

Executive

2 November 2010

Report of the Director of City Strategy

Flood and Water Management Act.

Summary

- 1 This report provides advice to Members on a number of flood related issues arising from the recently enacted Flood and Water Management Act and the Flood Risk Regulations 2009. It offer options on how the Council could respond to these pieces of legislation.

Background

Pitt Review

- 2 Following the floods of 2007 the government commissioned Sir Michael Pitt to undertake a review of all the issues and actions associated with this flood event. His report in December 2008 produced 92 recommendations, 15 of which the government acted on immediately. The Department for Environment, Food and Rural Affairs (Defra) followed up on this report and the first draft of the Flood and Water Bill was produced. This was widely consulted on and many issues were raised about how the proposals could be afforded. Part of the concept of the Bill was that a "Lead Local Flood Authority" would be set up to coordinate all local flood related activities.
- 3 The term Lead Local Flood Authority (LLFA) refers to a County Council or Unitary Authority, hence City of York Council (CYC), and was supposed to come into being as part of the Act. However, the Bill got delayed and was taking a longer time to pass through Parliament than expected. So in order to comply with a European Commission Directive on flooding, it was necessary to extract from the proposed Flood and Water Bill some of its contents and these became part of the Flood Risk Regulations of December 2009. The main thrust of these Regulations is the requirement to produce a Preliminary Flood Risk Assessment (PFRA).
- 4 The actual details of what will be required in a PFRA are still being prepared by Defra. But the key issue for the of the Directive is to establish a framework for assessing and managing flood risk aimed at reducing the adverse consequences for the following factors; human health, the environment, cultural heritage and economic activity. The Regulations require that the Environment Agency (EA) publish a comprehensive PFRA by December 2011.

In order to meet this timetable the LLFAs need to produce an approved plan for their area and submit it to the EA by June 2011. The PFRA will show all the areas of significance (a term yet to be defined) in respect to flooding on the four factors detailed above.

- 5 The Council were advised that it would receive from Defra a grant of £10,000 to develop the first part of the PFRA, this grant has recently been received. The next stages of the project for the Council will be to produce a “Hazard Map” by June 2013, and the Flood Risk Management plan, to mitigate against that flooding, by June 2015. These again will be forwarded to the EA for them to compile a national plan by the December of each of those years. These plans will be made available to the public.

Flood and Water Management Act

- 6 The Flood and Water Management Act (FAWMA) received Royal Assent on 8 April 2010, and is being implemented in stages. Part came into force on 1st October 2010. Most of the rest of the Act will commence on 1 April 2011. The Act pulls together many, but not all of the Pitt recommendation, and will require the Council to undertake new duties to deal with local flood risk.
- 7 The FAWMA and Flood Risk Regulations 2009 have placed a range of new duties and responsibilities upon Local Authorities, the Environment Agency and other partners in relation to the management of flood and coastal risk. The details in the Act are lengthy, but in brief the main new duties for LLFA will be to develop, maintain, apply and monitor a local flood risk management strategy in its area which covers flood risk from surface run-off, groundwater, and ordinary watercourses.
- 8 This work will be based on an assessment of risk which incorporates the Preliminary Flood Risk Assessment required by the Flood Risk Regulations, as well as the maps and plans for Flood Risk Areas. This strategy must be produced in consultation with risk management authorities that may be affected by the strategy (i.e. the EA, District Councils, Internal Drainage Boards, Water Companies, and Highway Authorities) as well as the public and be consistent with the ‘National’ Flood and Coastal Risk Management (FCRM) Strategy for England being developed by the EA. This strategy must set out:
 - who the risk management authorities are in the area.
 - what FCRM functions may be exercised by these authorities.
 - the objectives for managing local flood risk.
 - the measures proposed to achieve those objectives.
 - how and when the measures are expected to be implemented; the costs and benefits of those measures, and how they are to be paid for.
 - the assessment of local flood risk for the purpose of the strategy.
 - how and when the strategy is to be reviewed and

- how the strategy contributes to the achievement of wider environmental objectives.

9 The LLFA also has a number of other specific duties including:

- the establishment and maintenance of a register of structures which may have a significant effect on flood risk in its area, with details of their ownership and state of repair.
- Undertaking Surface Water Management Plans.
- Delivering some early/priority actions they contain.
- Co-ordinating partnership activity.
- Mapping and registering significant assets/features.
- Designating third party assets/features.
- Running oversight and scrutiny committees.
- Administering consents regarding private changes to ordinary watercourses.
- Managing local resilience forums.
- Regulating SUDS.

10 The Environment Food & Rural Affairs Committee (EFRA) are to reconvene in order to re-consult and review parts of the Act and possible additions could be:

- Items missed out from draft bill which are thought to be important.
- Items which will deliver optimum social, economic and environmental outcomes.
- SUDS and Transfer of private sewers and lateral drains.

11 All this legislation brings with it new financial and resource burdens. The stance of the government, which is being vigorously challenged by Local Authorities, through the Local Government Association (LGA), was that the Local Authorities have no new net burdens as the new activities can be funded from the savings generated by the transfer of private sewers to the Water Companies. Some analysis of what the Council spends on the type of private sewer that would be transferred, was carried out and this showed that only a nominal couple of thousand pounds could be identified. This information was provided to the LGA.

12 Following a wide range of lobbying the government seems to have relaxed their approach slightly and are reviewing their stance. Some consultation documents have been circulated suggesting some funding may be available to Local Authorities. This may be provided through an Area Based assessment instead of Formula Grant. In the early discussion papers from government there are various scenarios covered which suggest what effect (in staff Full Time Equivalents) the FAWMA will have on the LLFAs. In York's case the range of values is between 1.5 and 2.3 FTEs.

Catchment Flood Management Plan

- 13 The Catchment Flood Management Plan (CFMP) is the plan which is in effect the monitoring tool for National Indicator 189. In the first two years of the life of the York CFMP, the Council has needed only minimal input to the EA to comply with NI 189. However, we are now in year three and the list of activities to comply with is significant, but too lengthy to detail here, but suffice to say there needs to be a staff resource applied to undertake the work. The CFMP will be a key tool for the North Yorkshire Flood Risk Partnership which has just been set up with Cllr A Waller as its Chair, and its inaugural meeting was held on 13 October 2010.

Surface Water Management Plan (SWMP)

- 14 A bid to Defra was made last year to fund a £100k Surface Water Management Plan (SWMP) for the central area of the City. This was successful and the Council's Structures and Drainage section is now leading on the development of that plan. Some of the information which comes from that plan will assist with the PFRA.

Resource Capacity Building

- 15 The Council is in the fortunate position, compared to many other Local Authorities, in having a good foundation of drainage expertise to start to deal with the new burdens.
- 16 The Pitt Review proposed an increase in staff capacity within the country who have knowledge of flood risk. Defra has therefore funded 27 training places at the University of the West of England on the River and Coastal Foundation Degree. The Council put a bid into to have one of these trainees and was successful. The student has just completed her first year with a distinction. When not studying she works in the Structures and Drainage section getting a wide range of flood and drainage experience.
- 17 In an attempt to move the flooding agenda forward, another initiative of self help has emerged with the formation of an alliance of Local Authorities, the EA, Yorkshire Water and University of Sheffield. This forum known as the Yorkshire & Humber Learning Action Alliance (YHLAA) has been formed to pool information and share the burden of developing / understanding issues coming out of the FAWM Act. The Council takes part in this alliance and has a seat on the steering group.

Sandbag Policy

- 18 During the flood event of 2000 the Council received many requests for sandbags from the public and business communities to assist them in protecting their properties from the ingress of flood water. There was a basic principle on how to manage these requests, but following that event a more comprehensive policy was drafted on how to distribute sandbags during a river flood event. With the passage of time and the increase in flash flooding events from heavy rain, the Council receives requests for sandbags to protect against

the flood water from such events. As the current Sandbag policy was written with river flooding in mind it has been redrafted to take account of flooding from a number of sources. The revised policy is attached as Annex A.

Consultation

- 19 No external consultation has taken place as the report's contents are to give guidance to Members on the contents of the Flood and Water Management Act 2010 and the Flood Risk Regulations 2009.

Options

- 20 The options for the Executive to consider are:

- Option 1** Recognise the need for additional staff resources in the Structures and Drainage team so as to deliver the new duties arising from the Flood and Water Management Act, and the Flood Risk Regulation 2009.
- Option 2** Revise the duties of the Structures and Drainage team so as to deliver the new duties arising from the Flood and Water Management Act, and the Flood Risk Regulation 2009, without increasing staff resources.

Analysis

- 21 Analysis of each of the options is detailed below.

Option 1

- 22 This option provides the Council with the resources to embark on a development plan to engage with these two new pieces of legislation. The existing Structures and Drainage Team have existing duties which will continue and therefore they do not have the capacity to fulfil the new duties. These new duties are not fully understood at this time, but it is intended that if the growth bid is successful it would fund a new member of staff. With this extra resource the Drainage Team would further investigate the detail in the FAWMA and the Flood Risk Regulations to understand the volume of work these new duties would bring to the Council. Work would also start on delivering these new duties which would typically be in the areas of:

- the establishment and maintenance of a register of structures which may have a significant effect on flood risk in its area, with details of their ownership and state of repair.
- Start investigating reported flooding incidents and assigning responsibility for action.
- Undertaking Surface Water Management Plans.
- Delivering some early/priority actions they contain.
- Co-ordinating partnership activity.
- Mapping and registering significant assets/features.

- Designating third party assets/features.
- Develop and understanding of how to administer consents regarding private changes to ordinary watercourses.

23 A further report would then be brought back to Members giving greater details of the new burdens and the recommended size of the establishment to deal with the issues, this would be drafted with knowledge from the early work detailed above. This approach is suggested after reflecting on Defra's assessment that the Council may need between 1.5 and 2.3 extra members staff to fulfil its functions. However, given the governments assumption that the Council will be able to deliver some of the duties in the FAWMA from budgets saved by the transfer of private sewers to the Water Companies (which we know to be negligible), they obviously believe the total staff resource to be greater than 2.3 people. This would be better assessed following the investigative work carried out in year one to establish what the workload will be and how it can be delivered. All this work would sit nicely alongside and compliment the work being done on climate change by the Sustainability Team. This is the recommended option.

Option 2

24 The Drainage Team currently carry out a whole range of duties and are fully occupied with such work as:

- Checking drainage details on planning application.
- Becks and Watercourse cleaning and maintenance.
- Flood emergencies.
- River Foss Navigation Management / Oulston Reservoir Inspection regime and maintenance.
- River Bank Repairs.
- Highway Drainage investigation repair and maintenance.
- Internal Drainage Board Liaison.
- Strategic Flood Risk Management.
- Drainage advise on Leisure and other Council Land.
- Surface Water Management Plan.

25 This work occupies the existing staff full time. The only way they could do the new duties would be to stop doing the above work, hence this option is not recommended.

Corporate Priorities

27 The contents of this report will contribute to at least three corporate priorities. It minimises the effects of flooding so this will contribute to the Thriving City agenda by reducing the impact on the economy. It will also help with sustainability for the City and its communities, and make York a Safer City by reducing the threat from flooding.

Implications

28 This report has the following implications:

- **Financial** – Additional funds will be required to undertake the new burdens on the Council. Some funding has been secured for the Surface Water Management Plan and Preliminary Flood Risk Assessment. But funds to fulfil the actions required to comply with the Catchment Flood Management Plan and the new burdens in the Flood and Water Management Act are not confirmed. A growth bid has been submitted for Members to consider funding some initial work to start to scope the impact of these new burdens on the Council.
- **Human Resources (HR)** - Additional staff resources will be required to undertake the new work.
- **Equalities** – As this is an information report there will be no impact on equalities, however if any future works are promoted then this issue will be considered at that time.
- **Legal** - The Council now has an obligation to develop, maintain, apply and monitor a strategy for local flood risk management in its area as well as various new supplementary powers and duties.
- **Crime and Disorder** - No impact
- **Information Technology (IT)** - No impact
- **Property** - No impact
- **Other** -

Risk Management

29 There is a risk to the Council's reputation if it does not engage in delivering the duties in the Flood and Water Management Act, and the Flood Risk Regulations 2009. It would fail to meet its obligations for National Indicator 189.

Recommendations

30 That Members:

- (i) take account of the contents of this report when considering the Growth bid in support of the additional resources needed to deal with the new burdens arising from the Flood and Water Management Act, and the Flood Risk Regulations 2009.

Reason: So as to fulfil the Council's obligations under the Flood and Water Management Act, and Flood Risk Regulation 2009.

- (ii) endorse the revised Sandbag Policy detailed in Annex A which now takes account of flooding from a number of sources.

Reason: To allow the efficient and effective distribution of sandbags in a flood emergency situation.

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Report Approved ✓ | **Date** : 21 October
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Specialist Implications Officer(s)

Wards Affected: All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex A : Sandbag Policy