

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO COMMUNITY SERVICES COMMITTEE

Agenda Item No.

meeting date: TUESDAY 12TH JANUARY 2010
title: FLOODS & WATER MANAGEMENT AND FLOOD RISK REGULATIONS
2009
submitted by: JOHN C HEAP - DIRECTOR OF COMMUNITY SERVICES
principal author: GRAHAM M JAGGER – STREET SCENE MANAGER

1. PURPOSE

1.1 To bring members up to date on both new and emerging legislation regarding the Council's role in flood risk management and

1.2 To report on the recent meeting of the Working Group set up by this committee to consider how the Council should respond to its new responsibilities.

1.3 Relevance to the Council's Aims and Ambitions:

- Mission Statement & Vision shared with the Local Strategic Partnership:
 - An area with an exceptional environment and quality of life for all; sustained by vital and vibrant market towns and villages acting as thriving service centres meeting the needs of residents, businesses and visitors.
- Council Ambitions:
 - To protect and enhance the existing environmental quality of our area.
 - To help make peoples lives safer and healthier.
- Community Objective:
 - None.
- Citizens Charter:
 - None.
- Council Priorities for 2009/10:
 - None.

2. BACKGROUND

2.1 The subject of flooding and the emerging legislation has been considered by this Committee previously at its meetings held on 4th November 2008, 14th July 2009 and 8th September 2009. It was also considered by Overview & Scrutiny Committee on 30th September 2008.

2.2 Since then Defra has produced the Governments response to pre-legislative scrutiny and public consultation on the draft Flood & Water Management Bill and the intention to take this matter forward was mentioned in the Queen's Speech to Parliament in November.

2.3 In addition to the above the Government has transposed the EC Floods Directive (Directive 2007/60/EC on the assessment and management of flood risks) into

domestic law by introducing the Flood Risk Regulations 2009. This came into force on 10th December 2009 and places a number of statutory duties on local authorities such as Ribble Valley Borough Council.

2.4 The Local Government Information Unit and members of the Local Government Flood Forum with assistance from the Local Government Association and its advisors have produced an introduction and check list for local authorities as guidance on working strategically with partners to manage local flood risk. The document sets out the different stages of local flood risk management that local authorities are likely to consider based on the following model:

- prevention
- protection
- preparedness
- emergency response
- recovery and lessons

It highlights the role of local authorities as community leaders and the actions that could be taken at these stages.

2.5 The guidance highlights that there is a responsibility for local authorities to understand the risks to the areas they serve and make necessary preparations for mitigating the risks and impacts of flooding. However, the reality is that flood risk management is a challenging and complex process that requires a great deal of resources and capacity. Local authorities are at the front line of planning for the impacts of climate change and picking up the pieces when the weather creates problems for local communities. Local authorities play a crucial role in identifying and responding to the needs of communities and working in partnership with a range of public and private organisations and agencies to coordinate flood responses.

2.6 There is a distinction between the roles of counties and districts in flood risk management in a two-tier area such as Lancashire. For example, while counties are responsible for dealing with flooding on the highway, districts are the planning authorities and land drainage authorities responsible for dealing with flooding to properties. However under the Civil Contingency Act both have responsibilities in emergency planning, such as assessing risks and developing plans to respond to these risks. Therefore collaborative work is necessary to ensure effective local flood risk management.

3. ISSUES

3.1 It had been the Governments intention to transpose the EC Floods Directive through the Flood & Water Management Bill but that has not proved possible. The two pieces of legislation however are very similar and when the Flood & Water Management Bill goes through Parliament in this its final session there will be a single coherent set of provisions dealing with flood risk assessment and management. Notwithstanding this both Defra and The Cabinet Office have made it clear to local authorities that they must prepare themselves to deal with their new responsibilities as reported previously to this Committee.

3.2 Managing local flood risk involves: -

- Understanding and communicating the different types of local flood risk to local communities and stakeholders.
- Reducing flood risk and the impact of flooding by effective management and preventative actions.

- Planning and preparing for flooding emergencies.
 - Responding to and recovering from flooding.
 - Avoiding inappropriate development in areas at risk of flooding and directing development from areas of highest risk.
- 3.3 As part of the national performance framework for local government there are currently two performance indicators, NI 188 and NI 189, to measure local authorities progress in preparing for the risks and opportunities of climate change and delivering actions to implement long term flood management plans for their communities.
- 3.4 It is important to note that flood risk management is both a multi disciplinary and multi agency task as well as a multi staged process that requires substantial resources and capacity.
- 3.5 A flood risk management project should: -
- conduct a comprehensive assessment of community needs and aspirations.
 - assess and understand the areas of greatest flood risk, utilising historical data, mapping and modelling techniques.
 - agree on the priorities with communities, stakeholders and providers.
 - understand the Council's qualitative and quantitative capacity to respond.
 - identify appropriate providers and resources.
 - identify appropriate partners.
 - procure appropriate services (from a range of providers, including the local authority itself).
 - agree on information sharing protocol with local partners.
 - assign a lead elected-member to oversee flood risk management.
 - monitor services and manage demand and
 - review services to ensure that we have addressed the priorities identified in the needs assessment.
- 3.6 Whilst the Council has by way of its District Emergency Plan largely already dealt with, along with its multi agency partners, a number of these areas such as its emergency response and recovery process, there is still a considerable amount of new work to be undertaken in other parts of the process.
- 3.7 As all of the emerging guidance suggests the new duty being placed on local authorities is a challenging and complex process requiring a great deal of resource and capacity.
- 3.8 The Local Government Association contested the funding assumptions made by Defra when it published the draft Bill and suggested much more work needed to be done to assess the full costs of the Bill proposals and any related savings for local authorities. Defra did this and say that their assessment continues to show that it is unlikely that the additional funding required would exceed the savings available. It is their view that the transfer of private sewers to water companies is expected to save local authorities at least £50m a year based on conservative assumptions. The expectation is that this 'saving' is directed towards the cost of carrying out the new duties and responsibilities.
- 3.9 As community leaders the Council should know the areas at risk of flooding and identify and map areas of different probabilities of risk. Having done so the Council should identify priority areas for developing Surface Water Management Plans (SWMPs).

- 3.10 The Council will be expected to understand and record the potential risks and damages of flooding to infrastructure, buildings and services and the impacts on communities. A Strategic Flood Risk Assessment (SFRA) will have to be done in all cases.
- 3.11 The above are just a small example of the many and varied tasks the Council will be expected to play an active part in as a result of the new Flood Risk Regulations 2009 and the expected Flood and Water Management Bill. The latter is likely to be in place so as to have an effect on the Council in 2010/11.
- 3.12 As members of this Committee may well realise what is emerging presents a challenging task for the Council and its limited resources. The events of widespread flooding of various parts of the country in 2007 along with recent significant flooding events in Cumbria are a reminder that this type of problem could happen almost anywhere at any time. The purpose of this cross party supported legislation is to both help reduce the risk of future flooding on the scale of recent years and be better prepared should it happen. The Council has a duty to cooperate with other agencies and partners in this regard.
- 3.13 The Working Group set up by this Committee met on Friday 18th December 2009 to consider how to take this matter forward. Attached at Annex 'A' are the minutes of that meeting.
- 3.14 As can be seen from the minutes members of the Working Group consider this matter an important one for the Council to take on board and as such needs to be given some priority for 2010/11. It is acknowledged that there is a capacity and skills issue that will need to be addressed in due course by this Committee in order that the Council can fulfil its new duties and responsibilities.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications.

Resources

- There are likely to be both financial and staffing implications that arise out of the introduction of the new legislation which will need to be addressed but at present and without more work it is not possible to quantify either at this stage.

Technical, Environmental & Legal

- Defra have advised all local authorities to enhance their technical capabilities to deliver the new responsibilities. The Council has a limited resource in terms of technical skills to meet its anticipated new duties and responsibilities and needs to give urgent consideration as to how it will increase capacity. Flooding has a significant effect on the local environment and work that leads to a reduction in the frequency or severity of flooding must be a positive step forward. The effects felt in the recent flooding in Cumbria being an example. The new and emerging legislation places a statutory duty on the Council to cooperate and provide information to the lead authority on the development of surface water management plans.

Political

- At present there are no political issues arising from this report.

Reputation

- Residents turn to their local council in times of floods and other extreme weather conditions and expect them to respond accordingly. This new and emerging legislation ensures that District Councils must participate in better flood risk management in the future and as such the Council must be prepared to do so otherwise its reputation is likely to suffer.

5 RECOMMENDED THAT COMMITTEE

5.1 Note the minutes of the Working Group and

5.2 Request that the Director of Community Services / Street Scene Manager assess the budget requirements for Q3 2010/11 to enable data collection as highlighted under section 3 of the report and that this budget be advised through the Budget Working Group to Policy & Finance Committee

JOHN C HEAP
DIRECTOR OF COMMUNITY SERVICES

Background Papers - None

For further information please contact Graham Jagger on 01200 414523.

MINUTES OF FLOOD RISK MANAGEMENT WORKING GROUP

FRIDAY 18TH DECEMBER 2009 at 2.00pm

CONFERENCE ROOM, LEVEL C, COUNCIL OFFICES

PRESENT: Councillor Simon Hore
Councillor David Berryman
Councillor Ian Sayers
Graham Jagger Street Scene Manager

APOLOGIES: Councillor J Hill

- 1 The following documents had been circulated to the members of the Working Group in advance of the meeting: -
 - SI 2009 N^o- 3042 – Environmental Protection – The Flood Risk Regulations 2009.
 - Taking forward the draft Flood & Water Management Bill
The Government response to pre-legislative scrutiny and public consultation – Defra – November 2009.
 - Flood Risk Management: an introduction and checklist for local authorities – Local Government Information Unit.

- 2 The Working Group discussed the content of the 3 documents referred to above and how these relate to RVBC and the roles and responsibilities that the Council will be expected to undertake in the future.

- 3 Members asked for clarification about the 'lead authority' as referred to in the new and emerging legislation. Lancashire County Council have agreed to act as the lead authority with the District Councils having a duty to cooperate with them in providing information in connection with the lead authority's function under the regulations. A discussion took place around what might be expected of the District Council in this regard.

- 4 The Group discussed at some length and in detail the Councils expected duties and responsibilities and our capacity in terms of staff resources (both in numbers and required skills) to respond. There was concern that the Council would be unable to meet the new requirements placed upon it without additional staff resources but until further work was done it was difficult to say what the level of extra resources would be needed or precisely when.

- 5 It was noted that Lancashire County Council had nominated a number of very senior and experienced staff to lead on this issue on their behalf that they had estimated it could cost around £400k per annum in resources to carry out their duties as the lead authority. The Group were advised that officers at Preston City Council had estimated it would cost them around £150k per annum in staff time to carry out their support role.

- 6 Members asked about the effect on the Council of transferring the responsibility for private sewers from householders to the sewerage undertakers and Defra's view that the savings that local authorities were expected to make as a result of that paying for the costs to the Councils of carrying out their new duties. Members were reminded of how private sewers were dealt with at the Council and the likely effect on staff resources as and when the changes were made and the new legislation came into force. This would have to be considered carefully at the time and consideration given as to how it might affect the member of staff involved and whether or not that person's job would have to be changed. As this affects a member of staff in another Directorate it would have to be a corporate decision in due course.
- 7 The Working Group felt that there was still some uncertainty about the new role the Council was expected to undertake and hence the scale and extent of the resource needed to respond in a right and proper manner. There was a general feeling that the Council was unlikely to need to commit significant resources to this matter until the second half of 2010/11 although the suggested financial benefits to the Council of the transfer of private sewers to the utility companies was not likely to be felt until 2011/12. Notwithstanding this the Group felt that Community Services Community should make it known to Budget Working Group and Policy & Finance Committee that consideration should be given to funding the resources needed to carry out the new duties as the legislation becomes a statutory requirement placed upon this Council. Some thought was given to the possibility of sharing resources with other neighbouring District Councils or the County Council but this would still require some funding from this Council nevertheless.
- 8 In summary the Working Group felt much better appraised of the new and emerging legislation and advice from Defra and agreed this was an important matter for the Council to address on behalf of residents of the Borough and should be given due consideration in terms of future resource implications in the 2010/11 budget process.

Graham M Jagger
Street Scene Manager