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Wednesday 5<sup>th</sup> June 2019

Dear Colleagues,

Thank you to all peers who attended and made a very valuable contribution to the second reading of the Rivers Authorities and Land Drainage Private Members' Bill ("the RALD Bill") on Thursday 16 May.

I promised to write and answer a few questions that were not fully addressed during the debate.

#### National Audit Office Review of internal drainage boards (IDBs)

Baroness Jones of Whitchurch made the point that *"the NAO report into IDBs highlighted that there are no statutory governance standards for IDBs and that the Government have no legislative power to ensure that IDBs, as public bodies, meet expectations for good internal governance and sound financial management."* Lord Cameron of Dillington also mentioned that IDBs' *"methods and priorities need reviewing from time to time for instance the NAO report gave them food for thought to which they have responded well."*

Before I respond to the points made by both noble Lords, I should like to point out that the subject of the RALD Bill in relation to IDBs is to address an unintended limitation upon IDBs wishing to expand their boundaries, or to new IDBs being constituted, due to outdated technical provisions in the Land Drainage Act 1991 ("the 1991 Act"). The Bill does not set out to amend the current statutory framework within which IDBs operate.

IDBs are locally funded, independent public bodies and they are accountable to the local communities they serve, in a similar vein to local and parish councils. Neither Defra nor any other government department has a direct oversight role over IDBs' day to day operations. However, Defra notes the existing supervisory role of the Environment Agency under sections 2 – 7 of the 1991 Act, and the extensive work carried out by the Association of Drainage Authorities (ADA) (which represents IDBs) to underpin IDBs' good governance.

Defra officials have a close working relationship with ADA, working with and through ADA to address specific issues. Since the NAO report was published in March 2017, Defra officials have continued to work with ADA and other organisations, including the Environment Agency, Natural England, National Farmers Union, Country and Land

Business Association and Royal Society for the Protection of Birds in taking forward a number of non-statutory reforms for IDBs to ensure good governance and financial management. Some of those initiatives are detailed below.

1. ADA, with support from Defra and others, has updated the national IDB Policy Statement, which was signed off and endorsed by Minister Thérèse Coffey in April 2018. The Policy Statement sets out how IDBs meet Government policy requirements and how they will govern themselves; all IDBs are expected to adopt the Policy Statement. Currently 90% of IDBs have adopted the Policy Statement and Defra officials will be keeping track of progress.
2. ADA has put at the disposal of all IDBs a series of model governance documents for their use. For your information, these are readily available on ADA's website at <https://www.ada.org.uk/knowledge/governance/>. ADA, with support from Defra, has also recently produced a good governance guide for all IDB members and also held workshops to disseminate this guidance.
3. Under schedule 2 paragraph 4 of the 1991 Act, IDBs are required to send the Secretary of State annual reports of their proceedings during the preceding year, containing such particulars as the Secretary of State may direct. In July 2017 Defra commissioned a working group to update the annual reports that IDBs have to submit to Defra, and is now seeking more information on their activities, including information on IDBs' complaints procedure, adoption of governance documents, board membership and attendance at board meetings, environmental data and health and safety. Defra officials have undertaken analysis of the last set of annual reports (from 2017/18) and will be working with ADA and IDBs to address any issues that have arisen.
4. The NAO report raised the issue of Board membership and particularly the number of local authority appointed member vacancies. Defra commissioned a research project to consider the factors affecting IDB board membership and their impact on governance. The research has recently been completed, and Defra officials will work with ADA and IDBs to consider the findings and take any action.
5. As noted in the NAO report, IDBs are within the remit of the Local Government Ombudsman (LGO). If a complainant is dissatisfied with the way in which issue/s or complaint/s are being handled by an IDB, they may refer them to the LGO, who considers complaints about things which have gone wrong, for example, in the way a service has been delivered, if a service has not been delivered at all or the way a decision has been made. Nevertheless, if such a matter is also brought to the attention of Defra officials, they will pursue the issue with ADA to understand the nature of the complaint.
6. With regard to sound financial management, IDBs are subject to the audit requirements of the Local Audit and Accountability Act 2014 and are required to send a copy of their audited accounts to the Secretary of State, the Environment Agency and any councils within which the IDB is situated, as soon as these have been audited. Defra receives a report every year on the results of auditors' work on local government bodies, including auditors of IDBs. Where an IDB receives a

qualified opinion on their accounts or there is a delay in the accounts being signed off, Defra officials investigate to understand the reasons by contacting ADA for further information and report the findings to the Permanent Secretary. As has been the case for nearly ten years, the proportion of IDBs issued with qualified opinions is usually very low (less than 20 IDBs per year) and the opinions have only related to minor administrative errors.

I hope noble Lords will see that Ministers and Defra officials work alongside ADA and others to ensure that IDBs can continue to deliver their potential now and into the future.

Valuation Office Agency (VOA): Missing data

During the second reading debate Baroness Bakewell of Hardington Mandeville asked for an explanation as to why the rating lists from the 1990s are not available.

Over time some, or all, of the required ratings data has been lost or destroyed. For example the 31 March 1990 valuation list was held by the VOA as a hard copy only. This list has now been superseded and the paper copies have not been retained or converted into electronic records, therefore this data is no longer available from the VOA.

The VOA do hold some of the required data, for example the 1 April 1990 non-domestic rating list, is available electronically. However due to a combination of time elapsing, and previous office practices, there is a risk that this data is no longer complete.

Prior to developing the legislation to amend the 1991 Act, Defra officials made efforts to find the missing or incomplete data from alternative sources, but were unable to find a complete set. These efforts included contacting the Estates Gazette, Institute of Revenues Rating and Valuation, National Archives, VOA, estate/land agents and water companies.

The 1991 Act sets out that this data is required in determining the value of land and the apportionment of charges within an IDBs' area of operation. As the 1991 Act specifies certain data which is no longer available, it now constitutes an unintended barrier to the creation of new, or the expansion of existing, IDBs. Therefore the government proposes to amend the 1991 Act and specify more up to date data in secondary legislation, which would be subject to the affirmative resolution procedure.

I hope you find this information helpful. A copy of this letter will be placed in the House of Lords library and sent to all Peers who spoke.

*Best wishes,  
James*

**VISCOUNT YOUNGER OF LECKIE**