

By: Director – Environment and Waste

To: Flood Risk Management Committee – 14 January 2010

Subject: The Flood and Water Management Bill

1. Introduction to Bill

The Flood and Water Management Bill was published on 19th November 2009, following a draft Bill and consultation process over the summer. The Bill will be entering the Committee stage in the House of Commons January 2010 and it is expected that the Bill will receive Royal Assent later in the year, before the general election.

The Bill's main aim is to improve flood risk management and the way in which we manage our water resources.

The Bill creates clearer roles and responsibilities and applies a more risk-based approach to flood management. The Bill also supports the implementation of the recommendations made by Sir Michael Pitt in his review of the 2007 floods.

The Bill will consolidate existing legislation relating to flood and water management. It aims to:

- Reduce the likelihood and impacts of flooding.
- Clarify roles and responsibilities.
- Improve water quality.
- Give water companies stronger powers to conserve water.
- Improve the efficiency and management of the water industry.
- Reduce pollution and improve water quality.

The Bill will include the following key proposals:

- Local authorities will be given responsibility for surface water flooding.
- The Environment Agency will have overall responsibility for flooding.
- A new risk-based regime to improve reservoir safety.
- Local authorities will be able to designate structures or features that impact on flood risk or coastal erosion.
- House builders and developers will be required to incorporate sustainable drainage systems into new developments.

An outline of the new responsibilities for KCC as a result of the Bill are outlined below and deals solely with the flood risk management elements of the Bill.

2. Implications for Kent County Council

2.1 Lead local flood authority

The Bill places responsibility for leading the coordination of flood risk management on local authorities. The Bill defines the lead local flood authority for an area as the

unitary authority or county council. From here on in, where lead local flood authority is referred to this is a responsibility for KCC unless otherwise stated.

Where appropriate, the Bill enables lead local authorities to delegate flood and coastal erosion functions to another risk management authority by agreement.

2.2 Development of local partnerships

The Bill enables the development of local partnerships to be formed between the lead local flood authority and other relevant authorities such as district councils, internal drainage boards, highways authorities and water companies. However the Bill does not say what form the arrangements should take and it will be for KCC to develop a suitable partnership – guidance and examples of best practice will be made available in due course.

The Bill does require the relevant authorities to co-operate with each other and also empowers a lead local flood authority (or the Environment Agency) to acquire information from others that may be needed for their flood and coastal erosion risk management functions.

2.3 Flood risk management strategy

The Environment Agency will be required to develop a national strategy for the management of coastal erosion and all sources of flood risk for England.

The Bill also requires a lead local flood authority to develop, maintain, apply and monitor a strategy for local flood risk management. The lead local authority will be responsible for ensuring the strategy is put in place but it will be developed in agreement with relevant local partners. The Bill sets out the minimum that a local strategy must contain:

- The risk management authorities in the relevant area.
- The flood and coastal erosion risk management functions that may be exercised by those authorities in relation to the area.
- The objectives for managing local flood risk and 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.
- How the strategy contributes to the achievement of wider environmental objectives.

The strategy must be consistent with the national flood and coastal erosion risk management strategy for England and the lead local flood authority must consult with the risk management authorities that may be affected by the strategy and the public.

2.4 Duty to investigate and to maintain a register

The lead local flood authority will be required to investigate flooding incidents (where other flood risk management authorities do not respond) to identify which authorities have relevant functions to deal with the flood and whether each of them intends to

respond. They will also be required to maintain a register of structures or features which they consider have a significant effect on flood risk in their area, at a minimum recording ownership and state of repair.

2.5 Ensuring progress

The Bill contains extended provisions for scrutiny that will enable overview and scrutiny committees in lead local flood authorities to hold all the risk management authorities to account.

2.6 Additional powers

The Bill provides the lead local flood authority with powers to do works to manage flood risk from surface runoff and groundwater.

The Bill also provides powers to designate structures and features that affect flooding or coastal erosion. Once designated, the owner must seek consent from the authority to alter, remove or replace.

2.7 Sustainable drainage systems (SUDS)

The Bill places a duty on local authorities to adopt and maintain SUDS where shared in a new development.

2.8 Funding for new responsibilities

Defra state that they are committed to fully funding new burdens.

An extra £36 million a year will be made available to fund the new leadership role, with money provided as an Area-Based Grant to every lead local flood authority. How this funding is to be divided up between authorities is still to be determined.

Likewise Defra say that they will meet costs associated with the adoption and maintenance of SUDS by local authorities.

It should be noted that Defra's proposals for funding, particularly those relating to the adoption and maintenance of SUDS, include a presumption of savings from reduced local authority involvement in private sewerage and the diversion of these savings to cover some of the additional burdens. The LGA has taken concerns relating to the accuracy of these assumptions to Defra and new assessments of the burdens will be undertaken in the future. Furthermore, the LGA state they will continue to lobby on this issue to ensure appropriate funds are made for the new burdens.

3. Taking forward the new roles and responsibilities at KCC

3.1 Flood Risk Management (FRM) Officer

A new post, Flood Risk Management Officer, has been created to assist in taking forward the new responsibilities for KCC as lead local flood authority.

The purpose of this post is to:

- Provide strategic leadership for flood risk management in Kent, working in partnership with relevant bodies across the county.
- Develop and maintain effective working relationships with district authorities, the Environment Agency and other relevant authorities to secure a collaborative and holistic approach to flood risk management in the county.
- To develop, and plan for, flood risk management within the County Council in accordance with the relevant responsibilities as defined under the Flood and Water Management Bill (and Act, once enacted).

A key duty of the role will be to carry out a stocktake of flood risk management activities across the county, in order to determine responsibilities and action and to identify where gaps exist. Using this, the FRM Officer will then develop the flood risk management strategy, clarifying roles and responsibilities for relevant authorities across the county.

The FRM Officer will also feed in to any further development of the Flood and Water Management Bill and develop a plan for the implementation of the new responsibilities for the County Council.

Recruitment for this post is underway and it is anticipated the Officer will be in position by spring 2010.

3.2 Flood Risk Management Committee

The establishment of the KCC Flood Risk Management Committee will provide the scrutiny role required by lead local flood authority. The terms of reference of this committee are provided in a separate paper.

How the Committee will function in terms of receiving reports from the relevant risk management authorities, enabling full scrutiny, will need to be determined in partnership with these authorities. It is suggested that the FRM Officer assists in developing this process once in post.

3.3 Surface Water Management Plan for Dover

In August 2009 Defra announced £15 million funding to develop Surface Water Management Plans (SWMP). A SWMP provides a framework through which key local partners with responsibility for surface water and drainage in their area work together to understand the causes of surface water flooding and agree the most cost effective way of managing surface water flood risk. 77 authorities were awarded a share of this funding to develop plans for areas considered to be at highest risk. As a result, KCC was awarded £100k to develop an SWMP for the Dover settlement.

The project inception meeting will take place in February 2010 and the plan is anticipated to be complete by spring 2011.

4. Conclusions

The Flood and Water Management Bill is set to improve flood risk management and KCC welcomes the local leadership role it will assume as a result.

The leadership role in flood risk management placed on KCC by the Bill is a new one that the Council will need to develop. A skills/officer capacity issue has already been identified which is initially being addressed by the recruitment of the FRM Officer but further resources are likely to be required. However the Council is fully aware of the new duties and is making positive steps to implement them over the coming year.

The main issue for the Council will be securing the necessary funds needed to ensure that it has the capacity to fully and effectively take on this new role.

5. Recommendations

The Committee is asked to note the report.

Background documents; Report of the Flood Risk Select Committee, September 2007

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