

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO COMMUNITY SERVICES COMMITTEE

Agenda Item No.

meeting date: TUESDAY 18TH MAY 2010
title: FLOODS AND WATER MANAGEMENT ACT
submitted by: JOHN C HEAP - DIRECTOR OF COMMUNITY SERVICES
principal author: GRAHAM M JAGGER – STREET SCENE MANAGER

1. PURPOSE

- 1.1 To bring members of Committee up to date with the introduction of the Floods and Water Management Act and
- 1.2 To decide how to respond to the new duties placed on the Council as a result of this new piece of statutory legislation.
- 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 be a well managed Council providing efficient services based on identified customer needs.
 - To protect and enhance the existing environmental quality of our area.
 - Council Objectives
 - To conserve our countryside, the natural beauty of the area and enhance our built environment.
 - Council Priorities 2010/11
 - None

2. BACKGROUND

- 2.1 The subject of flooding and the emerging legislation has been considered by this Committee previously at meetings held on 4th November 2008, 14th July 2009, 8th September 2009 and 12th January 2010.
- 2.2 A Working Group comprising Councillors Hore, Hill (J), Sayers and Berryman was set up to consider the impact of the legislation on the Council and report their findings and recommendations back to this Committee.
- 2.3 At the meeting of this Committee on 12th January 2010 members were told about the introduction of the Flood Risk Regulations 2009 and the effect this had on the Council and the progress being made through the House of Commons of the Floods and Water Management Bill. As a result it was resolved that Committee at Min 683

1. Note the minutes of the Working Group, and
 2. Request the Director of Community Services/Street Scene Manager to assess the budget requirements 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.
3. ISSUES
- 3.1 The Flood and Water Management Bill gained Royal Assent on 8th April 2010. The new Act will implement several key recommendations of Sir Michael Pitt's Review of the summer 2007 floods. The new Act's provisions include: -
 - New Statutory responsibilities for managing flood risk;
 - Protection of assets which help manage flood risk;
 - Power to carry out environmental works;
 - Sustainable drainage;
 - New sewer standards;
 - Reservoir safety;
 - Water company charges;
 - Protection of water supplies;
 - Other protection for water company customers.
 - 3.2 The details of the implementation of the Flood Risk Regulations 2009 and information as to what does the Flood and Water Management Bill mean for Local Authorities has been provided to the members of the Working Group for consideration.
 - 3.3 In respect of Min 683(2) as mentioned at 2.3 of this report no additional funding has been made in the 2010/11 revenue budget to provide the extra resources felt necessary to meet the Councils new obligations resulting from the two new pieces of legislation.
 - 3.4 The Flood and Water Management Act 2010 provides the lead local authority, Lancashire County Council in this case, with powers to do works to manage flood risk from surface water run off and groundwater. Powers to do works on ordinary watercourses remain with district councils.
 - 3.5 The EU Floods Directive/Flood Risk Regulations 2009 outlines the roles and responsibilities of the various authorities consistent with the Flood and Water Management Act and provides for the delivery of the outputs required by the directive:
 - Preliminary Flood Risk Assessments, which will allow the identification of areas of potential significant risk.
 - Maps showing impact and extent of possible future flood events.
 - Flood risk management plan, identifying how significant flood risks are to be mitigated.
 - 3.6 Whilst the new Flood and Water Management Act 2010 makes the County Council the Lead Local Flood Authority in no way does it prevent partnership arrangements to make full use of all capabilities and experience locally. The Bill enables lead local authorities to delegate flood erosion functions to another risk management authority

by agreement. The important role played by district councils is recognised in the Bill and with others we are designated as risk management authorities. If as a risk management authority we fail to exercise our flood erosion risk management function the Secretary of State can direct another authority to carry out that function. The Bill includes a duty placed on district councils/risk management authorities to cooperate with the lead local authority in carrying out their role.

- 3.7 Defra is providing additional funding to lead local authorities to carry out the extra responsibilities and burdens placed on them by the new Act. Other local authorities are already funded to manage local flood risk and manage surface water issues.
- 3.8 The additional funding to be provided will be paid for by reducing local authority involvement in private sewerage. The explanation given by Defra to support this is as follows: -

“Private sewerage has been a problematic issue for many years, with individual home and property owners usually unaware of their responsibilities unless something goes wrong and they face a potentially large bill to put things right. Issues can drag on, and if they affect more than one home can be even more difficult to resolve.

Local authorities, as well as owning property themselves, have historically stepped in to sort out many such issues on behalf of householders. In some cases they have charged householders and recovered their costs, but in many others it has not been possible or appropriate to do that, or councils have seen this as part of a service they provide on behalf of the community. As a result, local authorities have been amongst those calling for the Government to do something about private sewerage, citing it as a significant drain on their time and resources.

In response, the Government announced in December 2008 that it would transfer responsibility for private sewers to the water and sewerage companies. To inform this decision, the Government compiled evidence on the potential costs and benefits of the transfer. Included in this was a survey that assessed local authority involvement in private sewerage, and captured cost data. A third of local authorities responded to the survey and 42 provided cost information. It is likely that some local authorities found it hard to provide numeric data as the costs of dealing with private sewerage are not routinely recorded and are typically spread across a number of authority budgets such as drainage, highways, housing, etc.

The data that was provided suggested local authority costs be as high as £125 million a year. For the final estimate, the proportion of costs recovered from property owners and the proportion of sewerage within ownership of housing associations were removed from the analysis. As a result, the Department’s best conservative estimate of local authority costs is £50 million a year. The highest cost estimates were also removed from the analysis to suggest, if anything, this estimate could be below what authorities may otherwise spend in future years. Separately, OFWAT estimates that water companies could need to spend an extra £130 million a year once transfer takes place, as well as invest over £1 billion in the early years to tackle existing sewerage problems they will inherit.

The Government has a duty to reflect the estimated savings in future local authority budgets as otherwise taxpayers would be paying for an activity no longer performed. Based on recent outturn data, accounting for the transfer is expected to affect the relevant local authority provision by less than 1%.”

This explanation appears to suggest that we as a local authority will get less funding from The Government which will then be redirected to the lead local authority, Lancashire County Council, to fund their new role.

- 3.9 In terms of what the Council does at present regarding private sewers and drains it does two things. The first is that the General Works Section provides a drain clearing service on a recharge to the customer basis and whilst the calls for this service may reduce when private sewers are transferred to the utility companies the service could continue to run on a commercial basis as now. The second is that staff in the Environmental Health Section currently spend a significant amount of time investigating complaints about problems on the many private sewers and drains that exist in the Borough. On transfer of the private sewers to the utility companies this work will no longer exist. This is the element that The Government are to withdraw funding for as mentioned above. There are also support service costs associated with dealing with private sewers that will have to be taken into consideration also at the time. The effect on existing staff resources will therefore need to be reviewed when the transfer of private sewers takes place.
- 3.10 Defra also say that ultimately, on top of the risk management activity paid for by taxpayers in general, local authorities can decide for themselves – as part of local strategies – whether extra up-front investment should be raised and spent locally to further reduce future flood costs and damages in their area. This would be to avoid costs authorities themselves will otherwise bear, but more importantly, to help mitigate the costly and traumatic impact of flooding on local residents and businesses. The council is therefore expected to respond positively and transparently to the new duties and responsibilities it now has as a result of the new legislation for the benefit of its area.
- 3.11 The Councils engineering capacity and skills base has been reduced over time and at present there is not the spare resource available to commit to this new work. We now have few staff with the experience and knowledge needed to take on this work which is important if it is to be done in an efficient and effective way. These are issues that need to be addressed in going forward with this matter. The Government through Defra have taken a view on funding and resources as expressed earlier and it is now for each local authority to respond accordingly under the circumstances.

4. RISK ASSESSMENT

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

Resources

- The Government has set out how it sees the financial resources affecting this matter being provided but leaves it to each local authority to make whatever arrangements it sees fit to meet its obligations. Staff resources are very limited with skills, knowledge and experience even more so relating to work of this nature.

Technical, Environmental and Legal

- Technical issues have been referred to above. In terms of the environment, flooding is a serious matter which can cause considerable damage to property and peoples lives. The Flood and Water Management Act places statutory duties on the local authority as does the Flood Risk Regulations 2009. The

Council would be expected to meet its obligations under these two new pieces of legislation.

Political

- At present there are no known political issues arising out of this report. The introduction of the new legislation received all party support throughout its progress through Parliament.

Reputation

- The way in which the Council plans for and responds to flooding in its area does affect the reputation of the Council. Now that there is a statutory duty to cooperate with others and manage the risk of flooding in our area residents will rightly expect the Council to do just that.

5. RECOMMEND THAT COMMITTEE

5.1 Acknowledge the introduction of the new requirements placed on the authority as a consequence of both the Flood Risk Regulations 2009 and the Flood and Water Management Act 2010, and

5.2 Consider, given the pressure on the Council's resources for the foreseeable future, where these new duties sit, relative to existing priorities, and

5.2 Consider whether a case should be made for moving resources into this area.

JOHN C HEAP
DIRECTOR OF COMMUNITY SERVICES

Background Papers – None

For further information please contact Graham Jagger on 01200 414523.