

Committee	Cabinet
Date	7 July 2009
Report By	Director of Transport and Environment
Title of Report	Consultation on the Draft Flood and Water Management Bill
Purpose of Report	To establish the County Council's view on this consultation.

RECOMMENDATIONS: The Cabinet is recommended to:

- 1 welcome this consultation and in principle support its objective of rationalising flood and coastal erosion risk management;**
- 2 note the contents of Appendix 1 to this report and endorse it as the basis of the County Council's response to the draft Bill, emphasising the need for appropriate levels of additional funding necessary to successfully execute the duties placed upon Lead Local Authorities;**
- 3 authorise the Director of Transport & Environment to forward comments on the Bill to Government in consultation with the Lead Members for Corporate Resources and Transport & Environment; and**
- 4 agree that the Director of Transport & Environment carries out further assessment in consultation with the Environment Agency and the Boroughs and Districts on the detailed implications of the Bill.**

1. Financial Appraisal

1.1 There are no direct financial implications in responding to this draft Bill. However, the government's proposals for managing local flood risk do have considerable resource implications for the County Council. The Bill proposes that upper tier authorities provide the local lead on flood risk management, by preparing, implementing and reviewing local flood risk strategies with the support and cooperation of partners. This represents a new regulatory burden placed upon the County Council for which no budgetary provision is made.

1.2 The government states that no new net burdens placed upon local government will be unfunded. However, the government view in the consultation paper is that in the medium to long term the burden will be negative (i.e. savings are made from effective flood risk management), although no evidence is provided to support this. The Council's response will therefore challenge the lack of evidence and emphasise the vital importance of appropriate levels of central funding being made to resource the new duties outlined in the draft Bill.

2. Supporting Information

2.1 Published in April 2009 for consultation until 24 July 2009, the draft Flood and Water Management Bill establishes a new framework for flood risk management, clarifies the roles and responsibilities of a range of bodies, and proposes a new duty upon upper tier authorities (counties and unitaries) to manage local flood risk. A copy of the draft Bill and supporting material is available in the Members' room.

2.2 The principal drivers for this legislation are the Pitt Review of the summer 2007 floods, the need to meet the requirements of the EU flood directive, and the Association of British Insurers' call for the government to implement Pitt's recommendations in full. The Bill also proposes a revised framework for water companies, and includes provisions which are designed to reform the manner in which water resources are managed in England and Wales such as streamlining and widening the scope of drought orders and allowing greater flexibility in how major infrastructure is delivered. This report deals with the key flood risk management aspects of the Bill and does not seek to provide a detailed assessment of all the Bill's provisions.

2.3 Officers of the County Council are liaising with the Local Government Association, the Local Government Flood Forum, neighbouring counties and unitaries, and the districts

and boroughs of East Sussex, to gain a deeper understanding of the financial, organisational, and operational implications of the Bill.

3. Key flood risk provisions of the draft Bill

3.1 In response to the fundamental concern of the Pitt Review that local flood risk management (all forms of flooding other than main river and coastal flooding managed by the Environment Agency) is disjointed, lacks clarity, with no compulsion on those involved to cooperate, the government has introduced a new framework to manage flood risk. The principal issues are outlined below, with a more detailed review in the attached appendices.

3.2 Upper tier authorities will be responsible for the management of local flood risk, i.e. risk arising from surface water, groundwater, and non main river flooding. Although it is anticipated that this role will be supported by partners such as the Environment Agency and the districts and boroughs, there are specific duties which fall upon county councils namely:

- General Duty – key provision identifying upper tier authorities as the “Lead Local Authority” for developing, maintaining and applying a strategy for local flood risk management;
- Lead Local Authority: duty to investigate – in the event of flood, an upper tier authority must determine which relevant authorities (identified under the draft Bill) are affected and whether they have or have not exercised their flood risk management functions;
- Lead Local Authority: duty to maintain a register – upper tier authorities must establish and maintain a register of features which may affect flood risk in their area, including ownership and state of repair;
- Under the EU Flood Directive lead local authorities must undertake an assessment of local flood risk, map risks and hazards, and publish a risk management plan in response to those risks and hazards within deadlines set by the Directive; and,
- Lead Local Authorities are designated as the approving body for sustainable drainage systems as part of new development and ultimately will be responsible for their adoption and maintenance in perpetuity.

3.3 I am particularly concerned that central government is placing a potentially unsustainable burden on local government. Upper tier authorities will need to invest significantly to raise their technical capacity and staff resources to meet the challenge of legislation which the government intends to enact by the spring of 2010.

3.4 Defra considers that in rationalising and clarifying flood risk management roles and responsibilities, upper tier authorities will save money on recovery and response. I consider that the benefits of the ‘invest to save’ approach promoted by government to be over estimated and that the true cost to local government will be much higher. The financial impact of this legislation is compounded by the flawed assumption that the adoption of private sewers by the water companies will result in savings to local government. These savings are seen as sufficient to meet the demands placed upon local authority resources by the Bill. This assumption appears to be based on selective and dated research and does not reflect the experience of county councils.

4. Conclusion and Reason for Recommendation

4.1 This draft Bill is welcomed in principle as it proposes to reform dated legislation and bring accountability to what has been a fragmented and incomplete approach to flood risk management. Whilst county councils are well placed to provide local leadership, this role will be costly, and demands the necessary level of additional central funding. At this early stage this report provides a headline assessment of the Bill’s implications for the County Council, and seeks authority to submit detailed representations to Defra to secure a workable and fully funded flood risk management structure and to safeguard the interests of the County Council.

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29 June 2009

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BACKGROUND DOCUMENTS:

Copy of the draft Bill and supporting materials.

1 Introduction

1.1 Government is seeking views on a draft Flood and Water Management Bill, which was published on 21 April for a 12 week period of consultation concluding on 24 July 2009. A copy of the consultation material is available in the Members' room and can be accessed via the following link:

<http://www.defra.gov.uk/environment/water/flooding/flow/index.htm>

1.2 A list of consultation questions is provided with the draft bill to guide responses. Whilst there are 188 questions on the Bill's proposals the government is also seeking views on what is not in the Bill and should be included. Given the limited time to assess what is detailed and extensive legislation, this report outlines the key resource implications for the County Council arising from this draft Bill.

1.3 Although the Bill is concerned with both the management of flood risk and water resources, this report will focus on the government's proposals for flood risk management given their significance for the County Council's service provision.

2 Background

2.1 Following the floods of the summer of 2007, the Government asked Sir Michael Pitt to undertake a comprehensive review of the lessons to be learned from what was the most significant civil emergency in the UK since World War II.

2.2 The scope of the Pitt Review encompassed all aspects of flooding – risk management, resilience and response and recovery. Pitt's final report was published in June 2008 and the government's response to it was published in December 2008. Alongside this, the Secretaries of State for Communities and Local Government and Environment, Food and Rural Affairs wrote to all council leaders, bringing to their attention the new leadership role for local government in local flood risk management (a central recommendation of the Pitt Review) proposed in the forthcoming Bill.

2.3 The EU Floods Directive (2007) followed major flooding across Europe in recent years, and requires member states to develop and update flood risk management tools and processes. The provisions of the Directive must be transposed into domestic legislation by 28 November 2009. Defra will be consulting on draft detailed regulations later this summer. However, this draft Bill identifies the competent authorities (the Environment Agency and local authorities) and relevant deadlines.

2.4 The Foresight Future Flooding published in 2004, and updated by Pitt in 2008, assessed flood risk over a 30 to 100 year timescale identifying potential costs of flood risk damage and likely investment requirements. The Pitt update found that the effects of climate had been underestimated and that change would be more pronounced than first thought. The update highlighted the increased risk faced from surface water run off.

3 Purpose and Provisions of the Bill

Purpose

3.1 The draft Bill aims to give effect to the government's response to Sir Michael Pitt's Review of the summer 2007 floods and 'Future Water' the government's water strategy. The consultation document outlines the ambitions of the proposed Bill as providing:

- *“Greater security for people and their property from the risk of flooding and coastal erosion by creating clearer structures and responsibilities for managing risk, building on the government's response to Sir Michael Pitt's review. It will improve leadership on flood risk, and enable better planning for and prediction and warning*

of floods. It will introduce a targeted approach to reservoir safety based on risk. It will deliver greater security of water supply in the event of water company failure, and improve the protection of essential supplies during drought.

- *Better service for people through new ways of delivering major infrastructure projects, better protection of essential water supplies during drought and improving complaints and enforcement procedures; and*
- *Greater sustainability by helping people and their communities adapt to the increasing likelihood of severe weather events due to climate change; encouraging sustainable drainage systems in new developments, protecting communities and the environment better from the risk of flooding, and protecting water resources and improving water quality.”*

3.2 The Government considers that current flood risk and coastal erosion management structures are becoming outdated as is the relevant legislation, which is rooted in the notion of defence and does not recognise the challenges we face today. The inadequacies of current arrangements have been revealed in recent years and in particular during the floods of the summer of 2007. Sir Michael Pitt’s review noted that pluvial or surface water flooding was a significant component of the flooding that occurred in 2007, a form of flooding that the current arrangements are ill prepared for. The Environment Agency estimated that of the 57000 properties flooded in the 2007 floods 66% were affected by surface water run off. Furthermore, it is clear that responsibility for managing flood risk is fragmented and there is no incentive for the various bodies involved to cooperate with each other.

3.3 The prompt for the water elements of the Bill stem from the national policy document ‘Future Water’ and current national reviews nearing completion; the Cave Review of competition and innovation in water markets and the Walker Review of charging and metering for household water and sewerage services. When published, the government will assess the implications of the reviews and, if necessary, implement the recommended measures as part of this Bill.

Flood Risk Provisions

3.4 The draft Bill defines risk as being the combination of a) probability of an event and b) its consequences. Risk management therefore includes measures to manage the likelihood of an event and its impacts.

3.5 The Bill establishes a new structure for flood risk management. The roles and responsibilities of this new structure are set out in appendix 2, but in essence this involves:

- the Environment Agency providing the national strategic lead on flood risk (setting the national strategy, establishing the necessary technical resource for this function, responsibility for flood risk management on main rivers and the sea), and
- county councils and unitaries (the Lead Local Authorities – LLAs) establishing the local strategy for flood risk management, and possessing lead responsibility for effective management of flood risk from ordinary water courses, surface water and groundwater.

3.6 For the county council this translates into a duty to develop, maintain and apply a strategy for local flood risk management in its area which must conform to the objectives set by the strategy developed by the Environment Agency. The government expects that LLAs ensure that all the relevant partners are engaged in developing a strategy for local flood risk management and securing progress in its implementation. This will allow, the government considers, LLAs to develop centres of engineering and flood risk expertise which will also support the work of other partners and promote joint working.

3.7 The consultation material is clear that a flood risk strategy should be undertaken in partnership with all relevant authorities. Such a strategy will address current flood issues and future flood risk arising from planned development. Responsibility for its implementation will lie with a range of organisations and not just LLAs (an example of this approach is the Lewes Integrated Urban Drainage Strategy pilot, outlined at paragraph 4.5). There will be local issues relating to the poor land management which exacerbate surface water flows, the government proposes to create a statutory nuisance for run off risk, the use of Article 4 directions (under the Town and Country Planning Act) to create “run off reduction zones”, and expanding the remit of the Agricultural Land Tribunal as means of controlling activities which did not comply with the flood risk strategy prepared by the LLA.

3.8 This proposed new structure broadly aligns with the recommendations of the Pitt Review; the key duties for LLAs are outlined below.

- **General Duty** – Lead Local Authorities (LLAs) must prepare a local flood risk management strategy dealing with surface water, groundwater and non main river flooding. As part of this general duty the government is also considering whether all LLAs should be required to provide annual monitoring reports.
- **Cooperation and Information** – the Bill identifies relevant organisations in local flood risk management. This includes the water companies, internal drainage boards and the boroughs and districts (amongst others), which will be placed under a duty to share information and cooperate with the LLA and the Environment Agency as flood risk management strategies are developed and implemented.
- **Delegation** – the draft Bill allows an LLA to delegate its flood risk management functions to district and boroughs. This does not, however, extend to the delegation of the general duty outlined above.
- **Duty to investigate** – the investigation of local flooding incidents with all relevant parties to identify the source of the problem and where responsibility lies for addressing it.
- **Maintenance of a register** – places a duty on the LLA to establish, maintain and publish a register of all structures and features which may affect flood risk management including a record of ownership and condition.
- **The EU flood directive** – the Bill seeks to translate the provisions of the directive into domestic law and identifies the Environment Agency and LLAs as being responsible for producing Preliminary Flood Risk Assessments (PFRA), identifying and mapping hazards and risks, and producing a flood risk management plan to address those risks. Importantly, the Bill refers to the deadlines for this work:
 - i. PFRA to be submitted to the EA by 22 June 2011
 - ii. Flood hazard and risk maps submitted to the EA by June 2013
 - iii. Flood Risk Management Plan submitted to the EA by 2015.
- **Sustainable Drainage Systems (SUDS)** – the government proposes to establish national standards for SUDS construction and design. The draft Bill establishes a consenting regime for new SUDS and LLAs are identified as the approval body also responsible for their adoption and ongoing maintenance.
- **Watercourses (consents and enforcement)** – amendments to the Land Drainage Act (1991) are proposed to give LLAs similar powers to those of Internal Drainage Boards to regulate the flow of (non main river) watercourses beyond the boundaries of the IDBs.

4 Current Flood Risk Management Responsibilities/Activities

4.1 A description of the principal agencies and their current roles in flood risk management are described in appendix 3. The County Council's flood risk duties stem from section 41 of the Highways Act 1980 which imposes a duty upon the Highway Authority to maintain those roads which are maintainable at public expense Section 100 of the same act empowers the Highway Authority to construct, maintain or cleanse drainage systems in the highway or on adjoining/nearby land, for the purpose of drainage or prevention of surface water on the highway.

4.2 The County Council has landowning responsibilities. For example, as a riparian landowner, it is responsible for ensuring the free flow of streams or rivers through or adjacent to its property.

4.3 The County Council is also involved in a number of initiatives relating to flood risk, the most recent, and relevant to the draft Bill, is its participation in the Lewes Integrated Urban Drainage Study pilot

4.4 In January 2007, the Department for Environment Food and Rural Affairs (DEFRA) allocated £1.7 million for urban flood pilot studies at various locations across the country. The studies were intended to pinpoint areas at risk, identify the causes and consider the best ways of managing urban drainage in a fully integrated manner to reduce future flooding.

4.5 Following a successful bid, Lewes was selected to participate in the studies and was awarded £150,000. The pilot study has been carried out by Black & Veatch Consultants on behalf of the Lewes Integrated Urban Drainage Steering Group which comprises the Environment Agency, Southern Water, East Sussex County Council and Lewes District Council. The study has considered the risk of flooding from many sources including highways, land drainage, sewerage and the river. The results of this study were published last summer and are held by Defra to be an example of good practice.

4.6 ESCC officers are involved in the work of the South East Coastal Group (responsible for the management of coastal erosion), have been engaged in the development of Catchment Flood Management Plans produced by the Environment Agency, and are actively involved in the LGA's coastal special interest group (chaired by Councillor Roger Thomas).

4.7 In preparing the East Sussex and Brighton & Hove Waste and Minerals Development Framework the County and City Councils have commissioned a strategic flood risk assessment in accordance with the guidance provided by Planning Policy Statement 25 (development and flood risk).

4.8 Since the government announced its intent to draft the Bill, the County Council has joined the Local Government Flood Forum (LGFF). The LGFF is described as a medium term task and finish group with the objective of providing a representative voice of local government on the draft Bill.

5 Assessment

5.1 This draft legislation represents a significant development in the manner in which flood risk is managed. The exceptional and devastating floods of 2007, the requirements of the EU flood directive, the concerns of the Association of British Insurers and the need to adapt to an increased likelihood of extreme weather events have all combined to drive the reformation of the current system. Whilst such reform is welcome and necessary, I have considerable concerns over the costs which local authorities will have to bear.

5.2 Whilst the strategic role of the Environment Agency and its responsibility for main rivers and coastal defence is maintained and clarified, the duties placed upon the lead local authorities are new and considerable. Under the draft Bill the County Council would be the

lead body accountable for the delivery of coordinated local flood risk management in East Sussex, working in partnership with the Environment Agency and other relevant bodies with flood risk management responsibilities.

5.3 In his review of the summer 2007 floods Sir Michael Pitt stated that his recommendations for local government would require a technical renaissance, recognising that in many authorities the engineering expertise necessary to deliver local flood risk management had not been maintained. This experience is mirrored in East Sussex where the County Council's technical expertise is limited.

5.4 The government's proposals would require significant investment in enhancing capacity and skills. As a new burden introduced by government, local authorities should not be expected to fund the implementation of the Bill through existing resources, and it would be reasonable to expect government to allocate new funds to meet the costs of this draft legislation. Whilst Defra has stated that new net burdens will be funded, there is some confusion over how such burdens have been identified and quantified.

Potential Costs to East Sussex County Council

5.5 In the limited time available there has not been an opportunity to provide a detailed assessment of the resource implications of this draft Bill. A precise estimation of the scale of costs can only be made once the nature of local flood risk in the county is assessed. There are, however, fundamental questions which remain unanswered on the manner in which government has assessed the burden on local authorities.

Table 1 Summary of costs of new responsibilities of local authorities (England)

Activity	Short term costs Total over 0-4yrs	Ongoing costs per year from 2012
Surface Water Management Plans	£8 million	£3 million.
Local Authority lead role	£39.2 million.	£21 million
Collation and mapping of flood risk management assets.	£4.4 million	£ 6 million
Priority surface water actions.	£15.4 million	£15 million
Scrutiny and review.	£1.8 million	£0.7 million
TOTAL	£68.8 million	£45.7 million

Source: Regulatory Impact Assessment- Impact Assessment of Local Flood Risk Management p 17 (Defra April 2009)

5.6 Alongside the draft Bill, a set of Regulatory Impact Assessments (RIA) have been published setting out the potential costs and benefits of the proposed legislation. Table 1 above, sets out the costs to English local authorities. For an individual upper tier authority this may equate to costs in the order of £860,000 between 2008 and 2012 and £570,000 per annum in subsequent years, assuming that these costs relate solely to the eighty upper tier authorities in England.

5.7 I am concerned that in reality this will prove to be an underestimation of the costs to be borne by upper tier authorities. For example, the draft Bill identifies upper tier authorities as Sustainable Drainage (SUDS) approval bodies, responsible for processing SUDS applications, adopting and maintaining them. The government assumes there may be 75% take up of domestic SUDS following the removal of the right to connect to a public sewer. An estimated figure of £43 per dwelling is considered by government to be at the higher end of annual maintenance costs.

5.8 The South East Plan expects East Sussex to deliver some 1500 dwellings per annum over the period 2006 – 2026. Using the 75% figure referred to above the County Council could be responsible for the drainage systems of 1125 dwellings each year, with an annual increasing and ongoing financial responsibility of £48 000. Added to this figure is the staff resource necessary to process SUDS applications. The capacity does not exist to meet fully this new duty and a new dedicated staff resource would need to be developed. If the County Council is required to process SUDS applications, it is reasonable to assume that this function would be broadly similar in workload to that of Transport Development Control in the Transport & Environment Department. At this early stage it is difficult to gain a detailed perspective on the staff resource needed, but this could involve an additional 6 FTE. Yet such staff costs appear not to be factored into the government's assessment.

5.9 Surface Water Management Plans (SWMPs) are an example of how flood risk management measures may be addressed by the LLAs and in part meet the requirements of the EU flood directive. The Lewes Integrated Urban Drainage Study pilot received £150,000 Defra funding and contributions from the partner organisations; ESCC contributed £10,000, officer time and has made a commitment to contributing a further £10 000 in 2009/10.

5.10 Following assessment of all the drainage pilots Defra estimates that the cost to an LLA to prepare a single SWMP is £100,000 with staff costs of some £140,000 (equivalent to 3 additional posts). Although this estimate appears to be reasonable given the variables of each potential SWMP area it does not make allowance for the fact that a series of SWMPs will be required as part of a county wide strategy which should be completed by 2015 to meet the requirements of the EU Floods Directive.

5.11 These examples of just two duties proposed by the Bill serve to highlight that the government's assessment is incomplete and fails to understand the full operational implications of the Bill for Local Authorities.

Central Funding

5.12 Some £12 million has already been allocated to local authorities, as part of the 2007 comprehensive spending review (CSR07), for the 09/10 and 10/11 financial years, but given the opaque nature of the revenue support grant the amount allocated to ESCC for flood risk management activities is difficult if not impossible to discern. The status of this funding allocation is somewhat blurred. In the government's response to the Pitt Review it is implied that alongside the "Pitt Fund" (£15 million for the fifty highest priority areas) the CSR settlement will assist in funding the implementation of Pitt's recommendations.

5.13 However, it is evident when reading the Pitt Review that few of the local authority recommendations can be carried forward without this Bill. Therefore, it would be reasonable to question how relevant this allocation is to this new burden, particularly when the three year settlement was agreed in 2007/08 (prior to the drafting of the Bill or the publication of the final version of the Pitt Review).

5.14 The RIA for the local leadership role provides an insight to the government's perspective on the net cost to the prospective LLAs. Paragraph 79 of the RIA states that: *"The benefits of local flood risk management to local authorities – through reduction of their flood response and recovery costs – are, in time, expected to at least equal the annual costs of the activity. Hence the long term net new burden of local flood risk management on local authorities is expected to be zero, or negative"*. It is clear from this that the expectation is that LLAs will make savings by investing in risk management measures.

5.15 A further assumption made by Defra is that some £50 million will be saved by local authorities with the adoption of private sewers by the water companies in 2011/12. Defra considers that this saving, along with the assumption made above, will be sufficient to meet the financial burden of the Bill. However, it is evident that this assumption is based upon unpublished research undertaken for Defra in 2003, involving a survey of a limited number of

local authorities. Any savings that may arise from this transfer will accrue to district and unitary authorities, not county councils. However, I understand that government is aware of this issue and intends to redistribute funds accordingly. Yet, it is far from clear what course of action would be taken if this estimate is found to be incorrect, but it is unlikely that funding would be redirected to Lead Local Authorities at the expense of the lower tier authorities.

5.16 Bearing in mind the questions over the robustness of the assumptions made by government, its assessment of costs and funding is flawed and open to challenge. Also, it is far from clear to what extent this assumption has been influenced by the predicted increased frequency of extreme events as a result of increasing climatic instability.

5.17 Similar concerns have been voiced by the House of Commons Environment Food and Rural Affairs (EFRA) Committee which criticised the CSR07 settlement in respect of flooding as it represents a decline in real terms over the three year period to 2011 and is lost within the block grant. Furthermore, the committee felt that the CSR settlement looked inadequate to cope with the traditional and new risks the country faces. In light of the Pitt Review and the resources needed to implement what could be an expensive programme, the EFRA committee urged government to reassess the adequacy of the CSR07 allowance. In response the Government did not seek to reopen the CSR07.

5.18 Officers of the County Council are currently investigating the funding implications of the draft Bill, with the assistance of the Local Government Association, as the ESCC response to the Bill is developed and refined. Although this work is at an early stage, I am concerned that at best the government's assumptions are unduly optimistic representing a significant underestimation of the costs involved.

6 Conclusion

6.1 The duties placed upon the County Council by this draft Bill are wide ranging and significant. The role ascribed to the County Council by the draft Bill should be welcomed in principle as it underlines its role as community leader.

6.2 As a Lead Local Authority we will be responsible (in partnership with the local authorities of East Sussex and other relevant bodies) for developing an understanding of local flood risk and preparing an appropriate strategy in response. At this early stage it is evident that the County Council does not possess the skills and resources necessary to meet the Bill's requirements and that new resources need to be found.

6.3 Defra is committed to funding new net burdens to local authorities, but I remain concerned that the assumptions made in assessing that burden are inaccurate or incomplete and these deficiencies and their implications for ESCC and its ability to deliver the objectives of legislation must be conveyed to government.

FIGURE 1 PROPOSED FUTURE ROLES AND RESPONSIBILITIES FOR FLOOD AND COASTAL EROSION RISK MANAGEMENT IN ENGLAND

<p style="text-align: center;">Environment Agency</p> <p style="text-align: center;">Strategic overview role</p> <ul style="list-style-type: none"> • Setting National Strategy for Flood and Coastal Erosion Risk Management. • Support and guidance to LAs, e.g in producing flood risk assessments and plans. • Develop modelling, mapping and warning systems. • National investment in flood and coastal erosion risk management measures. • Report to the Secretary of State on the state of the Nation's flood risk assets. • Powers to instigate works on non-EA assets and channels when directed to do so by the Secretary of State. • Statutory consultee on flood (and possibly in future coastal erosion) planning applications. <p style="text-align: center;">Delivery/executive role</p> <ul style="list-style-type: none"> • Flood risk management on main rivers and the sea. • Coastal erosion risk management work (concurrently with local authorities). • Flood warnings for all sources of flooding. • Produce and contribute to strategic plans. • Consenting and enforcement powers for sea and main river flooding. • Category 1 responder under the Civil Contingencies Act 2004. 	<p style="text-align: center;">Local Authorities (LAs)</p> <p style="text-align: center;">Local leadership role (county councils in two tier areas)</p> <ul style="list-style-type: none"> • Setting Local Strategy for local flood risk management. • Leadership and accountability for ensuring effective management of local flood risk from ordinary watercourses, surface run-off and groundwater. • Production of local flood risk assessments, maps and plans including an asset register. • Improved drainage and flood risk management expertise. • Co-ordinate Surface Water Management Plan production. • Drainage from non-Highways Agency roads • Prioritising local investment. • Consenting and enforcement powers for certain works affecting ordinary watercourses. • Promoting partnerships with local planning authorities to produce Strategic Flood Risk Assessments. <p style="text-align: center;">Delivery/executive role</p> <ul style="list-style-type: none"> • Powers to do works for surface run-off and groundwater flood risk. • Duty to undertake Flood and Coastal Erosion Risk Management functions in accordance with local and national strategies. • LFRM decision-making integrated into local asset management and investment programmes. • Category 1 responder under the Civil Contingencies Act including local delivery of flood warnings.
<p style="text-align: center;">EA's Regional Flood and Coastal Committees (currently Regional Flood Defence Committees)</p> <ul style="list-style-type: none"> • Advisory/consultative role to EA and LAs on flood and coastal erosion approaches, priorities etc. • Consent to levies for local priority flood and coastal erosion risk management work with executive responsibility for work in this area. 	<p style="text-align: center;">Internal Drainage Boards, district authorities (in two-tier areas),highways bodies, water companies</p> <p style="text-align: center;">Executive/Delivery Role</p> <ul style="list-style-type: none"> • Duty to undertake Flood and Coastal Erosion Risk Management functions in accordance with local and national strategies. • We consult in section 3 on IDB structures, powers and levy raising options.

Current Flood Risk Management Responsibilities.

Environment Agency	<p>The Environment Agency (EA) was established by the Environment Act 1995 and is a Non-Departmental Public Body of Defra. As part of its fairly wide-ranging remit, it took over the flood risk management responsibilities of the now defunct National Rivers Authority (NRA) and is the principal flood risk management operating authority in England and Wales. Generally speaking, the EA is empowered under the Water Resources Act 1991 to manage flood risk arising from designated "main" rivers and the sea. The EA is also responsible for flood forecasting and flood warning dissemination, and for exercising a general supervision over matters relating to flood defence.</p>
Regional Flood Defence Committees (RFDCs)	<p>The EA is required to arrange for all its flood defence functions (except certain financial ones) to be carried out by Regional Flood Defence Committees (RFDCs). Flood defence is legally defined as the drainage of land (with drainage being defined as including defence against water, including sea water; irrigation, other than spray irrigation; warping; and the carrying on, for any purpose, of any other practice which involves the management of the level of water in a watercourse) and the provision of flood warning systems. In practice RFDCs are mainly concerned with the regulation and improvement of watercourses to alleviate the flooding of land or property; the maintenance or improvement of sea and tidal defences; and the provision of flood warning systems.</p> <p>In order to carry out these functions the EA through the RFDCs has various statutory powers including the following:</p> <ol style="list-style-type: none"> 1. to maintain or improve any watercourses which are designated as main rivers; 2. to maintain or improve any sea or tidal defences; 3. to install and operate flood warning equipment; 4. to control actions by riparian owners and occupiers which might interfere with the free flow of watercourses; 5. to supervise internal drainage boards. <p>RFDCs are required to take an interest in all flood matters in their area and in particular to take decisions about the annual programmes of improvement and maintenance work to be carried out by the Agency. They must also decide on such matters as the extension of main rivers, the making and operation of land drainage byelaws and various issues affecting any internal drainage boards in their area. They are required annually to approve estimates of expenditure and to determine the amounts to be levied by the Agency on constituent councils.</p>
County Councils	<p>County Councils may enter into an agreement with the EA to undertake works on its behalf.</p> <p>Under a duty to maintain the highway and has powers to lay drains etc and clear blockages on highway drainage systems including watercourses in culverts beneath the highway</p> <p>May take action to protect property from flooding by water from the highway where there is a failure of the highway drainage system</p> <p>Maintain safety of road bridges over culverts</p> <p>As a planning authority, a county council, must observe the provisions of Planning Policy Statement 25 (development and flood risk)</p>
Internal Drainage Boards	<p>Internal Drainage Boards (IDBs) are independent bodies responsible for land drainage in areas of special drainage need that extends to 1.2 million hectares of lowland England. They are long established bodies operating</p>

(IDBs)	<p>predominantly under the Land Drainage Act 1991 and have permissive powers to undertake works to secure drainage and water level management of their districts. They may also undertake flood defence works on ordinary watercourses within their district (that is, watercourses other than 'main river').</p> <p>Much of their work involves the improvement and maintenance of rivers, drainage channels and pumping stations. There are now some 170 in England and Wales, concentrated in East Anglia, Yorkshire, Somerset and Lincolnshire. Internal Drainage Board membership includes elected members representing the occupiers of the land in the district and members nominated by local authorities to represent other interests.</p>
Boroughs and Districts	<p>Local authorities have powers to undertake flood defence works under the Land Drainage Act 1991 on watercourses which have not been designated as <i>main</i> and which are not within internal drainage board areas; there are also 88 maritime district councils which have powers to protect the land against coastal erosion under the Coast Protection Act 1949. Whilst powers relate to defending the coastline against erosion and not flood risk, the management of erosion has a direct bearing on the effective functioning of coastal flood defences.</p> <p>Section 259 of the Public Health Act 1936 provides that it is a statutory nuisance to allow any part of a watercourse to become choked up with silt so as to obstruct or impede the natural flow of water. Under the Environmental Protection Act 1990 the LA (in this case District Council) has a duty to inspect the area to detect statutory nuisances that include 'any... other matter declared by any enactment to be a statutory nuisance.'</p> <p>As a planning authority, a district or borough council, must observe the provisions of Planning Policy Statement 25 (development and flood risk)</p>
Sewerage Companies	<p>Principal duty to provide and improve a system of public sewers to ensure effectual drainage.</p>
Riparian owners	<p>Maintain the bed and banks of the watercourse, and also the trees and shrubs growing on the banks.</p> <p>Clear any debris, even if it did not originate from his land – e.g. litter, animal carcasses</p> <p>Keep the bed and banks clear of any matter that could cause an obstruction</p>