Act 1991
LFRMS	Local Flood Risk Management Strategy
LGO	Local Government Ombudsman
LLFA	Lead Local Flood Authority
LPA	Local Planning Authority
MAFF	Ministry of Agriculture, Fisheries and Food
NCC	Norfolk County Council
NPPF	National Planning Policy Framework
NRA	National Rivers Authority
PPG	Planning Practice Guidance
RoFSW	Risk of Flooding from Surface Water
RMA	Risk Management Authority
SFRA	Strategic Flood Risk Assessment
SI	Statutory Instrument
SMO	Standard Maintenance Operations
SSSI	Site of Special Scientific Interest
SuDS	Sustainable Drainage Systems
WCS	Water Cycle Studies
UOWMB	Upper Ouse Water Management Board

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Section 1: Introduction

This Planning and Byelaw Strategy has been produced by the Upper Ouse Water Management Board ("IDBs"). It has been compiled to provide:

- Guidance on how the Upper Ouse Water Management Board will engage with planning applications within their Internal Drainage Districts ("IDDs") or that have the potential to significantly impact their IDD.

- Guidance to organisations and individuals on the Boards regulatory requirements and processes, including information on the policies against which it will assess and determine applications.

This document is intended for use by IDB Board Members and Officers, the Members and Officers of other Risk Management Authorities ("RMAs") as well as land managers and developers that are undertaking works and developments within IDB districts or their highland catchments. This is a non-statutory document intended to support the strategies and plans of other RMAs that relate to flood risk, erosion and environmental matters. It does not seek to repeat the work of these documents, instead signposting the reader to relevant external documentation where appropriate.

Please note where reference is made to the "Board" within this document this should be taken as meaning The Upper Ouse Water Management Board.

Section 2: Background

2.1. Internal Drainage Boards (IDBs)

IDBs are local public authorities that manage flood risk and land drainage within areas of special drainage need in England. Each IDB has permissive powers to undertake water management activities within their IDD. The purpose of delivering this work is to reduce flood risk to people and property and to manage water in a way that meets the local needs of business and agriculture, including during times of drought, whilst also dealing with its obligations and commitments to the environment.

IDBs exercise a general power of supervision over all matters relating to water level management within their district. This is undertaken through the use of permissive powers that enable IDBs to regulate works on, or affecting, the watercourses within their area. Advice is also provided by IDBs through the planning system to ensure that planning applications for new development within their districts are supported by appropriate drainage strategies. IDBs conduct their work in accordance with a number of general environmental duties and promote the ecological wellbeing of their districts.

2.2. The Upper Ouse Water Management Board

The Upper Ouse Water Management Board ("UOWMB") is an amalgamation of three former IDBs who share vision, values and standards, and have chosen to jointly administer their affairs in order to reduce costs, strengthen their own organisations and increase influence at both a national and regional level, without losing an unacceptable degree of autonomy.

2.3. Further Information

Please see Appendix 1 of this document for further information relating to the current legislative framework for Internal Drainage Boards.

Please see Appendix 2 of this document for further information relating to the roles and functions of Internal Drainage Boards.

Please see Appendix 3 of this document for further information relating to the vision and mission of the Upper Ouse Water Management Board, including how these link to National Objectives.

Section 3: The Planning Process

3.1. Introduction

This section describes the role of each Board and its approach to engaging in the planning process.

Each Board will take an active role in the assessment of individual planning applications as well as planning policy documents to prevent inappropriate development and land use to ensure that flood risk is not increased and to highlight the potential need for Land Drainage consent.

3.2. Board involvement in the planning process

By engaging with the planning process, the Boards seek to:

- Reduce flood risk to communities within its Internal Drainage District and highland catchment.
- Promote sustainable development in sustainable locations by supporting sound planning decisions that can be implemented by applicants and developers.
- Reduce the potential for conflict between the planning process and the IDB regulatory process.
- Develop an understanding within other authorities and third parties of the flood risk and capacity issues within IDB areas so they can be considered through the planning process.
- Make a contribution towards the achievement of Sustainable Development, as per Section 27 of the Flood and Water Management Act 2010.

3.3. When the Board will usually comment on a Planning Application

The BG Member Boards will aim to review and comment on applications which they consider may impact on flood risk and water management within the Board's Internal Drainage District (IDD) in one or more of the following ways:

- The site is within 9 metres of a Board's Watercourse;
- The proposals may result in the displacement of flood water;
- The proposals may introduce water to the IDD;
- The area is known to suffer from poor drainage;
- Introduction of potentially detrimental materials into a watercourse.

The Board will therefore usually comment on the following applications:

Table 1: Summary of application type likely to attract Board comment.

	Inside IDD *Within 9 metres of a watercourse or where works are proposed to alter a watercourse*	**Inside IDD** *Outside 9 metres of a watercourse and where no works are proposed to any watercourse*	**Outside IDD** *Within watershed Catchment*
Major Development	Yes	Yes	Yes
Minor Application	Yes	Yes	No
Householder Application	Yes	No	No

The definitions of major, householder applications are as defined in the The Town and Country Planning (Development Management Procedure) (England) Order 2015. Minor development is that between those two definitions.

3.4. Further Information

Please see Appendix 4 of this document for further information relating to the rationale for, and scope of, IDB involvement with the planning process

3.5. Standing Advice

Each BG Member Board has approved the following standing advice to assist Local Planning Authorities and applicants alike.

Standing Advice: Development with an Internal Drainage District

This standing advice applies where the proposed development site is near to, or within, the Internal Drainage District ("IDD") of a Member Internal Drainage Board ("IDB") of the Upper Ouse Water Management Board.

Please see our website (www.idbs.org.uk) for detailed mapping of each Board's District, including which drains are designated as an arterial watercourses in each District. To avoid conflict between the planning process and the relevant Board's regulatory regime and consenting process please be aware of the following:

- If the site is within a Member IDBs district, that Board's byelaws apply. The Byelaws for each Board are available on the development pages of our website (www.idbs.org.uk).

- If the proposals include works to alter a watercourse (including culverting for access) consent is required under Section 23 of the Land Drainage Act 1991. If the site is within an IDD the relevant IDB is the consenting authority for these works. If outside an IDD, the Lead Local Flood Authority is the consenting authority.

- If a surface water (or treated foul water) discharge is proposed to a

watercourse within an IDD, then the proposed development will require Land Drainage consent in line with the Board's byelaws and the Act.

- If the proposals include works within 9 metres of a watercourse, then the proposed development will require Land Drainage consent in line with the Board's byelaws.

- If the applicant has proposed to manage surface water by infiltration, this should be supported by infiltration testing results gathered in line with BRE 365, and an understanding of the expected groundwater levels.

Where Land Drainage consent is required from a Board, please see the relevant policy in section 5 of this document (Planning and Byelaw Strategy).

Whilst the consenting process as set out under the Land Drainage Act 1991 and the Board's byelaws is separate from the planning process, the ability to implement planning permission may be dependent on the granting of these consents. As such we strongly recommend that any required consents are sought prior to determination of the planning application.

Section 4: Regulation - Overview

4.1. Introduction

The oversight, management and regulation of watercourses in England is delivered across a number of regulatory authorities. Under section 1(2)(a) of the Land Drainage Act 1991 ("LDA"), each Internal Drainage Board ("IDB") has a duty to exercise a general supervision over all matters relating to the drainage of land within their Internal Drainage District ("IDD"). In pursuance of this role IDBs have permissive powers to regulate (consent and enforce) third party activities affecting watercourses within their district. The purpose of watercourse regulation is to control certain activities that may have an adverse effect and to ensure that riparian owners carry out their responsibilities. The majority of watercourse networks within IDDs are in private or riparian ownership the role of the IDB as a regulator is key in ensuring positive action is undertaken by third parties.

IDBs can instantiate byelaws (under Section 66, LDA) relating to the management of watercourses within their district. These cover a wide set of third-party activities that could impact the drainage network.

All areas outside of an IDD are regulated by Lead Local Flood Authorities ("LLFAs"), while District & Borough Councils are able to exercise permissive works powers and create byelaws.

The Environment Agency ("EA") has permissive powers for managing watercourses designated as "Main Rivers". These watercourses and defined on the EA's Main River map and applications for any works to main rivers should be submitted to the EA.

4.2. BG approach

The Board's approach to the regulation of third-party activities is shown below:

> "The Board will regulate as necessary, using available legislative powers and byelaws, the activity of others to ensure their actions within, alongside, and otherwise impacting its drainage system do not increase flood risk, prevent the efficient working of drainage systems, or adversely impact the Board's operations or the environment."

When regulating ordinary watercourses, the Upper Ouse Water Management Board ("UOWMB") member Boards will act in a manner consistent with the policies set out later in this document and in accordance with relevant Local and National Flood Risk Management Strategies.

4.3. The Requirement for Written Consent

The Land Drainage Act 1991 and the Board's Byelaws require written consent to be sought prior to undertaking certain types of activities within a Board's Drainage District. To obtain this an application form should be submitted for consideration. The application form is available on the relevant Board's webpage. Please note applications are not deemed valid unless they are accompanied by the correct application fee.

Applications that are made to the Board will be determined as per the policies set out in this document (Section 5).

Where the applicant or agent is related to or associated with a member or employee of the Board then the application will have to be determined by the Board. Board meetings are usually only held between 3 and 4 times each year.

4.4. Conditions of Consent

Consent may be issued subject to conditions which can cover technical requirements, legal requirements, environmental matters and the need for financial payments. All conditions specified as part of any consent must be met in their entirety before the Board's formal consent is deemed valid.

4.4.1. Environmental Conditions

Under S.102 of the Environment Act 2021, IDBs have a general duty to '***conserve and enhance'*** biodiversity when exercising its functions. Irrespective of engineering and other considerations, this duty must be fulfilled. The Board must ensure that consent is not provided when environmental harm cannot be mitigated and may only provide consent when the Board is satisfied that the environment will be protected and that biodiversity will be conserved and enhanced. Although it is the applicant's ultimate responsibility to determine the presence of a protected species or impact on designated sites (and for proposing mitigations and enhancements), the Board will screen applications for these impacts and may:

- Request that surveys are undertaken prior to considering an application for consent (especially where the IDB suspects the works could impact upon a protected species).

- Request evidence that works will not impact upon protected species or a designated site, or cause a significant impact upon the environment.

- Request evidence that biodiversity net gain is being provided.

Where there is a potential impact on a designated site then consent may also be required from Natural England. Where there may be significant impact on the environment, an Environmental Impact Assessment (EIA) may be required by the Board. The Board may require that the necessary licences and approvals are secured by the applicant prior to granting consent.

If the IDB is confident that no designated sites or protected species will be affected, or that Natural England has issued the appropriate consents and licences, and there is suitable Biodiversity Net Gain then the Board will grant consent.

4.4.2. Legal Agreement Conditions

Approval of certain consents may be given subject to the applicant entering into a legal agreement such as a Deed of Indemnity. A Deed of Indemnity is an agreement between two or more parties, to specify the actions and consequences which will result should a particular event or events occur. Deeds of Indemnity are subject to a General Development Contribution (GDC), along with the fee charged by Land Registry if a document is lodged with them (see Land Registry website). Where a Deed is more complex than usual then the administration fee will be increased to reflect the additional costs to the Board.

4.4.3. Financial Conditions

Conditions of consent can include the requirement to make financial contributions to the Board as per the GDC.

4.5. Right of Appeal

Where you believe that consent has been unreasonably withheld by the Board then under the Land Drainage Act 1991 you have a right of appeal to an independent arbitrator. Ahead of any formal appeal to an arbitrator, the Board's policy is to afford the applicant a right of reply to the Board. This should take the form of a written statement setting out why the application should be considered favourably. The matter will then be taken to the next Board meeting where it will be re-considered.

4.6. Implementation Timescales

All consents granted by the Board are subject to the approved works being completed within a period of 3 years from the date of the Board's decision unless otherwise stipulated. The consent cannot be sold, inherited or otherwise passed on prior to the works being completed.

4.7. Other Requirements

Please note the IDB consenting process is independent of the need for planning permission and the granting of planning permission does not necessarily imply that consent will be granted by the Board. Furthermore, it does not imply that an applicant's proposal will comply with the requirements of any other interested parties, and it is the applicant's responsibility to ensure that they do. If the IDB is made aware of any inconsistencies they will inform the applicant and the appropriate authorities.

4.8. Land Owned by the Board

In accordance with Section 63 of the Land Drainage Act 1991, the Board may not dispose of its land for a consideration less than the best that can reasonably be obtained, other than with the consent of the relevant Minister. To ensure compliance with Section 63 of the Land Drainage Act 1991 the Board will engage the services of a chartered surveyor, to value the proposed disposition. For the avoidance of doubt, the disposition of land includes the granting of an easement (for example, enabling a third party to cross land owned by the Board).

Section 5: Regulation - Policies

This section details the policies that the Board applies when seeking to regulate activities within its Internal Drainage District ("IDD"). These policies provide guidance on how applications made to the Board will be determined. All determinations will conform to the general duty to conserve and enhance biodiversity. This section also details if further conditions would be stipulated or separate agreements or payments required.

5.1. Byelaw 3

Consent is required where a discharge of water is proposed to a watercourse and / or flow or volume is to be increased within a Board's IDD.

5.1.1. Treated Foul Water

The discharge of treated foul water (via a treatment plant) requires consent in accordance with Byelaw 3. Policy 1 below sets out how the Board will determine applications received seeking to discharge treated foul water.

Policy 1 – Discharge of Treated Foul Water

The Board will only approve an application to discharge treated foul water where there is evidence that a watercourse is connected to the wider watercourse network.

Applications may be refused if the Board's Officers consider that the proposals may increase flood risk or negatively impact the efficiency of local drainage or that the receiving watercourse will not be capable of accepting the planned additional flows.

Where the discharge is to an open watercourse, the discharge pipe should be installed through a suitable outfall unit dug in flush with the drain batter. Suitable erosion protection should be installed below the headwall down to the toe of the watercourse and also dug in flush with the drain batter.

Where the discharge is to a piped watercourse, the discharge pipe should be connected into an existing inspection chamber, or a new inspection chamber should be constructed to the Board's specification to accommodate the outfall.

If consent is granted by the Board, this may be conditional.

5.1.2. Surface Water

The discharge of surface water requires consent in accordance with Byelaw 3. Policy 2 overleaf sets out how the Board will determine applications received seeking to discharge surface water.

Policy 2 – Discharge of Surface Water

Applications for consent to discharge surface water run-off into any watercourse within the Board's Internal Drainage District will be considered against the capacity of the receiving watercourse to accept the proposed surface water flows (rate and volume). To assist in determining the application, the Board may require the applicant to undertake hydraulic modelling work.

The Board will only approve an application to discharge surface water where there is evidence that the watercourse is connected to the wider watercourse network.

Applications may be refused if the Board's Officers consider that the proposals may increase flood risk or negatively impact the efficiency of local drainage or that the receiving watercourse will not be capable of accepting the planned additional flows.

If consent is granted by the Board, this may be conditional, including the payment of a GDC .

It is the Board's preference that any system serving multiple properties is adopted by a statutory authority.

The requirement for consent to discharge surface water may be waived in writing at the Officer's discretion where the impermeable area served is less than $50m^2$ and is an extension of an existing impermeable area with a satisfactory surface water outfall.

5.2. Section 23 of the Land Drainage Act 1991 (and Byelaws 4 and 6)

The alteration of an ordinary watercourse requires consent in accordance with Section 23 of the Land Drainage Act 1991 (and Byelaws 4 and 6). This includes the installation or alteration of a culvert, the installation of a mill, dam, weir or similar obstruction, and the operation or alteration of a water control structure.

Alterations to a Main River are regulated by the Environment Agency.

Policy 3 overleaf sets out how the Board will determine applications received seeking to alter an ordinary watercourse.

Policy 3 – Alterations of watercourses (including culverting)

The Board will only approve an application to culvert or infill a watercourse if:

- There is no reasonably practicable alternative;
- The proposal is for a replacement culvert or bridge;
- Any culverting is for the sole purpose of providing access, and the total length of piping or width of the bridge is the minimum required for the access;
- The proposal forms part of a drainage, agricultural or environmental improvement scheme.

Applications for the installation of weirs, flow control and other structures (not including culverting) as well as the infilling of watercourses will be considered on a case-by-case basis.

As part of any application to alter a watercourse (including culverting), the applicant has the responsibility to prove that the proposed works will not increase flood risk or negatively impact the efficiency of local drainage.

Applications may be refused if the Board's Officers consider that the proposals will;

- Increase flood risk or negatively impact the efficiency of local drainage;
- Cause environmental harm that cannot be mitigated;
- Negatively impact the ability of the Board to carry out its operations.

If consent is granted by the Board, this may be conditional. Wherever practical the IDB will seek to have culverted watercourses restored to open channels.

5.3. Byelaw 10

Consent is required for all works within 9 metres of the edge of watercourses and flood risk management infrastructure (for example, pumping stations).

Maps on the Board's webpages clearly show which watercourses are designated as arterial watercourses. The 9 metre distance is measured from the bank top or edge of culvert.

Policy 4 below sets out how the Board will determine applications for works within 9 metres of watercourses and flood risk management infrastructure. If consent is granted by the Board, this may be conditional.

Policy 4 – Works within 9 metres of watercourses and flood risk management infrastructure

The Board will only approve applications for consent for works within 9 metres of drainage infrastructure (as required by Byelaw 10) if the Board's officers consider that the proposed works will not increase flood risk, the ability of the Board to carry out its operations (including but not limited to the Board's usual way of working, current access arrangements, available resources and the risks posed to Board employees, now or in the future) or increase the liabilities of the Board.

5.4. Other Bodies requiring the Board's Consent

As per Byelaw 27, nothing shall restrict, prevent, interfere with or prejudice the exercise of any statutory rights or powers of a number of organisations (listed within Byelaw 27).

Where an organisation listed by Byelaw 27 requires the Board's Consent we will liaise and negotiate with that organisation to ensure the Board's requirements are not in Breach of Byelaw 27.

Policy 5 – Other Bodies requiring the Board's Consent

Where an organisation listed by Byelaw 27 requires the Board's Consent we will liaise and negotiate with that organisation to ensure the Board's requirements are met without restricting, preventing, interfering with, or prejudicing the exercise of any statutory rights or powers granted to that body or organisation.

Section 6: Enforcement

6.1. Introduction

The Boards agree that:

> "***The Board will take appropriate steps to help riparian owners understand their responsibilities for maintenance, byelaw compliance and environmental regulations***."

The Board will initially seek to work with private owners & developers to seek their cooperation in undertaking required works within a reasonable timescale. Where an amicable resolution is no longer likely to be achieved, or where formal enforcement powers are available to the Board set out within the Board's Byelaws and Sections 21, 24 and 25 of the Land Drainage Act 1991. The Board's approach to enforcement is set out within this section.

6.2. Approach

The process of enforcement by Boards will follow the staged approach set out below, and within Policy 6.

6.2.1. Contravention Reported

Once a complaint about an ordinary watercourse is received by the Board, officers will carry out an initial assessment to establish whether a contravention has been undertaken, and whether the Board are the relevant regulatory authority.

An initial assessment should be completed within 21 days of receipt of the complaint however, it may be necessary to extend the period of assessment for more complex matters, high demand on the service and/or to accommodate environmental circumstances e.g. weather, flood conditions, etc.

Unless there is a good reason to the contrary, the assessment should include a full written description of the contravention from a Board employee and where possible dated photographs of the contravention. The Board may receive a written report from another Risk Management Authority (such as a LLFA flood investigation).

This assessment should consider whether a contravention has occurred and if it has, the likely impact of that contravention. Relevant factors may include on-site conditions, the impact on the Board's operations, other relevant risk factors, any available historical data, potential flood risk information, conservation designations, the type of land holding and any site-specific considerations including environmental matters.

6.2.2. Stage 1:

Stage 1 is intended to be a pre-cursor to any formal enforcement action and should initiate open correspondence with the relevant landowner, person and/or Risk Management Authority. The aims of stage 1 are as follows:

- Inform relevant parties of their responsibilities under the Land Drainage Act 1991 and the Board's Byelaws, while separating contraventions into two categories:

    1. Contraventions which are negatively impacting flood risk or the Board's operations or the Board's environment duties. Such contraventions include works which would have required determination by the Board (if an application had been received prior to the works being undertaken).

    2. Contraventions which do not impacting flood risk or the Board's operations or the Board's environmental duties. These contraventions include works which would have been granted consent by officers using their delegated authority (if an application had been received prior to the works being undertaken).

- To seek the removal of contraventions which affect flood risk or the Board's Operations without the need for formal enforcement action.

- To seek the correction or removal of contraventions which are not impacting flood risk or the Board's Operations, but may be detrimental or undesirable for other reasons.

To achieve the aims of Stage 1 the Board's Officers may write a letter to the relevant landowner, person and/or Risk Management Authority responsible for the contravention. This will include an explanation of the contravention, its impact and the remedy required in accordance with the Land Drainage Act 1991 and the Board's Byelaws and the timeframe for the work to be undertaken (usually 21 days from the date of the letter).

If a positive response to the IDB letter has not been received within the timescale specified, and on inspection no work has been satisfactorily undertaken or the correction not made, the case may proceed to 'Stage 2'. In deciding whether or not to carry out further investigation the Board will consider whether it is in the public interest to do so. Having regard to the actual and potential impacts of the contravention, the costs of carrying out the works and the likelihood of obtaining sufficient evidence to support enforcement action.

6.2.3. Stage 2:

Where further action is pursued by the Board, Stage 2 is intended to enable officers to draw on formal powers of enforcement, to ensure that a contravention of the Land Drainage Act 1991 (including byelaws) is removed where this contravention is negatively impacting Flood Risk or the Board's Operations or the Board's environmental duties. The aim of Stage 2 is to serve a formal Notice under the relevant section of the Land Drainage Act 1991 or the Board's byelaws. The notice will include the nature of the work to be carried out or work to be stopped, the period within which this takes place and any relevant right of appeal.

A Notice under the Land Drainage Act 1991 or the Board's byelaws is a legal document formally requiring specific work to be carried out within a set timescale. In the event of the works not being undertaken, the IDB may carry out the work itself and recover from the person responsible the expenses reasonably incurred in doing so which will include recovering the costs of pursuing the case.

As far as possible, officers will continue to seek to resolve the situation by means of negotiation with the person responsible.

6.3. Additional Information:

In certain circumstances practicalities may not allow for works to be achievable within the usual timeframe specified in the letter. The Board will assess the circumstances of each enforcement case individually and determine whether any works need to be deferred or amended to consider the impacts of any works on wildlife or habitat.

In some circumstances, the Board may require further information on the contravention. As such officers may arrange to meet the landowner and/or complainant and undertake additional site visits to substantiate the Board's regulatory position. This process may also involve the Board consulting with other organisations including other Local Authorities, Highway Authorities, the Environment Agency and Natural England as appropriate and/or require or commission appropriate site surveys and inspections.

The Board may take no action where there is not enough evidence to support enforcement or where there is no or minimal impact.

6.4. Policy

Policy 6 - Enforcement

Where responsibility for maintenance of ordinary watercourses rests with a landowner, the Board will take appropriate steps to secure their co-operation to ensure maintenance takes place. Where necessary the Board will draw on powers of enforcement to secure the removal of any unauthorised works or obstruction.

The Board will take a risk-based and proportionate approach to exercising its regulatory powers under the Land Drainage Act 1991 and byelaws, taking into account the location and nature of any contravention, nuisance or flooding caused by:

- the failure to repair or maintain watercourses, bridges or drainage works;
- un-consented works including works within 9 metres of the edge of drainage and flood risk management infrastructure;
- impediments to the conveyance of water.

This approach will consider whether the contraventions have or are likely to increase flood risk or affect the Board's operations or the Board's environmental duties and what the consequences of any increase in risk may be.

Where works are un-consented the relevant IDB will require the landowner or responsible person to prove that the un-consented works do not cause a nuisance or increase flood risk or adversely affect the Board's Operations or the Board's environmental duties.

The Board may cease enforcement activities where:

- there is a lack of evidence to corroborate the impact of a flood event;
- there is no actual or potential risk to properties or infrastructure;
- that the matter complained of is not the cause of the drainage problem;
- the matter is trivial in nature.

Where no enforcement action is taken the Board may advise the landowner or responsible person of their riparian owner responsibilities and potential means for settling disputes with other riparian owners where appropriate, including referral to the First Tier Tribunal (Property Chamber) Agricultural Land and Drainage where appropriate.

Where the Board are made aware of breaches to other legislation they may advise the appropriate authorities.

6.5. Fly Tipping / Illegal Waste Dumping

Waste in watercourses can result from an accumulation of general litter, or from fly tipping (the illegal dumping of waste). The main detrimental effects of waste accumulation in watercourses are a reduction of flow in the watercourse and environmental damage.

Policy 7 below outlines the Board's policy regarding fly-tipped waste.

Policy 7 – Fly Tipping and rubbish in Board's watercourses and on Board's property

The Board does not have enforcement powers regarding fly tipping as these rest with the relevant Local Authority and the Environment Agency. As such, when notified of fly tipping in the IDD would consider the incident as follows:

If the incident is causing a significant obstruction to flow or is presenting an imminent risk of flooding within the IDD, the Board will remove the waste as per the Board's statutory functions and placed on bank top and reported to the relevant Local Authority. In the case of a vehicle, the Police will also be informed as soon as possible.

If the Board considers that the fly tipping incident is serious or will have severe consequence, the Board will report it to the appropriate enforcement body.

If the waste is causing pollution then the Environment Agency will be informed at the earliest opportunity and the pollution contained.

Section 7: Watercourse Maintenance

7.1. Introduction

Generally, ordinary watercourses within IDB Internal Drainage Districts ("IDDs"), unless vested in some other authority, are the responsibility of riparian or private owners to maintain, repair and improve as necessary to ensure effective drainage. A 'riparian owner' is a person who owns land or property adjacent to a watercourse. A private owner is a person who owns land or property with a watercourse within their title. The definition of watercourse includes streams, ditches (whether dry or not), ponds, culverts, drains, pipes or any other passage through which water may flow.

Purchasers of property are often unaware of their inherited riparian or private duties. These are outlined in the Land and Property Act 1925 (Section 62), which states that "a conveyance of land shall be deemed to include and shall by virtue of this Act operate to convey with the land all buildings, hedges, ditches, fences, ways, waters, watercourses, liberties, easements, rights and advantages whatsoever appertaining or reputed to appertain to the land or any part thereof".

7.2. Responsibilities of Riparian Owners

The government has explained riparian responsibilities and the need for maintenance of watercourses and documents are available via

https://www.gov.uk/guidance/owning-a-watercourse.

7.3. Watercourses

The adoption of a watercourse by the Board is an acknowledgement that the watercourse is of strategic importance to the IDD and normally will receive maintenance from the IDB. This periodic maintenance is undertaken on a risk-based approach. There is no change in the ownership or liability associated with the maintenance.

7.4. Designation Changes

From time-to-time drains are 'de-mained' and abandoned by the Board due to changes in circumstance. The criteria listed within policy 8 have been created to inform ad-hoc changes to the designation of a watercourse. It should be noted that every case will have to be judged on its own merits, as the complexities and peculiarities of individual cases cannot be encompassed within a standard set of criteria.

Policy 8 – 'Adoption' of watercourses

Watercourses which fulfil the following criteria should be considered for adoption into the Board's maintenance programme operated under its permissive powers:

A watercourse with more than one riparian owner/occupier, or that serves more than one owner/occupier within its catchment, which causes persistent drainage problems (or would do if a change in circumstances was to take place) where effective maintenance prevents these problems from occurring.

If an improvement scheme is required to make it an effective drainage route, then the benefit of this must outweigh the cost. The landowner, or developer should finance the improvement to the specification of the Board before a drain is designated as an adopted watercourse for maintenance purposes.

Watercourses which fulfil the following criteria should be considered for 'abandonment':

A watercourse which either has (or serves) one riparian owner or is redundant for its original purpose or would not cause a drainage problem if it the Board's regular maintenance ceased.

Consideration should also be given to the availability of access to the watercourse to carry out maintenance works.

Policy 9 –Structures within Watercourses

The Board may seek a GDC or commuted sum to undertake maintenance of proper flow through all **newly** consented structures within an arterial watercourse.

The payment of these fees means that the Board will continue to consider the altered watercourse as part of its arterial network and will maintain the flow of water through consented structures by de-silting and clearing excess vegetation on a recurrence deemed necessary.

Payment of fees does not remove riparian responsibilities.

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Appendix 1: Legislative Framework for IDBs

The current legislative framework for the management of flood risk and drainage in England is a product of significant amounts of historic and modern legislation. The forebears of the IDBs were first created under Ministerial Orders or Orders under the Land Drainage Act 1930. This legislation was a successor to the large number of preceding Drainage Acts.

In more recent times the Land Drainage Acts 1991 and 1994 and the Environment Act 1995 have reshaped the powers available to IDBs as well as their oversight and policy requirements. Specifically the Environment Act 1995 created the Environment Agency ("EA") in 1996, subsuming in the process the National Rivers Authority ("NRA") and its powers of supervision over IDBs.

In 2010, Government incorporated into legislation a number of Sir Michael Pitt's recommendations from his review into the significant flooding experienced across England and Wales in 2007. This legislation was the Flood and Water Management Act 2010 and further reshaped the powers and duties of IDBs. Specifically, it acknowledged formally flooding from ordinary watercourses, groundwater and surface run-off as Local Flood Risk. It further recognised those organisations working to manage risk from these sources as Risk Management Authorities ("RMAs"). The Act gave the EA a 'strategic overview' of Flood and Coastal Erosion Risk Management ("FCERM"), created upper tier Local Authorities (County and Unitary Councils) as Lead Local Flood Authorities ("LLFAs") and placed a duty of co-operation on RMA's. LLFA's have several statutory duties and powers to help coordinate the management of local flood risk across their area, including the duty to produce local strategies.

In November 1999 the then Ministry of Agriculture, Fisheries and Food ("MAFF") set out its policy approach for IDBs in a document titled High Level Targets for Flood and Coastal Defence Operating Authorities and Elaboration of the EA's Flood Defence Supervisory Duty. The first target in this document required each operating authority to publish a policy statement setting out their plans for delivering the Government's policy aim and objectives in their area. This included an assessment of the risk of flooding in their area, and what plans they had to reduce that risk.

In June 2001 MAFF's role was subsumed into the new Department for Environment, Food and Rural Affairs ("DEFRA"). DEFRA's wide remit includes policy responsibility for flood and coastal management in England. From 1 April 2004 DEFRA brought IDBs under the jurisdiction of the Local Government Ombudsman ("LGO") and introduced a model complaints procedure for IDBs to use.

In May 2011 DEFRA and the EA published the National FCERM Strategy for England. This forms the basis of Government's policy response to the changes in legislation brought about under the Flood and Water Management Act 2010. In March 2016 the Environment Agency published their Flood Risk Management Plan ("FRMP") for the Anglian River Basin District which forms their current policy framework for the management of flooding across the BG member Board areas. Other key documents that affect the work of IDBs are the Local Flood Risk Management Strategies as well as the Local Plans developed by each Local Planning Authority ("LPA") whose district intersects with a member Board's area.

Appendix 2: Roles and Functions of IDBs

1. IDB functions

IDBs were established for predominantly low-lying areas where flood risk management and land drainage measures are necessary on a continually managed basis to sustain developed land uses and agriculture. Many of these measures are delivered through the use of permissive powers and are classed as Flood Risk Management Functions[1] under Section 4 of the Flood and Water Management Act 2010.

To achieve the objectives of each Board, as well as to support the delivery of national and local strategies, Boards may;

- **Undertake works** (physical and practical management of water levels through the use of pumping stations and water level controls and the sustaining of volumetric capacity and flow rates within the watercourse network through maintenance activities such as desilting).
- **Regulate third party activities** (this is the consenting and enforcement of changes within their district that affect watercourses and their access and maintenance land. These changes could be the erection and alteration of structures or changes in the flow rate and volume).
- **Communicate and engage with other parties and regulatory regimes** (this is the highlighting of IDBs role, functions and requirements):
    - through the planning process to ensure that permissions granted by planning authorities are sustainable and can be implemented;
    - to riparian owners to ensure that they are aware of their responsibilities under common law;
    - to other Risk Management Authorities to ensure IDB infrastructure and works are appropriately acknowledged, funded and coordinated to achieve best value.

2. Undertaking works

IDBs deliver their practical management of flood risk and water levels through capital works projects and maintenance programmes.

Capital works are infrastructure replacement and improvement schemes that are usually funded through bids to regional and national funding programmes. Bids are submitted and reviewed on an annual basis for inclusion in the Environment Agency's ("EAs") Medium Term Plan ("MTP"). The MTP is a 6-year programme of capital works projects that are aggregated at a regional level. The bids are subject to approval through the Department for Environment, Food and Rural Affairs ("DEFRA") and EA administered project appraisal process. The MTP is approved by the relevant Regional Flood and Coastal Committee ("RFCC") that covers the submitting RMAs area. Progress on submission and delivery of funded capital projects is reported to the relevant BG member Board on a quarterly basis.

[1] "Flood risk management function" means a function under; Part 1 of the Flood and Water Management Act 2010, Section 159 or 160 (and a flood defence function within the meaning of section 221) of the Water Resources Act 1991, The Land Drainage Act 1991, Sections 100, 101, 110 or 339 of the Highways Act 1980, The Flood Risk Management Functions Order 2010.

Each Board delivers a Maintenance Programme. This is formed of an annual schedule of works aimed at maintaining the Board's infrastructure. The programme details the type of activity to be undertaken, where and when it is to be delivered. Progress on the delivery of the programme is reported to the relevant Board and reviewed periodically to ensure it is delivering the appropriate standards. The Maintenance Programme for each Board is available on the BG website.

Board programmes are generally funded by drainage rates collected from occupiers of agricultural land within the IDD as well as through special levies raised from District authorities who pay on behalf of occupiers of land within the IDD not used for agriculture (e.g. houses; businesses; shops). These occupiers pay their part of this levy as a proportion of Council Tax or Business Rates which is paid to their Local Authorities. In addition, some Boards also raise contributions from the EA under Section 57 of the Land Drainage Act 1991 for the receipt of water into an IDD from lands at a higher level outside of the IDD.

Appendix 3: Vision and Mission of the UOWMB

1. Vision

The vision of the Upper Ouse Water Management Board ("UOWMB") is to make each Board's Drainage District and watershed catchment area a safer place to live and as a model of sustainable living in a high flood risk area.

2. Mission Statement

The Boards ("IDBs") aim to:

- Reduce the risk to people, property, infrastructure and the natural environment by providing and maintaining technically, environmentally and economically sustainable flood defences.
- Work closely with other Risk Management Authorities ("RMAs"), partners and stakeholders.
- Enable and facilitate land use for residential, commercial, recreational and environmental purposes by guiding and regulating activities that would otherwise increase flood risk.
- Nurture, enhance and maintain the natural habitats and species which exist in and alongside watercourses.

3. Links to National Objectives

The Environment Agency ("EA") has a duty under the Flood and Water Management Act 2010 to develop, maintain, apply and monitor a National Flood and Coastal Erosion Risk Management ("FCERM") Strategy for England. The EA is also required to report to the Minister on flood and coastal erosion risk management including the application of the National Strategy. The EA publishes this report annually.

The overall aim of the National FCERM Strategy is **"to ensure the risk of flooding and coastal erosion is properly managed by using the full range of options in a coordinated way".** Set out in the table below are the key objectives included in the National FCERM Strategy to achieve this aim.

The Government will work with individuals, communities and organisations to reduce the threat of flooding and coastal erosion by:

- understanding the risks of flooding and coastal erosion, working together to put in place long-term plans to manage these risks and making sure that other plans take account of them;
- avoiding inappropriate development in areas of flood and coastal erosion risk and being careful to manage land elsewhere to avoid increasing risks;
- building, maintaining and improving flood and coastal erosion management infrastructure and systems to reduce the likelihood of harm to people and damage to the economy, environment and society;
- increasing public awareness of the risk that remains and engaging with people at risk to encourage them to take action to manage the risks that they face and to make their property more resilient;
- improving the detection, forecasting and issue of warnings of flooding, planning for and co-ordinating a rapid response to flood emergencies and promoting faster recovery from flooding.

The Boards support the Government's policy aim and objectives for the management of flood and coastal erosion risk and water levels.

Appendix 4: IDBs and the Planning Process

1. The Rationale for IDB engagement with the planning process

According to the National Planning Policy Framework (February 2018), strategic policies set by Local Planning Authorities in their Local Plans should take into account advice from the Environment Agency and other relevant risk management authorities, such as Lead Local Flood Authorities and Internal Drainage Boards.

In determining planning applications in accordance with national policy, local policies and relevant guidance, LPAs take into account advice from a number of different sources. These sources include from statutory consultees (such as Lead Local Flood Authorities ("LLFAs") and the Environment Agency ("EA")) as well as from other Risk Management Authorities ("RMAs") on a non-statutory basis such as Internal Drainage Boards ("IDBs") or Anglian Water.

Between December 2014 and March 2015 Government reviewed and consulted the arrangements for providing advice to planning authorities on drainage and flood risk. As part of their response to this consultation Government stated they recognised the important role IDBs fulfil in flood risk management and agreed that *"there may be local instances where they should be consulted on new development proposals on a non-statutory basis."* Government considered at that time that the provision of advice from these bodies would best be established through local arrangements.

2. The Scope for IDB engagement with the planning process

The scope of IDB comments on planning applications relates primarily to each Board's role as a RMA as defined by Section 6 of the Flood and Water Management Act 2010. In March 2012 Government published the National Planning Policy Framework ("NPPF"). This is a key element of the planning framework used by LPAs and decision-makers, both in drawing up plans and making decisions about planning applications. The latest version was published in December 2023. Section 14 of this document, "Meeting the challenge of climate change, flooding and coastal change" (paragraphs 165 to 175) contains key information on how flood risk and Sustainable Drainage Systems ("SuDS") should be considered as part of new development.

Paragraph 166 of the NPPF states that strategic policies should be supported by a SFRA and should manage flood risk from all sources. It further highlights that in developing these policies LPAs should take into account the advice from other relevant flood risk management bodies such as IDBs. Paragraph 173 of the NPPF includes important references to flood risk and SuDS for LPAs considering planning applications. Amongst many other considerations it highlights that when determining planning applications, LPAs should for all types of development ensure flood risk is not increased elsewhere.

In addition to Planning Policy, Government Planning Practice Guidance ("PPG") updated in 2022 covers Flood risk and coastal change. This includes a number of references to IDBs including Paragraph 010 which states that LPAs should confer with IDBs to identify the scope of their interests, alongside other RMAs, when preparing SFRAs. Furthermore, the need for consultation with IDBs is highlighted by Paragraph 054 where the proposed drainage system from a new development may directly or indirectly involve the discharge of water into an ordinary watercourse within the board's district.

The link between such technical matters as surface water discharges from new development to the policy considerations of the NPPF relate primarily to the potential consequences of unregulated activities on the IDB network and how they may affect the communities they serve. For example, un-attenuated discharges into IDB watercourses can, in many cases, lead to an increase in flood risk downstream of the development site or, in extreme cases, on the development site itself. Where either scenario may occur then the matter becomes a material planning consideration as it would contravene the NPPF statement under Paragraph 170. To this end Table 1 has been included in this document to summarise when the Board should be consulted by LPAs as the consequence of unregulated activities may contravene planning policy or impact the ability of developers to implement their planning permission, both of which may be material planning considerations.

Appendix 5: Local Planning Authorities

No.	Local Planning Authority	County	IDB's within LPA area
1	Cambridge County Council	Cambridgeshire	Upper Ouse Water Management Board
2	Huntingdonshire District Council	Huntingdonshire	Upper Ouse Water Management Board
3	Bedford Borough Council	Bedfordshire	Upper Ouse Water Management Board
4	North Herts District Council	Hertfordshire	Upper Ouse Water Management Board
5	South Cambs District Council	Cambridgeshire	Upper Ouse Water Management Board
6	Buckinghamshire Council	Buckinghamshire	Upper Ouse Water Management Board
7	Cherwell District Council	Oxfordshire	Upper Ouse Water Management Board
8	Milton Keynes City Council	Buckinghamshire	Upper Ouse Water Management Board
9	South Northants	Northamptonshire	Upper Ouse Water Management Board
10	West Northants Council	Northamptonshire	Upper Ouse Water Management Board
11	Central Bedfordshire Council	Bedfordshire	Upper Ouse Water Management Board