

CITY OF PLYMOUTH

Subject: Plymouth City Council's Responsibilities under the Flood and Water Management Act Legislation

Committee: Cabinet

Date: 7 June 2011

Cabinet Member: Councillor Wogens

CMT Member: Anthony Payne, Director for Development and Regeneration

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Ref:

Key Decision:

Part: Part I

Executive Summary:

This report provides a summary of the implications for Plymouth City Council as a Lead Local Flood Authority as a result of the legislative changes within the Flood and Water Management Act (2010) and Flood Risk Regulations (2009) and to

- i) Request the allocation of additional resources required to fulfil the new responsibilities
- ii) Note that it will put the Council in a strong position to bid for future Capital Infrastructure funding to reduce/mitigate flooding problems (up to £600 million available nationally every year).
- iii) Highlight the strategic importance of having a strategy to deal with flooding and the implementation of steps i) and ii) above as failure to do so may block growth in the City.

Prior to the Flood and Water Management Act (FMA), the Water Companies, the Environment Agency (EA) and Local Authorities were responsible for different aspects of flooding. The three organisations have worked independently and there has been little co-ordination of interface activities and responsibilities. Following the Pitt report into serious flooding disasters in Bolton, Tewksbury and Cumbria and to meet the European Flooding Directive the government introduced the Flood and Water Act. The Act gives powers to Local Authorities to take on a co-ordination role and take on additional specific statutory responsibilities for flooding as a result of surface runoff, groundwater and ordinary watercourses. The split of responsibilities is detailed in the EA diagram in Appendix I. Funding has been allocated to Plymouth City Council from Defra via a new Local Services Support Grant (LSSG) of £119,800 for 2011/12 and £154,500 for 2012/13 to carry out the flood mapping, formulating strategy, inspecting and maintaining a register of assets and start setting up a Sustainable Urban Drainage System (SUDS) approving body. Defra are currently consulting Local Authorities on options to fund these new duties and responsibilities in the long term.

The Council has been successful in securing capital grant funding from Defra via the EA for £580,000 to fund four schemes in 2011/12. These are sea wall refurbishment works at Durnford Street and Oreston Quay and tidal studies at Stonehouse Creek and Marsh Mills. The flooding maps and strategy will be used to inform not only the Planning process and Planning decisions but to seek to

secure future national Capital funding. If we do not complete the strategy etc, we will be unable to plan for future development and this could stop the wider growth agenda. Infrastructure requirements to reduce/minimise the impact of flooding will be input to the Council's Infrastructure Plan as the modelling and strategy develops.

The estimated cost of undertaking these new statutory duties relating to the FMA in 2011/12 is £107,000 and in 2012/13 is £139,000.

Corporate Plan 2011 – 2014:

Managing the risk of surface water flooding to property, critical services and key assets across the city contributes to the economic well being of the City in support of the Growth priority.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The requirements outlined in this report are statutory requirements arising from the Flood and Water Management Act (2010) and the Flood Risk Regulations (2009) These statutory requirements will have implications for the medium term financial plan. An element of Defra funding is being made available to lead local flood authorities for the 2011/12 and 2012/13 financial years. Consultation is underway to determine the long term funding arrangements.

This additional funding is part of an un-ring fenced LSSG Local Services Grant received by the Council relating to the new identified Flood Management Act responsibilities and Surface Water Management Plan requirements.

The estimated cost of fulfilling these new duties in 2011/2012 is £107,000. The estimated cost for 2012/13 is £139,000 and the adequacy of this estimate will be more accurately quantified during the current financial year.

The revenue investment will have the additional benefit of giving the authority the ability to bid for additional related capital resources through the Environment Agency

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

The flood study work which includes the impact of future predicted flood events, shows that critical services and residential properties maybe at risk of surface water flooding. The development of a local strategy for managing the risk is therefore being developed in conjunction with key stakeholders including the emergency planning team, environmental health, asset management and planning.

Recommendations & Reasons for recommended action:

This report makes the following recommendations to ensure that Plymouth City Council meets its statutory duties as a Lead Local Flood Authority:

1. To note new requirements and duties under the identified Statutory Acts.
2. To note the estimated cost to undertake these duties and subsequently confirm the allocation of additional funding received through the LSSG.
3. To note the strategic importance of having a strategy to deal with flooding and the implementation of the Flood and Water Act as failure to do so may block growth in the City.

Alternative options considered and reasons for recommended action:

There are no alternative options available, the requirements outlined in this report are statutory requirements coming out of the Flood and Water Management Act (2010) and the Flood Risk Regulations (2009).

Background papers:

Sign off: comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of HR, Corporate Property, IT and Strat. Proc. as appropriate):

Fin	KF Dev F11 120 004	Leg	JAR /115 50	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

1.0 Introduction

1.1 This report provides a summary of the implications for Plymouth City Council as a Lead Local Flood Authority as a result of the legislative changes within the Flood and Water Management Act (2010) and Flood Risk Regulations (2009).

2.0 Background

2.1 Prior to recent flood risk legislation, the Water Companies, the Environment Agency (EA) and Local Authorities were responsible for different aspects of flooding. Working independently, there was little coordination of both flood risk strategy and flood prevention works.

2.2 Between 1998 and 2004 there were a number of major floods recorded affecting much of the UK and Europe. The Pitt Report looked at and reported on significant flooding that had occurred in Bolton, Tewkesbury and Cumbria. The European Floods Directive was issued in 2007 to ensure that a consistent approach to flood risk management was adopted across Europe.

2.3 Following the release of the European Floods Directive, the Flood Risk Regulations (2009) and Flood and Water Management Act (2010) were issued to outline how flood risk management should be addressed within the UK.

2.4 These amendments in legislation come with new implications and responsibilities for lead local flood authorities such as Plymouth City Council.

2.5 The main implication of the Flood Risk Regulations 2009 is the requirement for Plymouth to produce a Preliminary Flood Risk Assessment.

2.6 The FMA empowers local authorities to take on a coordination role, with additional specific new responsibilities, supported through amendments to the Land Drainage Act, for managing flooding from surface water run off, groundwater and ordinary watercourses. The Environment Agency will retain overall responsibility for main rivers and coastal flooding. Plymouth will also be required to produce a Flood and Coastal Erosion Risk Management Strategy. In addition to the new implications installed on LLFA's by the regulations, Plymouth has been chosen as 1 of 70 local authorities to receive funding from Defra to assist in the production of a Surface Water Management Plan.

2.7 The split of responsibilities for the management of flooding under the FMA, is detailed in the strategic overview diagram included in Appendix I. Defra are currently consulting Local Authorities on available options to fund these new duties and responsibilities.

3.0 Preliminary Flood Risk Assessment (PFRA)

3.1 In response to the European Floods Directive and the Flood and Water Management Act, the Flood Risk Regulations 2009 have been produced to outline the Preliminary Flood Risk Assessment responsibilities for both the Environment Agency and Lead Local Flood Authorities.

3.2 The implications of these regulations for Plymouth are:

- Duty to prepare a Preliminary Flood Risk Assessment Report by 22 June 2011
- Duty to identify flood risk areas by 22 June 2011
- Duty to prepare Flood Hazard Maps and Flood Risk Maps by 22 June 2013
- Duty to prepare Flood Risk Management Plans by the 22 June 2015
- Briefly summarised these duties will involve the following.

Duty	Requirement
Duty to prepare a Preliminary Flood Risk	Plymouth City Council must prepare a Preliminary Flood Risk Assessment Report in relation to flooding within Plymouth.

Assessment Report	- The report must including information about past floods and possible harmful consequences of future floods.	
Duty to identify flood risk areas	Plymouth City Council must identify if there is a significant flood risk within Plymouth and which areas of Plymouth will be affected by the risk.	
Duty to prepare Flood Hazard Maps and Flood Risk Maps	Plymouth City Council must prepare a Flood Hazard Map and a Flood Risk Map for all flood risk areas it has identified.	Flood Hazard Map identifies flood risk areas and includes: <i>Extent of possible floods.</i> <i>Direction and speed of flow of possible floods.</i> <i>Probability of possible floods occurring.</i>
		Flood Risk Map shows the following in relation to each flood: <i>Number of people likely to be affected</i> <i>Type of economic activity likely to be affected</i> <i>Any industrial activity likely to be affected and any increased risk of pollution as a result.</i> <i>Any relevant protected areas that maybe affected.</i> <i>Any protected areas of water.</i> <i>Any other effect on human health, economic activity or the environment.</i>
Duty to prepare Flood Risk Management Plans	- LLFA must prepare a Flood Risk Management Plan for each Flood Risk Area identified.	

- 3.3 Work on the PFRA is progressing well with an initial stakeholder meeting being setup and held. Historic flood data and future predicted flood risk data has been collated and mapped.
- 3.4 Outstanding work on the PFRA process to be completed includes data analysis, identification of Flood Risk Areas, Production of the Preliminary Flood Risk Assessment Report and PCC approval of the Preliminary Flood Risk Areas.
- 3.5 All outstanding works are to be completed and submitted to the Environment Agency by 22 June 2011. Once the PFRA report has been submitted the EA will review it and it will be published in December 2011.
- 3.6 Following this work, stage 2 of the process can be started, which will include the production of a Flood Hazard Map and Flood Risk Map. By June 2013 Plymouth need to produce flood hazard maps and flood risk maps for flood risk areas identified as part of the Preliminary Flood Risk Assessment report.
- 3.7 In order to take the PFRA process forward in line with indicated timescales, the following assumptions have been made :
- a. Plymouth has no indicative Flood risk areas at this stage and
 - b. Plymouth will not challenge this assessment, at this stage
 - c. Plymouth will report on locally significant past and future flooding in the PFRA report
 - d. Plymouth's initial assessment indicators will be 10 or more properties and or 1 critical service affected
 - e. The assessments will use the 2nd generation, 1/200, >300mm EA flood map.

4.0 Flood and Coastal Erosion Risk Management Strategy (FCERM)

- 4.1 In accordance with the Flood Management Act a national strategy for Flood and Coastal Erosion Risk Management (FCERM) is currently being produced by the EA. This will then provide a framework for Plymouth to produce a local strategy, developed in conjunction with the SWMP.
- 4.2 The Land Drainage Act has been amended to assist with the implementation of the FCERM. Section 14A has been added to enable lead local flood authorities to execute their new duties.

- 4.3 The amendments to section 14A of the Land drainage act provide the necessary authority for Lead Local Flood Authorities to execute the following duties:
- Duty to investigate flooding (In line with local strategy) (December 2011)
 - Duty to inspect, record and designate flood defence structures (June 2011)
 - Duty to maintain a register of flood defence assets (April 2011)
 - Consenting role on ordinary watercourses (June 2011)
 - Approving Body for approval and adoption of SUDS (Sustainable Urban Drainage Systems)-see note in Appendices. (June 2011)
- 4.4 Work on the FCERM strategy for Plymouth has not yet started, as we are awaiting information on the national strategy. It is expected however that work on the PFRA and SWMP are expected to link directly into the local strategy. These links will be confirmed in more detail once the national strategy has been produced. Partnerships set up for the purpose of the PFRA and SWMP will be used to help determine the local strategy for Plymouth.
- 4.5 The National FCERM Strategy will be published, together with guidance in late 2011. It is anticipated that Plymouth's developing SWMP will form the basis of the FCERM Strategy.

5.0 Surface Water Management Plan (SWMP)

- 5.1 Plymouth has been identified as 1 of 70 local authorities to receive funding from Defra to assist in the production of a SWMP. The SWMP should be developed in partnership with key partners who will have responsibility for the actions to be taken as a result of the SWMP. The main aim of the SWMP as outlined by the Environment Agency (2010) is '...to provide a greater understanding of local flood risk and to develop action plans to manage the risks'.
- 5.2 Table 1 is a summary of the information incorporated within Defra's surface water management plan wheel diagram. The purpose of it is to outline the key steps that need to be followed in the production of a SWMP.

Table 1 SWMP framework

1	Identify the need for a SWMP study
2	Establish partnership
3	Scope the SWMP study
4	Undertake a strategic assessment
5	Undertake a intermediate assessment
6	Undertake a detailed assessment
7	Map and communicate risk
8	Identify measures
9	Assess options
10	Prepare action plan
11	Implement and review action plan

- 5.3 To date steps 1 to 3 have already been completed in conjunction with the works undertaken to date on the PFRA. By June 2011 step 4 will also have been completed as this will be the same information as is included within the PFRA.
- 5.4 Further stakeholder meetings need to be arranged and held to discuss the findings of the PFRA process and to develop an initial local prioritisation strategy for flood risk areas within Plymouth.
- ## 6.0 Funding

- 6.1 DEFRA have made available funds to lead local flood authorities to assist in the implementation of requirements to come out of the Flood and Water Management Act. Plymouth has been allocated the following funds:

Funding allocation in £,000	
2011/12	2012/13
119.8	154.5

- 6.2 Plymouth received funding from Defra to assist with the production of its Surface Water Management Plan in 2009/10 and 2010/11.
- 6.3 The Defra funding for these the new responsibilities is being paid to the City Council as part of a new unringfenced Local Services Support Grant (LSSG). Under current PCC policy, any such funding will be available to be directed to meet corporate priorities rather than automatically to the Department with the new responsibilities.
- In order to ensure that sufficient funds are made available to allow the new Flood Management Act and Surface Water Management Plan duties to be met, consideration needs to be given as soon as possible to the allocation of LSSG funds.
- 6.4 The estimated cost of fulfilling these new duties in 2011/2012 is £107,000 (2012/13 is £139,000) and it will not be possible to meet these costs from within existing Development Department budgets .

References

Flood and Water Management Act 2010, 2010 Chapter 29

Available html: <http://www.legislation.gov.uk/ukpga/2010/29/data.pdf> [Accessed: 18/01/11]

Statutory Instrument 2009 No.3042, Environmental Protection, The Flood Risk Regulations 2009

EU Floods Directive

Available html: http://ec.europa.eu/environment/water/flood_risk/index.htm [Accessed: 25/01/11]

DEFRA (2010) Selecting and Reviewing Flood Risk Areas for Local Sources of Flooding, Guidance to Lead Local Flood Authorities, DEFRA

Environment Agency (2010) Preliminary Flood Risk Assessment (PFRA) Final Guidance, EA

Local Government Group (2011) Preliminary Framework to assist the development of the Local Strategy for Flood Risk Management. Local Government Group

Glossary of Terms

PFRA – Preliminary Flood Risk Assessment

FCERM – Flood and Coastal Erosion Risk Management

SWMP – Surface Water Management Plan

EA – Environment Agency

PCC – Plymouth City Council

Defra – Department for the Environment, Food and Rural Affairs

LLFA – Lead Local Flood Authority

LLSG – Local Services Support Grant