

Danvm Drainage Commissioners – Governance Audit 2014

Doncaster MBC, Internal Audit Report

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Distribution: Ian Benn, Clerk to the Board for distribution to all Commissioners of the Danvm Drainage Board



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1 Executive Summary

Background

This report summarises the audit findings and recommendations relating to a Governance Audit of Danvm Drainage Board undertaken by Doncaster Council as the result of concerns expressed by a member of the public as to how the Board was operating. The member of the public had made several complaints to the Board during 2012 and 2013 regarding these concerns, however, had not felt that these had been properly dealt with or adequately investigated and concluded. Subsequently, the member of the public voiced their concerns in a letter to the Mayor of Doncaster; Doncaster Council being the majority contributor to the Danvm Drainage Board's Budget.

Scope

The governance audit work was undertaken during the first half of 2014 and covered general governance arrangements such as Board constitution / membership, key procedures / documentation e.g. Code of Conduct, Declaration of Interests, decision making and transparency, complaint processes and testing as well as looking at priorities and performance, expenditure and administrative arrangements.

Our full scope of work and detailed findings are set out in section 2 onwards within this report. Our summarised conclusions and opinions are set out in the following section, as are our overarching recommendations.

Conclusions

Our overall opinion is that Governance at the Danvm Drainage Board is failing to meet various governance standards applicable to the Public sector, as detailed below.

The Clerk has given his commitment to improving arrangements. However, for Governance to be effective, this requires the full commitment of all Commissioners to implement the changes we have recommended.

Strategic Oversight - The Flood and Water Management Act 2010 requires Internal Drainage Boards to take a more long term strategic approach to activities. However, at the moment there is too much concentration on operational issues at Board meetings.

Long term strategic plans are in their infancy and have yet to be backed up by factual data (which is currently being collated) or any detailed plans. The Board is heavily involved in the detail of maintenance and routine work, which has been the historic practice, instead of discussing strategy and policies and agreeing priorities which can be broken down into subsequent work plans which will contribute and link into both the Board's overall strategies and those of other Agencies.

It is crucial that the Board accelerates the principle of strategic oversight through;

- ***A detailed strategic plan to be produced and agreed with key stakeholders including the local authorities (it is acknowledged that base data is currently being collated that will appropriately inform the production of such a plan),***
- ***Budgets and activities that flow from the strategic plan, and***
- ***Reporting on progress on the above to key stakeholders.***

Transparency and Accountability - The Board is responsible for ensuring that suitable arrangements are in place so that its business is conducted in accordance with the law and relevant standards, that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively.

Decisions of a public body must be open to public scrutiny. Where appropriate, fairness will also demand that the public body gives reasons for its decision. Public involvement in the meetings of the Board and its committees need to be encouraged. Currently the Board culture is to not encourage this. There will be occasions when, for reasons of commercial sensitivity or personal information, meetings or items within them are held in private, but this should be the exception rather than the norm. The agenda for the meeting should be published in any event. The Board should also consider how the public can be better involved.

One of the underlying themes of complaints made is that works have previously been undertaken for areas that are the responsibility of the riparian landowner. ***There should be liability on the Board to only incur expenditure where it can be clearly evidenced that there is value for money, the expenditure fits in with the Boards strategic objectives and outcomes and decision making have been documented.*** This is currently lacking.

Again, an absence of strategic decision making does not help avoid decisions being based on personal interests. More detailed strategic plans are currently being formulated that will help prevent this.

Conflicts of Interest – These are inherently difficult to manage within any Drainage Board. It is difficult for some Commissioners to differentiate between their responsibilities as landowners, riparian landowners and their responsibilities to the wider public or their appointing body.

In the past there has been a repeated failure of Commissioners to declare interests as soon as it becomes apparent that there is a conflicting interest. This has been most apparent from our audit work when reviewing the complaints detailed within this report, where no involved Commissioners have made a declaration at any point unless asked to do so. There have been presentations to the Board by both Doncaster and Selby Councils' Monitoring Officers in the last year on the importance of Declarations of Interest and there is evidence in Board minutes of both the former and current Chairs and the Clerk trying to address some instances of the lack of declarations.

Commissioners and Board Officers should ensure their conduct and actions meet the standards rightly expected by them as public officials All Commissioners and Board Officers need to take individual and collective responsibility to continue to address this issue.

Effective Management of the Board

The Clerk and other Board Officers have the responsibility of ensuring the Board acts in a legitimate and well governed manner and also have to point out any inappropriate actions taken by the Board or individual Commissioners.

There is an inherent difficulty for the Clerk in discharging this function in that their independence to do this is potentially compromised as the Board appoints them and it is also the Board from whom they take instruction.

It is acknowledged that the Clerk has previously sought advice from Doncaster Council with regard to governance issues and the conduct of some of their appointed members, however, more robust action and stronger provision of advice in the past may have addressed or minimised the impact of some of the issues raised within this report. Examples here would include a more proactive role in the management of conflicts of Commissioners' interests and ensuring they were excluded from discussions and decision making, the more timely resolution of complaints raised and increased initiation of and stronger direction in taking the Board to a more strategic level. It is pleasing to note that improvements have recently been made in these areas.

Additionally, broader and stronger internal audit arrangements should help support management in achieving good governance.

Stronger management and direction should be given to the Board through the Clerk and other Board Officers, i.e.;

- ***Obtaining help to update / ensure all governance / constitution documents are comprehensive and reflect good practice (it is acknowledged that significant improvements have already been implemented in this area),***
- ***Improving reporting to the Board,***
- ***Re-affirming both the authority that the Clerk and his team hold to discharge their roles and responsibilities, and the roles and responsibilities of the Board Members,***
- ***Improving arrangement for dealing with complaints and ensuring that they have been appropriately concluded.***

Other Significant Concerns

In addition to the resolution of the complaints set out in the report, there were further significant concerns arising from our audit work that South Yorkshire Police were made aware of.

Such matters included, but were not limited to:

- a) **Unauthorised and illegal use of electricity from a pumping station by a Commissioner for pumping water and powering an electric fence,**
- b) **Alleged trespass and interference with Board assets and unlicensed water abstraction by a Commissioner,**

Since drafting this report, South Yorkshire Police have informed us that they do not intend taking formal action regarding the issues referred to them.

However, the Board should reflect on the fact that the situation was of such seriousness that we felt compelled to refer some activities of certain current and former Board Members to the Police.

2 Introduction, Scope and Approach

The Danvm Drainage Board was formed in April 2012 by a Constitution Order under the Land Drainage Act 1991 (as amended) following amalgamation of the Dearne & Dove IDB, Dun Drainage Board, Knottingley to Gowdall IDB and Went IDB and covers an area of 21,526ha. The Board's purpose is to protect people and their property against river and surface water flooding, through water level management within low lying areas predominately from the north of Doncaster up to the River Aire.

The Danvm Drainage Board works with other public bodies such as the Environment Agency and Local Lead Flood Authority to manage water levels for the overall benefit of people, property, commerce, industry, agriculture and the aquatic environment within the defined Drainage District.

There are 25 Board Members (Commissioners), of which 12 are elected landowners and 13 are nominated Commissioners from levy-paying Local Authorities. The Board meets three times a year, with administrative and technical support being provided through a tendered Clerk of Works Service Contract. The current contract is with JBA Bentley.

Approximately 85% of the funding for Danvm Drainage Board comes from a levy against Local Authorities. Local Authorities are required to ensure that public funds are spent appropriately and represent value for money.

Our audit work covered:

- A review of the Board's constitution and an assessment of the arrangements in place for Board and Committee membership and the management of meetings including public attendance and declarations of interest.
- An examination of the key governance documents, such as Standing Orders, Codes of Conduct, Scheme of Delegation etc.
- A review of the transparency of decision making, including accessibility and clarity of minutes and agenda papers and the adequacy of supporting evidence.
- An overview of strategy and policy, ensuring agreed priorities are worked towards.
- Performance management arrangements and reporting.
- Financial arrangements and accounts.
- A review of the complaints process, detailed examination of recent complaint handling and an assessment of the basis for the complaints.

The audit work was undertaken by reference to records and information provided by Board officers led by the Clerk. Further information and clarification was sought as required from some Commissioners and members of the public and we are gratefully to all concerned for their help and assistance throughout the audit.

Findings and recommendations for each area audited are detailed in Section 3 of the report. Progress on implementing a number of the recommendations commenced during the audit fieldwork, this is noted within the report. Upon the agreement of the audit report, all the recommendations will be collated into a detailed Improvement Plan, detailing responsibilities and timescales, which can be used for monitoring purposes.

3 Detailed Audit Report

Governance Arrangements

The Board's constitution is established by Statutory Instrument, 2012 No 1026 and its Standing Orders (approved by DEFRA). There are 12 elected Commissioners (these are landowners as per the Land Drainage Act 91) and 13 Council nominations of which 6 are Doncaster Council, 5 Selby Council, 1 Wakefield Council and 1 Barnsley Council. Although legislatively a Board has to meet twice a year, Danvm Board meets 3 times per year (although there were also 2 extraordinary meetings in 2013) with each of two committees meeting prior to each Board (Finance Committee and Water Level Management Committee).

Elections take place every 3 years, in line with Standing Orders and the new Chairman is elected at the first Board Meeting. Election information, deadlines, instructions, forms and results are on the Danvm website for public viewing. Board membership is reported on the Danvm website, however, these have not yet been updated to reflect the current term dates from the 2013 elections.

Recommendation G1: A review of the information held on the website should be undertaken to ensure that the information is accurate and up to date.

G1 Status: Complete

Some key governance documents such as Policies, Standing Orders, Financial Regulations, Code of Conduct etc. are in place and published on the Danvm website. A review of these has been undertaken during the audit. Additionally, a list of good practice governance documents for IDBs to have in place was issued by the Association of Drainage Authorities in August 2013. This was included within the next Board Meeting papers and discussions held at the Board Meeting on the reported documents that were in place and the 5 that were not in place. At the end of April 2014, it was confirmed that no progress had been made on producing the documents not yet in. Additionally, the Scheme of Delegation was reported as being in place when in fact there is no Scheme of Delegation, the only delegated powers are granted to the Finance Committee to approve the list of cheques/payments, with all other decisions being made through the Board, as was the Schedule of Matters Reserved for the Board, Although some additional documents have since been produced, it is evident that governance arrangements are in their infancy and much work to further develop, clarify and expand arrangements is still needed.

Recommendation G2: All the documents in place detailing the Board's make up, rules/regulations, policies etc. should be pulled together into one overarching constitution that gives a clear picture as to how the Board is expected to operate.

G2 Status: Underway

Recommendation G3: The outstanding documents should be produced and rolled out with immediate effect.

G3 Status: The documents have now been produced and are awaiting approval and implementation.

Duties of IDB Commissioners and Board Officers are specifically laid out and were agreed at May 2012 Board. Although these are very detailed and show a division of duties, historically, Commissioners have taken a hands-on approach to operational matters and this practice and culture remains.

Recommendation G4: A training package should be put together for Commissioners covering technical, governance and administrative processes that IDBs are involved with, duties and responsibilities of Commissioners and Board Officers, key governance documents etc. in order that they are fully aware of/can participate fully and appropriately in all Board matters. This should be rolled out to all current Commissioners and any subsequent new Commissioners.

G4 Status: A comprehensive package has been drafted, but needs finalising. A timetable for its roll out is to be produced and adhered to.

The review noted some existing policies and procedures in need of updating and refreshing as they make reference to superseded legislation e.g. The Danvm Drainage Board Whistle-blower Policy was examined and found to be well detailed, but is in need of updating and the fraud and corruption policy makes inaccurate reference to superseded criminal definitions.

Recommendation G5: A schedule of review should be formulated for key documentation, which should include policies and procedures as well as all published documentation. Independent and experienced 3rd party support should be sought to achieve this.

G5 Status: The Whistle blower Policy has been updated. All other key documentation will be reviewed in conjunction with G4.

Standing Orders

The current Standing Orders are based on a model by DEFRA and there has previously been some resistance by DEFRA to any amendments being made. However, an examination of the Standing Orders revealed that they did not fully cover some key good governance areas e.g. How to fill a Board vacancy, Dealing with improper Conduct etc.

Recommendation G6: Standing Orders should be expanded to provide clarity on the areas documented in guidance to be issued to Commissioners.

Declarations of Interest

Recommendation G7: The Register of Commissioners' interests should be published on the Shire website, so that it is open to public inspection.

Recommendation G8: The Danvm Drainage Board's workforce i.e. Clerk and associated officers and operatives, should be required to complete a similar declaration of interests form. These should be used to prevent any officer being placed in a position where allegations of them acting for personal gain could arise. These should be retained as internal documents.

Members Code of Conduct

The Members Code of Conduct published on the Shire website was not the latest version that was agreed at Board on 21/6/13 and which also incorporates a detailed section on the "Key Principles of Public Life". This has since been rectified.

Recommendation G9: All published documents on the Shire website should be relevant and up to date. A review should be undertaken of all information published on the website to ensure it is up to date.

G9 Status: Complete.

Recommendation G10: Although the Code of Conduct has been adopted by the Board, each individual Commissioner should sign up to the document, confirming that it has been read, understood and the Commissioner agrees to comply with its contents.

Recommendation G11: All current Commissioners should receive training on the purpose and limitations of Drainage Boards and what is expected of them under the Code of Conduct. Also to be included within the training are the Board's Fraud and Corruption Policy and Whistle-blower Policy Any subsequent new Commissioners should receive similar relevant training.

G11 Status: Underway, to be done in conjunction with G4.

At the November 2012 Board, a complaint against a Commissioner's conduct was found to be proven and consideration was given to including sanctions against Commissioners in breach of the Code of Conduct within the Code. Subsequent minutes contained in Board papers of February 2013 (2012.34 page 4) state 'if members abide by the Code or NOLAN then the question of sanctions is redundant' to which all Commissioners agreed. The current Code 8.8 does allow for the Board to give consideration and vote upon when a member may be in breach of the Code.

Recommendation G12: The current Code of Conduct does not allow for the removal of a Commissioner, which is in line with the Localism Act. However, any instance of a Commissioner's perceived breach of the Code of Conduct should be investigated and a report produced for consideration at the next Board meeting, where a vote shall be taken on whether a breach has actually occurred and this should be detailed within the minutes. The Board should consider a range of sanctions to be included within the Code, and where a breach has occurred the Chair should consider any sanctions that should be applied.

Employee Code of Conduct

It was confirmed that the Employee code of conduct is incorporated into the individual Contracts of Employment.

Recommendation G13: A Code of Conduct should be a comprehensive document in its own right. Accordingly, the template contract should be checked against other public bodies' Employee Codes of Conduct (example given to the Board Officers) to see whether all appropriate points are reflected in the current contractual documents. Where there are omissions identified, consideration should be given to implementing a separate supporting Employees Code of Conduct. Employees should be formally trained as appropriate and this should include the Board's antifraud and corruption and whistleblowing policies. Records of such training should be retained for every employee.

Decision Making and Transparency

Board meetings are open to members of the public, with agendas, meeting papers and minutes being published on the Danvm website. Members of the public can speak at Board meetings on the invitation of the Chair and a system was agreed at the last Board meeting whereby members of the public can make a statement or ask a question, notified to the Board in advance of the meeting. However, a decision has been made by the Board not to allow public attendance at Committee Meetings. This is not consistent with other public bodies e.g. local authorities, where such meetings are open to the public.

Recommendation D1: Details of how the system allowing the public to address the Board is to operate should be recorded on the website for public knowledge.

Recommendation D2: To aid transparency and public scrutiny, members of the public should also be allowed to attend all committee meetings, except where confidential and exempt information is likely to be disclosed. For such items, members of the press and public shall be excluded. A record of this should be made within the meeting minutes. An extract from Doncaster Council's Constitution, giving appropriate reasons for public exclusion at meetings was produced for Board Officers. A similar document should be produced and adopted.

Board papers are posted to Board Commissioners 14 days before the Board meeting, which is compliant with Standing Orders which require their despatch at least 7 days before the meeting, and papers are also published on the website. Minutes of all meetings are circulated internally as soon as possible after the meeting for comment/amendment, although they are not formally agreed, or put in the public domain until the next Board meeting.

Examination of the Danvm website at the onset of the audit revealed that only the most recent Board meeting papers were published on the website. Associated Danvm meeting papers were not available prior to the ones for the extraordinary meeting of October 2013 and hence the detail of what the minutes on the website refer to was not available to give a clear picture of the meaning of the minutes. Subsequently, Finance Committee minutes (included within Board meeting papers) prior to 24/9/13 were not available. This was discussed with Board Officers in March 2014 and by mid-April all Board minutes and papers had been published for Danvm and also some for the associated Drainage Boards prior to amalgamation in 2012.

Due to a technical problem, the 8/11/13 Board Meeting Papers had not been published on the Shire website prior to the meeting, resulting in the Complainant having to request these to be emailed to them. An internal Performance Indicator is in place for the production of meeting minutes within 14 days.

Recommendation D3: All Board and Committee agendas, papers and minutes should be published on the Board's website for public viewing. It would be helpful if these were all located in one area linked to an overview schedule, so that all associated documents can be easily accessed. The overview schedule should include all meetings past and present to provide a clear history of proceedings / events to the general public. It may be that a new overview schedule will need completing each year.

D3 Status: All papers and minutes are now on the website in one place. Committee minutes are now published as soon as drafted after the meeting. This is much improved to previous arrangements. A review of the website is currently being undertaken to improve clearer access to the public.

Recommendation D4: To aid transparency, the designation of the attendees should be stated in the list of attendees within the minutes e.g. G Ivey, Selby Council or J Duckitt, Elected Member, Fishlake area.

Recommendation D5: Performance Indicators should be produced on all key processes. Performance against these PI's should be reported at each Board meeting.

An examination of the last year's Board Meeting papers and Board and Committee minutes revealed several administrative errors and instances whereby the information could have been made clearer. These were provided to the Board Officers during the audit.

Recommendation D6: Processes should be put in place to ensure published minutes are accurate.

The current minute-taker, Environment Officer and Senior Administrator produces detailed minutes. However, she also participates in the Board discussions and presents some Board items. Undertaking more than one role makes minute taking difficult.

Recommendation D7: Consideration should be given to having a dedicated minute-taker to allow the current minute-taker to discharge her reporting responsibilities and the dedicated minute-taker to fully capture all discussions.

When a proposal is made at meetings, the numbers for and against the proposal are not always stated, usually stated is 'all in favour' or 'majority in favour'. Additionally, recommendations are shown within meeting papers and minutes in bold text, however, proposals and subsequent decisions are regularly made that are completely separate to these recommendations, which are not subsequently highlighted.

Recommendation D8: When decisions are taken at any meetings, the meetings minutes should state the specific number of votes for and against the decision.

D8 Status: Agreed to be implemented with immediate effect.

Recommendation D9: To ensure that these proposals and decisions are given the same transparency as recommendation decisions, they should also be shown in bold text.

The role of the Water Level Management Committee has been specifically defined in a 'Terms of Reference' document, however the role of the longer standing Finance Committee has not.

Recommendation D10: The role of each Committee should be reviewed, defined, documented and formally agreed by the Board in the form of Committee Terms of Reference. Their responsibilities should be aimed at achievement of strategic objectives and not undertaking operational duties.

Standing Orders state a quorum of a third of members is required at Board (that would be 9 Commissioners) and resolutions and proposals will be decided by a majority of votes. Standing Orders also state proposals shall be determined by a majority for Committees, although states nothing on the number required to be quorate.

Recommendation D11: Standing Orders should be expanded to define what percentage of Commissioners are required to make Committee meetings quorate.

Priorities and Performance

The Flood and Water Management Act 2010 requires IDBs to take a more long term strategic approach to activities.. The Shadow Board were aware of the need for a long term strategy, however, although a draft had been produced, nothing had been agreed at the time of amalgamation in 2012. In June 2013 the Clerk raised the issue that that the Board had been in existence for 18 months and yet it did not have a Strategy and Policy in place, even though it is explicit within the Commissioners Duties and Responsibilities to do so. Subsequently, a Task and Finish group was formed that worked on the draft documents from the amalgamated Boards to produce a Vision Statement and Water Level Management Policy.

The Danvm Drainage Commissioners Vision Statement and Water Level Management Policy is clear in its aims but is not detailed enough to allow effectiveness or achievements to be measured. A Water Level Management Plan has yet to be formulated providing detail of the individual actions required to work towards the Water Level Management Policy. However, this Plan will be developed after the full survey and Hydraulic Modelling of the area has been completed which was agreed at the June 2013 Board meeting. This will ensure there is relevant and up to date information on which to base the Plan.

The overall drainage of the district relies heavily on subsidence pumping stations which are either all or partly funded by the Coal Authority. March 2013 Board minutes state 'Board requires a policy on refurbishment and replacement of its pump stations and to move forward, policies have to be identified and decide how this Board functions as a Water Management Authority.' These minutes also documented the Clerk stating 'the Board should not be looking for short term solutions, but a long term vision was required and how the Board would fund this'. No subsequent decision was made. Again, the results of the planned survey are awaited before any decisions on the strategic future of pumping stations can be made.

Recommendation P1: After the survey has been completed and all information reviewed and assessed, the Vision Statement and Water Level Management Policy should be revisited, updated and a means of numbering/referencing of the items within it should be formulated. This will allow clear links to be demonstrated as to which points contribute to achieving which part of the policy and subsequently the overall vision and can continue within the Water Level Management Plan that will be subsequently produced.

P1 Status: Awaiting the survey results before this recommendation can be progressed.

Recommendation P2: A project plan should be formulated to include all elements of the survey/modelling exercise and subsequent production of the detailed Water Level Management Plan. The project plan should include details of those responsible for each task and target dates for their completion. Progress against this project plan should be reported to each Board, who should consider any reasons for delays or outcomes of the work done and revise plans as necessary or take other remedial action.

P2 Status: The Plan is currently in development.

Recommendation P3: After the study has been completed and a Water Level Management Plan produced, financial information should be developed to show that expenditure plans correlate to the agreed Board priorities. A long term spending plan can then be developed to ensure that the necessary resources are available to meet the Boards long term vision.

P3 Status: Awaiting the survey results before this recommendation can be progressed.

The Board itself has no measures / key performance indicators. DEFRA has commissioned work from RPA Consultants to identify KPI's for IDBs, these have had input from Boards / Board Officers and have been out to consultation and some have been trialled. Further advice is awaited from DEFRA.

Recommendation P4: Key Performance Indicators should be adopted to measure all aspects of the Board's performance. These should be informed by, but not limited to the recent DEFRA consultation exercise. Results against PI's should be reported to each Board for remedial action to be taken where necessary and hence made available for public scrutiny.

Finance / Expenditure

A detailed examination of expenditure and financial systems has not been undertaken as part of this review. An overview of accounting systems and reporting arrangements has resulted in minor improvement recommendations being made as reported below;

A section on Finance is standard on the Board Agenda, including minutes of Finance Committee meetings and also a rating report (debts raised and paid for the year). The Finance Committee meets between Boards and approves the cheques raised in the period / schedule of payments and also discusses any outstanding debts and recovery.

Brodericks GBC is the Internal Auditor and has been in place for some 10 years. They were appointed after tender across all Shire IDBs to undertake the annual audit in line with 2003

Accounts and Audit Regulations. The latest audit covered the period ended 31/3/2013 accounts and also audited the Governance Arrangements and Decision Making Arrangements following the “Caldicot & Wentlooge - Report in the Public Interest” dated October 2012. The only significant risk reported in the latest Internal Auditors report was in respect of the composition of the Board. The report was discussed in December 2013 at an annual review meeting held across IDB’s set up for this purpose, and a report of that meeting included within the February 2014 Board papers. The Auditor’s report was not published, but has been since.

Recommendation F1: Given the significant findings in this report we consider that the Internal Audit Service Contract should be re-specified and re-tendered ensuring the scope of any audit will be comprehensive and fully compliant with auditing standards. All audit reports should be published (redacted as necessary) on the website for public scrutiny.

Local Authorities pay a levy based on the annual value of the properties within the IDB district. The rate is set by the IDB, the penny rate being based on anticipated expenditure/budget for the following year. Landowners are billed annually for drainage rates, based on land values. No write off policy is in place, with active pursuance of debts for up to 6 years, with actual write offs being minimal.

Where work is required under permissive powers i.e. the IDB requires the riparian landowner to undertake some work, the IDB give an estimate to the landowner and then do the work (if agreed) and recharge. Historically, occasional work has been undertaken by the IDB culverting (laying pipes in ditches then filling the ditch in to increase the agricultural land availability for the land owner); however, this has not always been charged in full.

Recommendation F2: The IDB has a non culverting policy in place. Future culverting work should not be undertaken unless it can be specifically demonstrated that it also meets the agreed Board priorities.

Complaints

Procedural Arrangements

Members of the public are aware of how to submit a complaint from information contained on the Board’s Website. Complainants either complete the form provided or simply write to the Board. Internally, the complaint is handed to the administrator who acknowledges the complaint and confirms it will be looked into and responded to on behalf of the Board and within a defined time period. Each complaint is dealt with by an appropriate individual (Board Officer or Commissioner). If the complainant is still unhappy, the Clerk will review the situation.

Although there is some procedural documentation within the complaints form and on the Board’s website, this does not state that all complaints and outcomes are reported to the Board or what independent course of action is available should the complainant not be satisfied or want to take the complaint further. The Board did not have any procedure for independent arbitration of a dissatisfied complainant. Complaints are investigated and responded to by either Board Officers or a Commissioner, neither of which is fully independent of the complaint.

Recommendation C1: A Complaints Procedure should be written and included on the Board's website, in order to clarify and supplement the information already published and ensure that all complaints are dealt with in a uniform manner and within stipulated timescales.

The procedure should incorporate the following points;

- It should be clear that all correspondence relating to the complaint should be sent to the Administrator,
- Similarly, internal procedures should be amended to state that all complaint correspondence will be received and dispatched by the administrator,
- Dealing with further correspondence and reporting to the Board,
- Dealing with Freedom of Information requests,
- Keeping the complainant updated on progress,
- Appeals procedure.

C1 Status: The Boards website has now been updated with a more comprehensive complaints procedure.

Recommendation C2: A copy of each complaint (redacted as appropriate) should be appended to Board papers to allow transparency and public scrutiny. The complaint form and procedure should make it clear that if not satisfied with the Board response, a Complainant can refer matters to the Local Government Ombudsmen.

C2 Status: A copy of future complaints forms will be appended to Board papers. The complaint form and procedure has now been updated.

A complaints register is maintained and used for learning points. Complaints recorded on the register are only those since the formation of Danvm i.e. the register does not hold details of complaints made against the former Drainage Boards that were amalgamated to create Danvm in 2012. To the end of 2013, there had been 20 complaints recorded on the register, however, an overview of these revealed that the majority (14) of these were of a minor nature. The 6 more complex complaints were examined during the audit and these are reported on in detail below.

Recommendation C3: The Complaints Register would benefit from having a column to record all the dates that each complaint has been reported to / discussed at board, in order to be able to readily recreate the full complaint history.

Complaint Handling

The 6 more complex complaints recorded on the complaints register since amalgamation, were overviewed during the audit. No further detailed examination was undertaken for 3 of the complaints as they seemed to have been concluded, however improvement points were identified and these points have been addressed within the recommendations in this section. Details of the 3 complaints (all from the same complainant) specifically examined are recorded below.

- 1) Complaint dated 10/10/12 – The deliberate and unauthorised use of Danvm IDB owned land on 2 separate occasions by a Commissioner in contravention of Members Code of Conduct.

The actual trespass issues were dealt with immediately and the complainant updated verbally and via email of this.

An overview of the complaint was reported to the 23 November 2012 Board at Item 5.2 stating 'a complaint regarding the conduct of a Board Member was found to be proven', and asking 'does the Board think it necessary to incorporate sanctions within the Code of Conduct?' Subsequent minutes of this Board showed they had not thought this necessary. Although the complainant attended the November Board meeting, they were not subsequently formally notified of these proceedings.

Recommendation C4: Where such complaints are upheld and deemed to be sufficiently serious, the Commissioner concerned should be named to ensure transparency and accountability for their actions.

- 2) Complaint dated 17/4/13 – 2 instances (which occurred in 2008 and 2005) in which the former Dun Drainage Commissioners allowed the inappropriate use of public funds.....by undertaking work for which they were not responsible.....and which benefitted riparian landowners rather than the wider community

Instance 1 – Replacement of bridge across the Engine Drain at Braithwaite in 2008.

The bridge was owned by a current Commissioners family and this is documented clearly in Board minutes, along with the decision to purchase a new bridge. The new bridge was constructed using Board workforce and paid for by the Board. Construction is documented in various meeting minutes. The Commissioner attended meetings at the time of the works and also when the complaint was discussed but did not declare an interest.

An invoice was subsequently raised in June 2013 for £3328, being the cost of the works. To date the invoice has not been paid.

Recommendation C5: The debt should be pursued.

Instance 2 - Removal of earth bank at Kirk Bramwith in 2005

The removal of a large quantity of soil from the side of New Cut Ditch in Kirk Bramwith was undertaken in 2005 by Danvm workforce and a current Commissioner and the soil was used to raise that Commissioners land. The work was undertaken to remedy the Commissioners land as the result of a long standing subsidence claim against the Coal Board. It is understood that IDBs and the Coal Board have long since worked in partnership with respect to subsidence issues and the resultant lie of water. However, in this case, neither the Coal Board or the Commissioner was charged for the use of the Boards machinery and workforce or the soil excavated.

The current complaint procedures were not followed and the complaint was poorly dealt with as.

- At the 21/6/13 Board meeting the complaint was incorrectly decided to be a 'legacy issue' as it referred to events undertaken by a former Drainage Board prior to amalgamation in 2012 and as such it was decided that no further

action was to be taken other than the Clerks response to the complainant. The complainant had attended the Board meeting and the next day supplied the then Chairman with the legislation allowing this to be pursued.

- The formal response to the complainant was dated 25/7/13, some 3 months after the complaint date, although it is acknowledged that there had been various verbal and email communications with the complainant in this time.
- The formal response was to the 3 requested points raised by the complainant; however these responses raised further questions. Point 1, requested the complaint be brought to the attention of the full Board. The response stated 'The complaint was brought to the attention of the full Board', this does not indicate which Board meeting or what the discussions / outcome was, it is acknowledged that the complainant attended the meeting. Point 2, was in 2 parts, the first being fully dealt with. However the response to the second part refers back to a Freedom of Information request responded to on 14/5/12 (nearly a year before the complaint date) and states that both Officers and the Chairman believed this to be fulfilled. It doesn't actually state if the requested recharging was considered or the outcome. Point 3, requests monitoring and enforcement of the Code of Conduct. Although information is given in respect of the lack of sanctions available to ensure enforcement, monitoring is not mentioned, not are any improvements to help address the issue proposed.
- On 28/7/13 the complainant sent further correspondence stating that the complaint hadn't been adequately dealt with and listing where items were still outstanding. A resolution meeting was held a few days later. However the next Board papers (8/11/13), although gave details of actions taken in respect of complaints, did not include details of any unresolved issues or further action to be taken. At that meeting the former Chairman suggested that the complaints were unresolved and that they should be dealt with separately to the main meeting (this is covered further in the section below).
- An apology was sent to the Parish Council in February 2014 for failing to consult with the residents of Kirk Bramwith on the removal of the spoil bank. This letter did not give any other details of the incident referred to, apart from its location e.g. when it happened, history of associated complaints received, neither had the Parish Council been involved previously with the complaint.

3) Complaint dated 15/9/13 – The Board's decision to commit extensive public funding to undertake work at Hensall Pumping Station on the basis of false information and without having conducted a rigorous cost benefit analysis.

Problems were identified at Hensall Pumping Station. The repairs were considered to be emergency works to maintain an existing Board asset. On the advice of the Maintenance Committee an extraordinary meeting was called in June 2013 to discuss the cost of urgent repairs. A presentation was submitted to Board with estimated costs and gave details of the poor state of repair and the Engineers recommendations to remedy this. But, due to this being emergency works, the presentation did not state the strategic benefit from the works or what would be the consequences if the work was not done i.e. there was no accompanying report or strategic information giving justification of why significant expenditure should be made on this particular item.

The minutes of the extraordinary meeting indicate a detailed discussion took place on the proposals to carry out the emergency works. Salient extracts are as follows:

2013.47. PS [Peter Smith, Commissioner] further enquired whether this was the most serious works at the Board's stations required and whether the Knottingley to Gowdall Board had brought monies into the amalgamation to cover the cost of these works. IB [Ian Benn, Clerk] confirmed AT [Andy Thomas, JBA consulting engineer] was not a Board Engineer but that of JBA Consulting and did not have access to Board information but he would enquire of the Finance Officer. He confirmed the works were required as a matter of urgency, as AT had indicated a heavy rainfall event could have very serious implications for the Board District should the banks of the Aire fail. ...

2013.52. NW asked about the Environment Agency Lower Aire Strategy and if this was part of the area from which the EA would cease to maintain. IB confirmed that was correct. NW suggested it was inappropriate to spend thousands of pounds if the EA was going to walk away from maintenance of the flood banks. IB confirmed if the Board so desired, it could walk away from the Pump Station in its entirety, the Board has to decide what it wants, either top quality farmland or leave the area to revert back to washland. PM asked members to consider the possibility of a new government in 2014/15 which may put monies back into the EA. ...

2013.58. JB [John Barrett (East Riding of Yorkshire Council)] asked what extent the effect of potential farmland flooding. WB [Commissioner William Bayston (now Board Chair)] confirmed along the Aire from Hensall to Eggborough, suggesting if the banks failed it could affect Hensall village that was already the subject of mining subsidence. NW [Neil Welburn (Commissioner)] agreed suggesting the work should be done properly now.

2013.59. MJ asked which Board Member farmers were affected and whether an Interest should be declared. WB and WP [Commissioner William Platt] both declared an interest. AB [Alison Briggs (Administrator and Environment Officer)] confirmed both could contribute to the discussion but would not participate in any vote. ...

2013.63. MJ Proposed 1) that the work proceeds as described 2) that the cost be priced on the basis of the details provided plus an extra cost to cover replacement of broken concrete if required. Seconded by GI, all Members present able to vote were in agreement.

A letter dated 3/8/13 was received by the Board from the complainants outlining concerns in respect of the decision to undertake works and asking for the Board to review its decision to proceed, on the basis that the Environment Agency do not consider it appropriate to maintain defences on this stretch of the river Aire and that in the absence of a Water Management Strategy having been produced, extensive expenditure may be incurred on an item which may not be required. No response was sent, although it is acknowledged that one was not requested.

Subsequently, the formal complaint dated 15/9/13 was received, making 4 requests to put things right including reconsideration of the decision to go ahead. A response was issued 18/9/13 by Board Officers covering all the complaint points and stating 'based on the above information, the Board do not intend to reconsider their decision.....' and making reference to an Impact Assessment, although this was not provided and it has since been confirmed there was no documented Impact Assessment, the Engineer relying on his professional judgement at the time and an Environment Agency agreement that it was emergency works.

The response was not accepted by the Complainant who pursued the complaint with the Board (see overall complaint resolution section below) and through Doncaster Council. It was not until a subsequent Freedom of Information request made by the Complainant on 7/4/14 that the Complainant was given all the information available in respect of the technicalities of the decision. Advice was given by the Auditor in responding to this request. Although, it is assumed that this information would not have concluded the complaint, it would have given the Complainant a fuller picture on why the decision to undertake the repairs was made.

The original estimated cost of the works was just short of £56,000 and the ongoing cost to date amounts to over £86,000.

Although the technicalities of whether it was appropriate that the money should have been spent on this item is not within the remit of this audit, it is the case that:

- a) The decision to commit a conservative estimate of £56,000 was based primarily on a presentation of the poor condition of the asset and the recommendations of the Engineers to remedy this. No information was produced as to the overall strategic benefit from the works or whether the works was in line with the Board's priorities, as this was classified as emergency works, although it should be acknowledged that Board priorities at the time were to maintain existing infrastructure until such information could be produced to better inform any revised priorities. Nor was information provided about the alternative options that could be considered or the consequences if not done, although Board Commissioners did identify and discuss these issues, there were no facts and figure to inform these discussions.
- b) Danvm Drainage Board's Code of Conduct in force at the time of this meeting stated:

Part 2

4. Personal interests

1) You have a personal interest in any business of your Internal Drainage Board where either:...

(a) it relates to or is likely to affect;

(ix) any land in your Internal Drainage Board's area in which you have a beneficial interest;

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of: (i) other

council tax payers, ratepayers or inhabitants of the electoral division affected by the decision

5. Disclosure of personal interests

1) ... where you have a personal interest in any business of your Internal Drainage Board and you attend a meeting of your Internal Drainage Board at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

6. Prejudicial interest generally

1) ... where you have a personal interest in any business of your Internal Drainage Board you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

7. Effect of prejudicial interests on participation of debate

1) Prejudicial interest shall be treated as set out in the Board's Standing Orders, Order of debate: *„Members must declare where they have an interest in a matter to be discussed, the Chairman then deciding what if any part the member can take in any ensuing discussion and whether the member can vote'*

Commissioners William Bayston (now Board Chair) and William Platt were in attendance and contributed to the meeting discussions. Neither declared an Interest as an affected Board member farmer in the matters being discussed until another Commissioner asked which Board Member farmers were affected and whether an Interest should be declared. Board Officer Alison Briggs then indicated that both members could contribute to discussions but that they should not participate in any vote, apparently with the agreement of the Chairman Peter Smith.

The Code of Conduct in place at the time did not reflect best practice requirements. In our view the appropriate action in the circumstances would have been for the two commissioners to declare their interest at the outset of the meeting and not take any further part in the discussion. Failing that, when the commissioners declared their interest it is our view that the Chairman should have exercised his discretion to exclude the commissioners from further participation. In the event, however, we acknowledge that advice was given by the Board officer and the commissioners acted in accordance with the advice.

We note that the Code of Conduct was subsequently improved to make clearer Board members' personal responsibilities to declare interests and withdraw from discussions where relevant. However, this has created an inconsistency with Standing Orders which still state the Chair should decide any participation when an interest has been declared. Additionally, national legislation relating to declarations of interests has again changed and is not reflected in the Board's procedures

Recommendation C6: Expenditure should only be incurred if it can be specifically demonstrated that it links in to Board priorities and a cost/benefit analysis has been produced, and / or an Impact Assessment considering all options/possible outcomes for the proposed works. A report template should be produced to record all such

information and any associated documentation considered when making the decision.

C6 Status: A Minor Works Impact Assessment Form has been developed to improve the recording of evidence justifying such decisions.

Recommendation C7: The review and refresh of the Board's Standing Orders and Code of Conduct being carried out in line with recommendations made in the 'Governance' Section of this report (above) should ensure consistency between the documents with regard to declarations of interest.

Recommendation C8: Members attending Board and Committee meetings should comply with Board rules and guidance relating to declaration interests

Overall Complaint Resolution

A general resolution meeting was held with the above complainant on 12/11/13, to identify a way to conclude matters. This resulted in 3 requests being made by the complainant to conclude matters. A report, prepared by the Vice Chair of this meeting was put to the next Board on 7/2/14 (Item 4), this included the complainants' requests and made associated recommendations. However, the Board report did not fully and accurately detail the 3 complainants' requests, even though these had been emailed to the Vice Chair and Board Officers by the complainant. It should be noted that in this instance, the complainant was circulated with a copy of the report prior to the meeting.

On 19/3/14 a full response was sent to the complainant by the Vice Chair. Although there were still 2 items detailed as being outstanding, appropriate ways forward had been documented for these.

Recommendation C9: Currently, there are no means for measuring the adequacy of responding to complaints e.g. the number of ongoing and completed complaints. A report detailing the status of all complaints should be included within Board papers.

Recommendation C10: Training/guidance should be undertaken by persons dealing with complaints on the effective application of the revised complaints procedure and including conflict resolution.