
THE HAMPSHIRE PARTNERSHIP

23 September 2014

Hampshire County Council's Role As Lead Local Flood Authority

Briefing Note

1. Background – Legal Framework

1.1 The Flood & Water Management Act 2010 (FWMA) created a new role for County and unitary authorities as “Lead Local Flood Authorities” (LLFA). The Act placed five significant new duties on LLFAs:

- a duty to prepare a Local Flood Risk Management Strategy (LFRMS);
- a duty to investigate flood incidents;
- a duty to establish and maintain a register of structures that affect flood risk;
- a duty to designate third party assets that affect flood risk and give notice to owners that they have been so designated; and finally, and perhaps most significantly of all
- a new role for LLFAs as SuDS Approval Body (SAB) and, along with that, a requirement to approve, adopt and maintain SuDS.

1.2 All of these aspects of the Act are in force with the exception of the SAB which has been continually delayed. Government is currently consulting on a proposal which would see SuDS delivered by Local Planning Authorities through the use of planning conditions rather than by an SAB with the hope of introducing these new requirements in Spring 2015.

1.3 It is important to note that the role the FWMA creates for Hampshire County Council is a ‘flood risk management’ (FRM) role. It does not make the County Council responsible for all aspects of flooding. Managing risk is very different to responding to flood incidents in emergency situations. The FWMA does not alter any of the other legislation dealing with emergency response, nor does it alter the responsibilities of those bodies involved in performing this vital role other than in requiring co-operation between all parties. Considering the five new duties it is clear that the LLFA role is primarily concerned with looking forward to identify, manage and mitigate potential flood problems and working in partnership with other FRM authorities and other relevant organisations to prevent problems occurring in the future and seeking to ensure all bodies adopt a consistent, co-ordinated and mutually beneficial approach.

1.4 The LLFA responsibilities only apply to flooding from surface water, ground water and ‘ordinary water courses’ (OWCs). Managing flood risk from ‘main rivers’ (which are designated as such based on their degree of potential flood risk by the

Environment Agency (EA)) from large reservoirs and coastal flooding are the responsibility of the EA. The water companies are responsible for managing risks associated with sewer flooding. District Councils retain some flood risk management powers under 1991 Land Drainage Act. Given these various responsibilities, that flooding is rarely attributable to one single cause and that flooding is often caused by an interaction of factors which overlap these responsibilities and administrative boundaries, working in partnership is essential.

2. What Is The County Council Doing To Implement These Duties?

2.1 The County Council adopted its LFRMS in July 2013. It was prepared over an 18 month period with input from a wide range of partner organisations including most of the bodies involved in this Hampshire Partnership including District Councils and the Emergency Services. It was subject to public consultation during November and December 2012. The LFRMS includes an assessment of the highest flood risk areas across the County and includes action plans to address the highest risk areas.

2.2 The LFRMS is also accompanied by a series of more detailed Surface Water Management Plans (SWMPs) and a Preliminary Flood Risk Assessment. In view of the seriousness of the floods which occurred last winter the County Council is currently reviewing elements of the LFRMS and the draft SWMPs to ensure they are focused on a co-ordinated sub-catchment based approach rather than merely reflecting what is purely our responsibility as LLFA.

2.3 The County Council has carried out a number of what are termed “section 19 investigations” (as they relate to s19 of the FWMA) into significant flood events such as those recently experienced in Romsey, Hambledon and Buckskin. Its officers are also investigating many hundreds of smaller scale flooding incidents and providing advice to home owners on actions they might take to reduce the level of flood risk at their property (178 of these smaller-scale investigations have been carried out so far this year).

2.4 The County Council has established its ‘register and record’. In common with most other LLFAs HCC has not ‘designated’ any flood risk features. The ‘designation’ power is a rather onerous, blunt and bureaucratic tool and the County Council is focussing its efforts on working proactively with landowners rather than use the ‘designation’ power.

2.5 Even though the Sustainable Drainage Systems (SuDS) responsibilities have not yet come in to force, HCC and District Council staff have spent considerable time and effort to work up a way of ensuring a seamless approach to managing SuDS applications alongside the planning application process should the SAB role be introduced. Officers have also been working with developers on a number of large sites to trial and monitor different SuDS solutions.

2.6 In addition to fulfilling its obligations under these main duties of the FWMA the County Council has also been working in a lot of other areas to deliver related requirements of the FWMA. The County Council’s Economy Transport & Environment Select Committee has scrutinised the County Council’s flood risk management activity and made recommendations on how this might be improved. A number of conferences and briefing events have been held to publicise and increase understanding of the LLFA role. The County Council is now consenting authority for

works to OWCs (this was previously the responsibility of the EA). Around 100 consents have been processed to date.

2.7 Riparian landowners are being contacted and reminded of their legal responsibilities regarding water courses on their land – not least to keep ditches and streams clear of obstruction to prevent localised flooding. Leaflets and guidance notes have been prepared on these matters and are being distributed widely. Officers are currently in discussion with around 90 riparian owners regarding maintenance of their water courses.

2.8 County Council Members and officers are proactively engaging with the three Regional Flood & Coastal Committees (RFCCs) that cover Hampshire. RFCCs have a significant role in determining the allocation of Government's funding for flood prevention projects and schemes. Considerable effort has been invested in bidding for funding to address some of the most significant flood risks faced in the county. HCC has submitted a total of 15 bids to the three Environment Agency Regions for Flood Defence Grant in Aid (FDGiA) funding from the 6 year Flood Defence Capital Programme (2015/16 – 2020/21) together with a further 18 for inclusion into its 7 year plus pipeline programme to develop schemes for flood defence alleviation measures. A total of 33 bids in all.

2.9 The County Council has established and chairs the Hampshire Strategic Flood & Water Management Group which comprises a high level board and a technical delivery group. The group has been in existence in some form since the FWMA was introduced. The group directs, manages and monitors the work undertaken by the County Council to deliver its LLFA duties. It comprises representatives from the Environment Agency, water companies, district and local / parish councils, national park authorities, neighbouring LLFAs, the emergency services (Police & Fire) and the various departments of the County Council involved in flood risk management (including highways, emergency planning and the recently established flood risk management team). The board is chaired by the Council's Director of Economy, Transport & Environment.

2.10 Officers have accepted a large number of invitations to brief district, parish and local council officers and members and local community and flood groups about our LLFA activity and continue to do so.

2.11 Finally a comprehensive website which sets out a wealth of information regarding the County Council's LLFA role including links to all of the reports, strategies and guidance referred to in this note and much more has been created. This can be found at www.hants.gov.uk/flooding.

3. Summary

3.1. In seeking to deliver the requirements of the FWMA the County Council has worked closely with other FRM bodies and partner organisations to deliver a proportionate and effective response to these new duties and powers. All of this is additional to, separate from, but complimentary to, the County Council's work as an emergency planning authority and the work of the emergency services. The two areas of work are mandated by different legislation and have different aims and objectives. However, the widespread flooding experience last winter has shown that HCC needs to build on and enhance its capabilities, continue to improve its working

relationship internally and with partners and to better communicate and clarify its LLFA role. The creation of the FRM team will help drive this forward and provide a single point of contact and a co-ordinated outlet for the County Council's FRM activity.

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