

8 JANUARY 2013

Update on Flood Risk Management

Ward(s) All

Portfolios: Councillor Tom Ansell – Transportation and Environment

Executive Summary:

This report appraises the Panel of the latest position in relation to the Council's duties and responsibilities under the Flood Risk Regulations 2009 and the Flood and Water Management Act 2010.

Reason for scrutiny:

To note the specific duties imposed by the legislation, the progress made by the authority to address these duties and offer any comments or observations on our proposals.

Recommendations:

1. Note the requirements of the Flood Risk Regulations 2009 and the Flood and Water Management Act 2010 which establish Walsall Council as a Lead Local Flood Authority (LLFA) and establish specific duties as a result.
2. Note that the Council has increased its resources and expertise by appointing a Flood Risk Manager.
3. Consider the proposals to address these requirements and input into the delivery of this function.

Background papers:

1. Final Walsall Preliminary Flood Risk Assessment
2. Report to Environment Scrutiny Panel 12 January 2012

Resource and legal considerations:

In 2010/11, DEFRA provided a specific grant to the Council of £20,000 which was used to produce the draft Preliminary Flood Risk Assessment. DEFRA identified funding for the next stages of the process which it has committed to for a 3 year period. For 2011/2012, DEFRA identified £122,700 for Walsall and this has since increased to £163,100.

An assessment was made of the required sum to meet the obligations as far as could be ascertained as the role is new and developing. The Council allocated a budgetary of £100,000 in 2011/12 and 2012/13. This has been used to fund a Flood Risk Manager and provide a revenue spending budget of circa £60,000. Due to budgetary pressures, the draft budget allocated to Flood Risk Management has been significantly reduced for 2013/14. Whilst the budget will remain to fund the Flood Risk Manager's post, the limited resource available for Flood Risk Management will affect the speed at which the new duties are delivered.

Likely to start in April 2014, the role of the Council in approving, adopting and maintaining sustainable drainage systems will have a major implication for resources and the development control process. It is intended that this will be a separate decision to that to grant or refuse Planning Permission. Some additional funding though application fees will be available but the funding for the long maintenance of such systems is still unclear.

The Council is also able to make bids for both national Flood Defence Grant in Aid and regional Local Levy for flood schemes and is directly represented by the Portfolio Holder on the River Trent Regional Flood and Coastal Committee who make decisions on funding allocations.

Citizen impact:

The Lead Local Flood Authority is a statutory organisation with an objective of identifying areas with potential flood risk, identifying mitigation measures and ensuring proper management for the safety and well being of the community.

Environmental impact:

Within the Council's boundaries there are two key watercourses, the Ford Brook and the River Tame together with numerous ordinary watercourses. Managing flood risk is part of the wider environmental management of the Borough.

The Council must make a contribution towards sustainable development through its Flood Risk Management activities. Following the example of other LLFAs, the Council are likely to undertake a Strategic Environmental Assessment for the Local Flood Risk Management Strategy. The Council is also working proactively with the Environment Agency and officers from Countryside and Planning to look for environmental improvement opportunities on watercourses in the Borough. This work will inform the Local Flood Risk Management Strategy.

Performance management:

The Flood Risk Manager has created a prioritised work, based on duties and powers plan for delivering the new responsibilities, and is working proactively across internal departments and with external organisations to take this forward.

There is the potential to be able to raise the profile of the Council by active management and effective co-ordination. Procedures for undertaking flood investigations and developing an asset register will be agreed and signed off by the Portfolio Holder.

Equality Implications:

An impact assessment has been carried out for the Preliminary Flood Risk Assessment.

This is a borough wide risk assessment and early indications suggest that the potential areas of flood risk are more dominant in the western part of the borough which is less affluent. Residents there may potentially be less able to accommodate the consequences of flood events.

Consultation:

As stated above, a report was taken to Environment Scrutiny and Performance Panel on 12 January 2012.

Presentations given to Planning & Regeneration and Engineering & Transportation staff and, an article in the staff newsletter have helped to raise awareness of the new roles and responsibilities as Lead Local Flood Authority amongst officers. The Flood Risk Manager has been proactively working with functions across the Council, including emergency planning, planning and regeneration, engineering and transportation, communications, risk and insurance, information management, parks and open spaces, climate change and the call centre to ensure an integrated approach is taken.

The Flood Risk Manager has also been working with key external organisations including the Environment Agency, Canal and River Trust, Severn Trent Water and other Midlands Lead Local Flood Authorities to share information, knowledge and experience. A Strategic Flood Partners Group meeting is due in January 2013 to decide a partnership approach to flood risk management in the Borough.

Work to update the website to raise public awareness is ongoing and consultation to inform the development of the Local Flood Risk Management Strategy will follow.

Contact Officer:

Steve Pretty – Head of Engineering and Transportation

☎ 01922 654696

prettys@walsall.gov.uk

1. Report

1.1 Introduction

- 1.2 Following the severe flooding during the summer 2007, the government commissioned an independent review (the 'Pitt Review') which in 2008 recommended that local authorities should lead on the management of local flood risk, working in partnership with other organisations. Two key pieces of legislation have brought this forward; the Flood Risk Regulations (2009) which transpose the EU Floods Directive into UK Law and the Flood and Water Management Act (2010).
- 1.3 The Council is now a Lead Local Flood Authority (LLFA) and has new powers and statutory duties to manage and co-ordinate flooding from local sources, working together with other organisations including the Environment Agency, who manage flooding from larger rivers (known as *Main Rivers*) such as the River Tame, and Severn Trent Water who manage flooding from sewers. This partnership working is underpinned by a duty to co-operate in the Flood and Water Management Act and the Council can scrutinise the flood risk management (FRM) activities of Risk Management Authorities (RMAs), which are Local Authorities, the Environment Agency, Water Companies and Highway Authorities.
- 1.4 Local flood risk means flooding from surface water (overland runoff), groundwater and smaller watercourses (known as Ordinary Watercourses).
- 1.5 Land and property owners also have a role in keeping watercourses flowing where they either own land or property next to a watercourse as riparian owners and in taking action to protect their own properties. When it comes to doing works to reduce flood risk, there are legal powers available; however, limited resources need to be prioritised and targeted to where they can have the greatest effect.
- 1.6 Flood risk management is a multi-disciplinary activity. Taking a joined up approach and making the most of every opportunity to reduce flood risk in the Borough requires working across different services within the Council as well as external organisations. Such work is co-ordinated by the Flood Risk Manager.

2 Flood Risk Regulations (2009)

- 2.1 This is a rolling six-year programme of work based on the European Floods Directive (2007). It involves:
- 2.2 Undertaking a Preliminary Flood Risk Assessment and screening of local sources of flooding to inform a decision on whether there is a significant (in national terms) 'Flood Risk Area'. The outcome of this is that about 70% of Walsall is within the wider West Midlands Flood Risk Area. (Complete and approved in 2011).
- 2.3 Detailed mapping is needed for the West Midlands Flood Risk Area. The Environment Agency is producing mapping on behalf of LLFAs. This will be reviewed by the Council and published by the Environment Agency by December 2013.

2.4 A Flood Risk Management Plan for the West Midlands Flood Risk Area. The requirements are similar to that for a Local FRM Strategy. The Environment Agency recently consulted on how these should be prepared.

3 Flood and Water Management Act (2010)

3.1 Statutory duties enacted so far include:

3.2 **Developing, maintaining, adopting and approving a Local Flood Risk Management Strategy.** The strategy will set out roles and responsibilities for FRM, objectives for managing flood risk, measures to achieve those objectives, an assessment of viability and sources of funding, an assessment of flood risk, how the strategy will be implemented and how it will meet wider environmental objectives. It provides a platform to bring together flood risk information and prioritise where action is taken to greatest effect. Future investment needs for flood alleviation work and sources of funding will also be considered. It is important to note that the strategy will bring together all of the actions that can be taken by organisations and the public to manage flood risk in the Borough and will not focus on flood defence schemes alone.

3.3 The Strategy is currently in the scoping stage and will build on recent and ongoing policy and strategy work by the Council (including Planning, Regeneration, Parks and Open Spaces) and other organisations. A project will be set up covering the Strategy, public engagement and a Strategic Environmental Assessment as deemed appropriate. It is anticipated that the work will largely be undertaken in 2013.

3.4 **Investigate flood incidents, where the Council deems 'necessary or appropriate'.** This gives the Council a duty to investigate flooding incidents and determine which organisation(s) have roles and responsibilities and what actions they are taking. It does not give the Council responsibility for taking action to prevent flooding happening again and therefore managing expectations will be a key element of how this is taken forward. Informal investigations are currently underway into flooding in summer and autumn 2012. A procedure has been developed and sent to the Portfolio Holder for sign off, which includes a threshold for undertaking a formal flood investigation.

3.5 **Holding a Register and Record of Structures and Features where the Council deems these to 'have a significant effect on flood risk'.** The drainage network has been heavily modified over time. Ownership and management of the network is fragmented and split between private owners, infrastructure owners and operators, the Environment Agency and the Council. A thorough understanding of how drainage systems work in practice (both under and over-ground) is essential for making both proactive decisions about future investment, maintenance and planning applications and reactive operational decisions when flooding is forecast or occurring. An initial register has been put together of key drainage assets that will form the basis for this work.

3.6 The responsibility of the Environment Agency in **issuing land drainage consents for Ordinary Watercourses** has transferred to the Council as LLFA. This sits alongside existing powers for enforcement on Ordinary Watercourses. A process has been developed. There is one case ongoing and awareness of the need for

consent is being raised internally. The application forms will be available on the Council website.

3.7 Powers enacted so far include:

3.8 **Power to designate third party assets as flood structures.** Assets like garden walls, informal embankments and the walls of buildings can help to reduce the chance of flooding occurring. Removing or altering these could increase flood risk. This gives the Council the power to designate such assets, such that they cannot be removed or altered without permission. A designation is a local land charge. The Council will need to decide on a proportionate and risk basis where it wishes to do this. The Council are keeping track of Environment Agency pilot work on designation and will consider this on a reactive basis for now given available resources.

3.9 **Powers to do works to manage flooding from surface water, groundwater and Ordinary Watercourses.** The FWM Act also gives the Council powers to do works for environmental benefit. Taking a partnership approach, it would also be beneficial for the Council to support other RMAs where they are proposing works. Investment needs for all sources of flooding will be considered through the Local Flood Risk Management Strategy and maintenance work is ongoing.

3.10 The Council is able to make bids for both national Flood Defence Grant in Aid and regional Local Levy for flood schemes. Current Defra policy states that local contributions towards any such schemes would be expected to be sought alongside such funding. The contribution that can be sought from national and regional sources will largely depend on the benefits a scheme can deliver i.e. how many properties will it protect.

3.11 Once commenced, Schedule 3 of the Flood and Water Management Act will establish the Council as a SuDS Approving Body (SAB). The SAB will be responsible for approving drainage systems in new developments and redevelopments before construction can start (in line with National Standards), and for adopting and maintaining SUDS serving more than one property. The right to connect surface water to the public sewer network will be conditional on SAB approval. The latest indication is that this will take place in April 2014, but the exact form this will take is unknown at this time. It is also noted that the funding for long-term maintenance for still to be determined.

3.12 The Council are already working with Developers and implementing policy in the Black Country Core Strategy (2011) to encourage the use of such systems and reduce runoff from development sites to help manage surface water in the wider area. The new legislation will add a formal approval stage and the additional requirements for adoption and maintenance both of which will have significant implications for resourcing and the Development Control process.

4 Partnership Working

4.1 A high level Walsall Strategic Flood Partners Group meeting is planned for January 2013 which will involve the Head of Service and Portfolio Holder, Environment Agency Central Midlands Area Flood Risk Manager and representatives from Severn Trent Water amongst support staff.

- 4.2 At a more technical level, a cross organisational and departmental steering group will be set up to steer the development of the Local Flood Risk Management Strategy.