

APPENDIX A

FLOOD RISK MANAGEMENT DUTIES, ROLES AND DEFINITIONS

1. Flood & Water Management Act 2010 Duty

1.1 Lancashire County Council (LCC) as a Lead Local Flood Authority (LLFA) has a duty to investigate flooding in accordance with Section 19 of the Flood and Water Management Act 2010 (FWMA) as follows:

1.2 Section 19 states:

- 1) On becoming aware of a flood in its area, a lead local flood authority must, to the extent that it considers it necessary or appropriate, investigate:
 - a) Which risk management authorities have relevant flood risk management functions, and
 - b) Whether each of those risk management authorities has exercised, or is proposing to exercise, those functions in response to the flood.
- 2) Where an authority carries out an investigation under subsection (1) it must:
 - a) Publish the results of its investigation, and
 - b) Notify any relevant risk management authorities.

1.3 The terms 'risk management functions' and 'risk management authorities' are defined in Section 2.

2 Lancashire & Blackpool Local Flood Risk Management Strategy

2.1 In addition to the requirements of Section 19 of the FWMA, the Lancashire and Blackpool Local Flood Risk Management Strategy (LFRMS) sets out how flood risk should be managed locally.

2.2 The LFRMS states that the Section 19 investigations will help to:

- Improve the understanding of flood risk by providing an invaluable tool for understanding the sources and mechanisms of flooding;
- Identify assets that have a flood risk management function, which may need to be designated; and
- Identify where additional works and studies are likely to be necessary, that LCC or other risk management authorities can integrate into their prioritised flood risk management plans.

3. Key Definitions

3.1 The Risk Management Authorities

3.1.1 The risk management authorities (RMAs) are identified in the FWMA as follows:

- a. The Environment Agency,

- b. The lead local flood authority,
- c. A district council for an area for which there is no unitary authority,
- d. An internal drainage board,
- e. A water company, and
- f. A highway authority.

3.1.2 Each of these organisations has powers and duties under various legislation and regulations for the responsible management of natural water, flood risk and in some cases coastal erosion.

3.1.3 The FWMA requires all the RMAs to cooperate with other relevant authorities in the exercise of their flood and coastal erosion risk management functions.

3.1.4 In Lancashire, the RMAs support partnership working in the following ways:

- at operational levels by joint investigations and through the Making Space for Water meetings;
- at tactical level by sharing priorities and direction between organisational managers, and
- at strategic level by engaging with Councillors/Cabinet Members/Senior Managers.

3.1.5 Lancashire, Blackpool and Blackburn-with-Darwen are also represented on the North West Regional Flood and Coastal Committee where cross-boundary projects, resources and data are shared with Cumbria, Greater Manchester, Merseyside and Cheshire.

3.1.6 The village of Earby in Pendle District is a special case in that it lies within a river catchment that falls towards North Yorkshire, so its local Environment Agency services are supplied through the Yorkshire team. This gives the Lancashire partnership a direct connection to the Yorkshire Regional Flood & Coastal Committee. Earby also receives services from the Earby and Salterforth Internal Drainage Board (IDB), which replaces a number of the lead local flood authority functions.

3.2. The Risk Management Functions

The RMAs have responsibility for flood risk management functions as defined under Section 4 (2) of the FWMA:

- (a) a function under this Part,
- (b) a function under section 159 or 160 of the Water Resources Act 1991,
- (c) a flood defence function within the meaning of section 221 of that Act,
- (d) a function under the Land Drainage Act 1991,
- (e) a function under section 100, 101, 110 or 339 of the Highways Act 1980, and
- (f) any other function, under an enactment, specified for the purposes of this section by order made by the Minister.

3.3. Riparian Landowners

3.3.1 The legal term 'riparian' is applied to landowners who own land adjoining or containing a river or watercourse. They have certain rights to use the water flowing

across their land for their own purposes, and in regard to flood risk management they also have a number of responsibilities, including the following:

- to maintain the bed and banks of the watercourse, and also the trees and shrubs growing on the banks
- to clear any debris, even if it did not originate from their land. This debris may be natural or man-made
- to keep any structures within their ownership clear of debris. These structures include culverts, trash screens, weirs and mill gates

3.3.2 If riparian landowners do not fulfil their responsibilities they may face enforcement action taken by the relevant RMA.

4. Interconnections between responsibilities

4.1 Public sewers in Lancashire are principally the responsibility of United Utilities plc or Yorkshire Water plc. Copies of the record maps indicating the location of public sewers in Lancashire are held in the water companies head offices. These companies also keep records of pumping stations and any water treatment works which form part of the public sewage system.

4.2 Private drainage systems are the responsibility of each owner whose property it drains. Where more than one property uses a private pipe, responsibility is normally shared proportionately. The private system comprises all the pipes up to the point of connection with a public sewer (this can include the entire system where connected to a septic tank, cesspool or soakaway). Formal records indicating the location of private drainage systems are not held by any RMA. The deeds of a property may include details.

4.3 The highway surface water drainage of all adopted public roads, other than trunk roads or motorways, is the responsibility of LCC as the local highway authority, including roadside drainage gullies and certain roadside ditches. Drainage from trunk roads and motorways is the responsibility of Highways England (formerly the Highway Agency). Drainage of private unadopted roads is normally the responsibility of private property owners who make use of or adjoin the road.

4.4 Land drainage comprises systems of rivers, watercourses, ditches, culverts, pipes, lakes and ponds intended to drain water resulting from rainfall and flows from underground sources. Typically the primary responsibility for maintaining responsible flows in land drainage systems lies with the riparian owner or owners, with the LLFA, Environment Agency, IDB or local councils holding enforcement powers to use if the land owner/s default in their duties.

4.5 All drainage systems eventually discharge into the sea as the lowest possible point for water to collect. In Lancashire, this is at Morecambe Bay or the Irish Sea directly.

4.6 All drainage networks are formed from combinations of these systems to overcome historic demands of efficiency, simplicity and convenience. For example, a highway gully may well connect to a length of highway drainage pipe before connecting to a private ditch, or a public surface water sewer, or directly to a main river. The original reasoning for these arrangements may now be forgotten or inappropriate for current

needs, but the physical interconnection of drainage systems means that it is often impossible to tell just from looking at flood water exactly where the barrier to flow arises and therefore exactly which organisation may need to take remedial action.

4.7 It is therefore vital for the RMAs to share information and collaborate during investigations and that they are allocated to the appropriate organisation to lead.

5. Key Functions of the RMAs

5.1 Environment Agency

The flood risk management responsibilities of the Environment Agency include the following:

- a. strategic overview for all forms of flooding;
- b. provision of a National Strategy for Flood and Coastal Erosion Risk Management (FCERM) to cover all forms of flooding;
- c. a power to request information from third parties in connection with flood risk management duties. Risk management authorities have a duty to co-operate with the Environment Agency in the provision of such information;
- d. a duty to co-operate with other relevant authorities in the exercise of flood risk management functions, which may include the sharing of information with other relevant authorities;
- e. a duty to have regard to Local Flood Risk Management Strategies;
- f. a duty to be subject to scrutiny from lead local flood authorities' democratic processes;
- g. responsibility for managing coastal flooding;
- h. responsibility for managing fluvial flooding from main rivers;
- i. updated provisions for the regulation of reservoirs;
- j. permissive powers to carry out maintenance work on main rivers under Section 165 of the Water Resources Act 1991;
- k. the provision of flood forecasting and warning services;
- l. the provision of flood maps;
- m. the provision of flood related information and advice;
- n. investment in flood defences, supplemented through partnership funding where appropriate;
- o. a power to take enforcement action where flow in a main river has been impeded and may cause a flood risk.

5.2 Lancashire County Council

5.2.1 LCC has a dual risk management role, in its capacity as both highway authority and LLFA.

5.2.2 The County Council as the LLFA has a number of duties and powers, in addition to the duty to investigate flooding set out above. These include:

- a. a duty to develop, maintain, apply, monitor and consult on an LFRMS for its area (copy available from the LCC website www.lancashire.gov.uk);
- b. a duty to develop and maintain a register of structures or features which might impact on flood risk, including ownership and condition (the Flood Risk Asset Register is available on the LCC website www.lancashire.gov.uk);

- c. the management of the consenting process for works that are likely to affect the flow characteristics of ordinary watercourses (Land Drainage Consent – guidance available on the LCC website www.lancashire.gov.uk);
- d. a power to undertake works for managing flood risk from surface run-off or groundwater;
- e. a power to request information from third parties in connection with flood risk management duties. RMAs have a duty to co-operate with the LLFA in the provision of such information;
- f. a power to designate structures and features that affect flooding or coastal erosion.
- g. a power to take enforcement action where there is an obstruction to an ordinary watercourse that may cause a flood risk.

5.2.3 LCC as the local highway authority has a duty under the Highways Act 1980 to maintain highways that are maintainable at public expense. This includes responsibility for highway drainage, as well as for the condition and safety for users of all highway assets including roads, footways, bridges and culverts, street lighting and traffic signals.

5.2.4 as local highway authority, LCC has a duty to co-operate with other relevant authorities in the exercise of flood risk management functions, which may include the sharing of information with other relevant authorities

5.2.4 LCC also has private responsibilities for land drainage where it is a land owner.

5.3 City and Borough Councils

5.3.1 The flood risk management responsibilities of City and Borough councils include the following:

- a. a power to designate structures and features that affect flooding or coastal erosion;
- b. a duty to exercise their flood risk management functions in a manner consistent with local and national strategies, and to have regard to those strategies in their other functions;
- c. a duty to be subject to scrutiny from LLFAs democratic processes;
- d. a power to do works on ordinary watercourses
- e. a duty to co-operate with other relevant authorities in the exercise of flood risk management functions, which may include the sharing of information with other relevant authorities.
- f. a power to take enforcement action where there is an obstruction to an ordinary watercourse that may cause a flood risk.

5.3.2 City and Borough Councils have a number of wider functions and roles that can be relevant to flood risk management and response. These include local planning, housing, environmental health and community engagement activity, as well as private responsibilities for land drainage where they are a land owner.

5.4 Internal Drainage Board

5.4.1 An Internal Drainage Board (IDB) is a local public authority established in areas of special drainage need in England and Wales. IDBs have permissive powers to manage water levels within their respective drainage districts. IDBs undertake works to reduce flood risk to people and property and manage water levels to meet local needs.

5.4.2 The expenses of an IDB are predominantly funded by the local beneficiaries of the water level management work they provide. Each IDB sets a budget for its planned work in the forthcoming year and any investments it needs to make for future projects.

5.4.3 More information about IDBs can be found from the Association of Drainage Authorities (www.ada.org.uk)

5.5 Water Companies

The flood risk management responsibilities of water companies (in Lancashire: United Utilities plc and Yorkshire Water plc) include the following:

- a. a duty as sewage undertakers under Section 94 of the Water Industry Act 1991, to provide & maintain sewers for the drainage of buildings and associated paved areas within property boundaries;
- b. responsibility as sewerage undertakers for lateral drains and public sewers, the latter being defined as a conduit, normally a pipe that is vested in a Water and Sewerage Company, or predecessor, that drains two or more properties and conveys foul, surface water or combined sewage from one point to another point and discharges via a positive outfall;
- c. responsibility for any flooding which is directly caused by its assets – i.e. its water or sewerage pipes;
- d. a duty to be subject to scrutiny from local flood authorities' democratic processes;
- e. a requirement to exercise flood risk management functions in a manner consistent with the national strategy and guidance and have regard to the local strategies and guidance;
- f. a duty to co-operate with other relevant authorities in the exercise of flood risk management functions, which may include the sharing of information with other relevant authorities.

6 Civil Contingencies Responsibilities

The RMAs listed above (with the exception of the IDBs) have additional responsibilities under the Civil Contingencies Act 2004, which provides the statutory basis for dealing with a response to flooding in emergency situations. These include flood preparedness planning and flood response.