

REGENERATION, CULTURE AND COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE

26 JUNE 2014

FLOOD AND WATER MANAGEMENT ACT 2010 – ROLES AND RESPONSIBILITIES AND THE LOCAL FLOOD RISK MANAGEMENT STRATEGY

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Summary

To reiterate recent changes in legislation.

To introduce the Local Flood Risk Management Strategy required under the Flood and Water Management Act 2010.

Note: Appendices have been published as a supplementary agenda.

1. Budget and policy framework

- 1.1 The Flood and Water Management Act 2010 and the Flood Risk Regulations 2009 (FRR 2009) established Medway Council as a Lead Local Flood Authority (LLFA). The FRR 2009 and the Flood and Water Management Act (FWMA) 2010 sets out a number of roles and responsibilities for LLFA's with respect to the management of local flood risk (i.e. from surface water, groundwater and 'ordinary watercourses').
- 1.2 The costs of implementing the roles and responsibilities can be financed from existing revenue budgets.
- 1.3 Whilst the imposed duties are statutory, the new roles and responsibilities directly contribute towards three of the five council priority areas included within the Council Plan 2013/2015 outlined below, as well as several ambitions and principles included within the Sustainable Community Strategy 2010-2026.

- Safe, clean and green Medway.
- Everybody travelling easily around Medway.
- Everyone benefiting from the area's regeneration.

2. New duties under the Flood and Water Management Act 2010

- 2.1 The FWMA 2010 imposes specific statutory, executive duties on the Council:
- Cooperate with other relevant bodies to manage flood risk.
 - Develop, maintain, apply and monitor a strategy for local flood risk management.
 - Take over the Environment Agency role for 'ordinary watercourse regulation' under the Land Drainage Act 1991 (as amended by FWMA 2010).
 - Investigate flooding incidents.
 - Maintain a register of assets and structures that have a significant effect on flood risk.
 - Designate assets and structures, which are considered to have a significant effect on local flood risk in an area.
 - Set up a Sustainable Urban Drainage System (SuDs) Approving Body (SAB), responsible for approving, adopting and maintaining SuDs, which serve more than one property.
 - To plan for the emergency management of flooding.
 - To review and scrutinise the activities of Risk Management Authorities in implementing their flood risk management functions.
- 2.2 On 3 March 2011 the Council agreed to add the responsibility for the review and scrutiny of flood and coastal erosion risk management functions under the Flood and Water Management Act 2010 to the Regeneration, Community and Culture Overview and Scrutiny Committee's terms of reference.
- 2.3 In relation to the other duties listed above most of these functions are appropriately discharged by officers, with the exception of approval of the Local Flood Risk Management Strategy that is reserved for Members. The Employee Delegation Scheme (Chapter 3 of the Constitution) has been amended to include the following additional delegation for the Director of Regeneration, Community and Culture.

Description of delegation	Responsibility delegated from
<p>8.25 Flood Risk Management</p> <p>To manage the Council's functions in relation to flooding and drainage in compliance with current legislation and policies of the Council (including</p>	<p>Leader/Cabinet</p>

without limitation the Land Drainage Act 1991, Flood Risk Regulations 2009 and the Flood and Water Management Act 2010).	
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3. Progress to date

- 3.1 Council staff responded well to recent flood events including the tidal surge during December 2013, which involved several services and more recent heavy rainfall which resulted in isolated incidents of surface water flooding, including two counts of internal property flooding.
- 3.2 The council is making good progress with the requirements of the FWMA 2010, which includes a cross functional approach between Highways, Corporate Capital Projects, Emergency Planning, Development Management and Regeneration Teams as well as continued dialogue with other Risk Management Authorities (i.e. Medway Internal Drainage Board, Environment Agency, Southern Water).

4. Medway draft Local Flood Risk Management Strategy

- 4.1 Section 9 of the FWMA 2010 states that a Lead Local Flood Authority must develop, maintain, apply, and monitor a strategy for local flood risk management in its area (a Local Flood Risk Management Strategy).
- 4.2 A strategic approach reduces the likelihood and detrimental consequences of flooding in a way that does not compromise the interconnected needs of the economy, society and environment in the future. It is the document against which local flood risk management activities should be assessed and measured.
- 4.3 The primary aim of the strategy is to outline the approach Medway Council as LLFA will take to local flood risk management, record how this approach has been developed and agreed and to deliver the legislative requirements of the FWMA 2010.
- 4.4 The strategy complements and supports the National Strategy published by the Environment Agency, which outlines a national framework for flood and coastal risk management and aims to balance the needs for communities, the economy and the environment.
- 4.5 The strategy culminates in a number of objectives and measures consistent with the EA's National Strategy aimed at delivering the legislative requirements of the FWMA and adopting a more coordinated approach to local flood risk management. The objectives are included within the Executive Summary and are concerned with:

- Understanding the risks.
 - Preventing inappropriate development.
 - Managing the likelihood of flooding.
 - Improving flood prediction, warning, and post recovery.
- 4.6 The measures and objectives were borne out of significant consultation with functions within the Council, and with Risk Management Authorities. Through the strategy, stronger links, understanding, and partnership working have been established with Risk Management Authorities.
- 4.7 The delivery of the strategy rests primarily within the Flood Risk Management Officer; however, the support of other relevant services within the Council, including Highways, Development Management and Emergency Planning will be required.
- 4.8 The full draft document and accompanying Technical Appendices is attached as Appendix 1.
- 4.9 European Directive 2001/42/EC requires that a Strategic Environmental Assessment (SEA) be carried out for all plans and programmes which are subject to preparation and/or adoption. In accordance with that, an SEA screening report has been undertaken to determine if the contents of the LFRMS require a SEA.
- 4.10 The screening exercise concludes that it is unlikely that there will be any significant environmental effects arising from the objectives and measures included within the LFRMS and as such does not require a full SEA to be undertaken.
- 4.11 A Diversity Impact Assessment screening report will be completed and submitted to Cabinet in August. It is anticipated that a full Diversity Impact Assessment will not be required. This is currently in review following the consultation of the draft strategy.

5. Review and update

- 5.1 The strategy should be viewed as a living document and the approach taken is that much more comprehensive and robust information must be gathered from many sources in order to inform optioneering for structural measures. This will be achieved via completion of a Surface Water Management Plan (SWMP) and is one of the objectives of the strategy.
- 5.2 Annual action plans will be produced to review progress of the strategy and to provide update as required as a result of new information, further studies or legislation. These will be reported to the Regeneration, Community and Culture Overview and Scrutiny Committee annually following on from formal adoption of the strategy.

5.3 Review of the strategy itself is planned for April 2018 to coincide with the six yearly update cycle required for the review of the Preliminary Flood Risk Assessment, which was undertaken to fulfil the requirements of the Flood Risk Regulations 2009.

6. Consultation and engagement

6.1 Following approval by Cabinet on 08 April, the draft strategy was subject to a six-week period of public consultation (14 April – 16 May). This time frame is in line with similar consultations undertaken by other Lead Local Flood Authorities. This also reflects the guidance within the Medway Statement of Community Involvement (SCI).

6.2 It is intended that the strategy, together with the outcome of the consultation process will be submitted to Cabinet on 15 July 2014.

6.3 Minimal changes are proposed following the consultation and are included within the Table below. Approval will be sought for these changes following resubmission to Cabinet in August.

Table 1: Local Flood Risk Management Strategy proposed amendments.

Location	Reason for amendment
Table 6, National Objective 2	<p>This objective needs to include the ability to develop local standards as well as local guidance.</p> <p>In some instances this may be necessary to ensure that SuDs design responds to local conditions and priorities, informed by evidence. (Such as outputs from the forthcoming Surface Water Management Plan).</p>
Paragraph 3.7: Flood Incident Reporting	<p>The criteria included will be removed to allow the flexibility to concentrate on those incidents where the LLFA can undertake direct action to reduce the risk of flooding.</p> <p>This is reflected in Section 19 of the Flood and Water Management Act 2010, which states that investigations should be carried out, by a Lead Local Flood Authority must, to the extent that it considers it necessary or appropriate.</p>

7. Risk Management

- 7.1 The risks exposed by a failure to comply with parts of the legislation are great. Whilst the FWMA 2010 enables LLFA's to delegate *some* flood or coastal erosion risk management functions to other risk management authorities, there is an expectation that LLFA's will gradually increase expertise and capacity in this field.
- 7.2 Consultation with Risk Management Authorities and the public as required by Section 9 (6) of the FWMA.

8. Financial and legal implications

- 8.1 Funding to carry out the day-to-day flood risk management functions in Medway is included in existing revenue budgets.
- 8.2 The legal implications are set out throughout the report.

9. Recommendations

- 9.1 That the new responsibilities added to the Employee Delegation Scheme are noted.
- 9.2 That the progress of the Local Flood Risk Management Strategy is noted.

Appendices:

Appendix 1:
Medway Draft Local Flood Risk Management Strategy Main Report and Technical Appendices.

Appendix 2:
Strategic Environmental Assessment (SEA) Screening Report

Background Papers:

Report to Cabinet: *Flood and Water Management Act 2010 – Roles and responsibilities and the Local Flood Risk Management Strategy*. 8 April 2014.
<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=23428>

Report to Council *Report on Overview and Scrutiny Activities* 3 March 2011
<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=7118>

Report to Regeneration, Community and Culture Overview and Scrutiny
Committee *Flood and Water Management Act 2010 and Flood Risk Regulations*
2009 10 February 2011

<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=6975>

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