

Consultation on national strategy, guidance on cooperation, strategic environmental assessment, future funding and sustainable development

Broad overview

This suite of documents should have been a historic opportunity to improve flood risk management in England. The current drafts have little likelihood of achieving this ambition.

There is a significant focus on 'vision', 'strategic overview' and 'policy work' and a failure to recognise how vitally important the day to day job of maintenance is to flood risk management.

Day to day maintenance activity

Within IDB areas, this critical front line activity will continue much as it has done for many years. However, in shire districts the non-IDB areas now risk serious loss of the critical but unglamorous front-line maintenance activity on ordinary watercourses. Preventative maintenance through inspection, subtle intervention, liaison with riparian owners and, ultimately, enforcement procedures is hugely cost effective and a significant contributor to reducing flood risk at the very local level. It is certainly more cost effective than having to deal with the aftermath of flood events.

Yet this suite of documents, as currently drafted, suggest an outlook that is, at best unclear, about who is responsible for doing what at the important local level. Certainly there is talk of delegation of activity between the Lead Local Flood Authority (LLFA) and other risk management authorities but no explanation about what this means in practice. More critically, it simply produces a vague description of who is ultimately responsible and accountable for flood risk management.

Transfer of Powers and Finance from DCs to LLFAs

The Flood and Water Management Act has taken powers of enforcement away from the district level of local government and given them to the LLFAs. Funding for land drainage activity at the district level has been reduced and passed to the LLFA. Both of these factors will have a fundamental and seriously adverse impact on the capacity and capability of district councils in shire areas to operate at anything near the level they have been historically doing.

However, there is no sign yet that the local LLFA recognises the serious implications of the new responsibilities that it has inherited and this appears from the Flownet Community of Practice to be far from unique. Granted, there are discussions and emerging partnership arrangements, but without mobilisation at a front-line level to fill the gap that will inevitably be left as a result of the transfer of powers, responsibility and finance, there is a serious risk that important day to day activity, critical to good practice in flood risk management, will simply not be carried out, at least in the early years of this new regime.

This cannot be what Sir Michael Pitt intended in his 'Learning the Lessons' report on the 2007 floods.

Funding

On funding, the documents imply that there are currently substantial untapped sources of money at a community level to pay for a whole range of flood risk management initiatives previously paid for by the government; ie tax payers. While there might be some opportunity for locally sourced contributions, this could only ever be extremely limited in the amounts and, critically, in the current financial climate and era of budget cuts, are likely to be non-existent.

More specifically, the funding mechanisms outlined in the documents present a definite potential for better off areas to 'buy' priority for their local schemes in preference to other less well off areas. There are caveats to say that this has been recognised and can be managed out of the process by preferential treatment of areas of deprivation. However, this would do nothing for those less well off areas just above the preferential threshold.

It is difficult to understand what is so unique about flood risk management that it is singled out for such treatment when, for example roads and hospitals merit funding from the tax payer.

FDGiA and Local Levy

A further general comment on finance is prompted by the localism agenda. Central grant is of the order of £600m and the monies allocated by Regional Flood Defence Committees is less than a tenth of this amount. There must be considerable scope for introducing a far greater degree of local ownership, involvement and choice in flood risk management if this imbalance were to be substantially corrected.

Water Companies

Finally, it is remarkable how little mention there is in the documents to the major owners of flood risk management assets, the water companies, and the critically important contribution they are capable of making to risk reduction.

Consultation questions on the draft national flood and coastal risk management strategy for England

1 Is there any additional information on risk that should be considered?

At the local level, proper maintenance of watercourses is essential. The responsibility for this is riparian and, in practice, there is a high probability that it may not be adequately carried out - see response to Q2

2 Are there any additional aspects of risk that need to be assessed?

The potential for lack of maintenance of land drainage and flood risk reduction assets is a definite hazard that can contribute significantly to risk at a local level. This document may be set at a strategic level but it should recognise how important it is to give proper priority to ensuring that maintenance is carried out by whoever has the responsibility to do so. This requires adequate funding for the necessary works, supervision, inspection and monitoring as well as enforcement when this is unavoidably necessary.

Proper provision for inspection and enforcement is essential to ensure that watercourse are not damaged or even removed by third parties.

3 The strategy takes into account different sources of risk (for example coastal erosion and flooding from rivers and surface water). How can they best be quantified in a way that helps the assessment of the relative importance of these risks?

This is a fundamental and critical question but answering it is complex. If the Environment Agency does not already have some framework in place to steer decision making, it should urgently consider commissioning research to identify what it should be.

4 Do you agree with the proposed overall aims of the strategy?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If not, please explain why.

The statement 'move the focus from providing Government funded activities' is incongruous in a description of overall aims. It may well reflect harsh reality during difficult economic times but it should not be included as an aim unless there is a parallel intention of providing financial resource at the community level.

5 Are there any additional goals that should be included?

Please tick the relevant box

Yes
No
Don't know

If so, what are they?

6 Are there any other guiding principles for FCERM you would include?

Please tick the relevant box

Yes
No
Don't know

If so, what are they?

The guiding principles should touch on two further elements. First, there is a considerable legacy of land drainage assets that are critical in any consideration of risk management. A commitment to maintaining these assets is essential. Secondly, there is no reference whatsoever to the role of water companies in flood risk management. Their surface water sewers will become increasingly under-sized as climate change continues and some broad guiding principle about what this might mean is surely essential. Do we accept that any long term programme of investment increase capacity is not feasible or should there be a guiding principle that investment will be made to increase capacity so that there is an attempt to 'hold the line' in terms of the continuing risk?

7a Are the measures and actions set out in Sections 3.3.1 to 3.3.5 clear?

Please tick the relevant box

Yes
No
Don't know

If not, how can they be improved?

The measures and actions do not build in any recognition of human nature. Whether, say, a 1% event is a low or high probability depends on the context. The perception of the most residents will be that this is a negligible risk, rightly or wrongly.

The reason this is important for strategy formulation is that it determines how keen or reluctant people are to be involved in flood risk management activity and what their views might be towards financial commitment at a personal level.

People who experience flooding every few years have a natural and understandable interest in being involved. Those who live in areas where a flood event is multi-generational and the subject of tales handed down from grand-parents do not have the same compulsion to be interested and involved.

3.3.1 through to 3.3.5 give an impression that everyone living in flood zones 2 and 3 are highly motivated by flood risk management considerations and want to be physically and financially involved, be it at a property level or more widely, when the reality is that this is just not so.

The strategy needs to recognise this more overtly and factor this into future thinking about how to overcome it.

7b Do the measures and actions give enough specific information on what will be done and by whom?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If not, please explain where we need to be more specific.

See the introductory comments. There is simply insufficient recognition of the important day-to-day front line role of inspection, intervention and enforcement at a watercourse level. With the financial cut backs and transfer of funds and powers to LLFAs, this will have to be carried out by the LLFAs direct or through consultants or paid for agency arrangements with districts. However the LLFAs do not yet appear to realise this and this strategy does not contribute to making it any clearer.

8 Please tell us about any other measures and actions you would include.

More detail about water industry infrastructure improvements and the associated funding.

9 Are you aware of any barriers to the implementation of the measures discussed in Sections 3.3.1 to 3.3.5?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If so, how can Defra and the Environment Agency help overcome them?

A major barrier to implementation is funding for flood risk management. Without sufficient funding, the strategy and any associated implementation planning will be 'wishful thinking' and the main thrust of the document will be 'expectation management'.

10 How should the relative risks to people, property and business (including agriculture and food production) be taken into account?

a

This is related to Q3 – there does need to be a proper framework in place to provide guidance on this and it is far from straightforward.

10 How should the risks to people, property and business, and improving and protecting the environment and habitats be balanced?

b

See 10a

11 How far is it possible to distinguish between FCERM benefits and other benefits (for example, to agriculture, land drainage, health, recreation, and the environment)?

a

On a pure 'hierarchy of needs' analysis it must be possible to achieve some degree of comparative money value for these attributes.

11 What is the best way to quantify these additional benefits and how should they be considered in FCERM decisions on priorities and funding?

b

Each situation should be addressed on its merits rather than setting out rigid parameters that are not universally applicable.

12 How may the current arrangements for emergency response be improved?

The strategy should recognise this as an important consideration but detailed considerations of response are rightly considerations for other parallel strategy worked linked to local resilience.

13 Are the responsibilities of the key organisations managing flood and coastal erosion risks clear?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If not, please explain why.

No; LLFAs have new responsibilities but the impact of these is moderated and made unclear by an over-focus on partnership building, working through others, making local strategies and monitoring them. What does this actually mean for carrying out front-line flood risk management activity.

Sir Michael Pitt recommended that one local organisation should be responsible for local flood risk management and that it should be the County Council in shire areas. The Flood and Water Management Act enacted this recommendation. Local flood risk management involves doing a whole range of vital but unglamorous activities. The LLFA is responsible for doing or for arranging for it to be done. But this and a number of other activities are not coming across clearly in the draft strategy.

14 Please tell us if any organisations or groups should be added and what their role might be.

None suggested. Groups by their nature are likely to be transient.

15 Do the organisations identified in Chapter 4 have the skills and capabilities available to carry out the roles identified above and achieve the required outcomes?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If not, how should these be secured?

LLFAs will not have had the skills base to tackle local flood risk management. They will have to actively recruit the specialists needed to do this work or set up arrangements with others (consultants or district councils or IDBs) to do so.

District councils will have a varying level of capacity and capability to take an active role in local FRM and this would depend on historic need in their area and the degree to which they have exercised their permissive powers in the past. The current important consideration is that their powers have been reduced (enforcement role) and funding reduced to finance the LLFA role.

16 Do you agree with the overall objectives for the proposed changes to the funding system as set out above?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If not, please explain your answer.

See separate answer to the funding consultation.

17 Please tell us about any other options for prioritising and justifying maintenance and managing situations where ongoing maintenance cannot be justified from national budgets.

The worrying aspect of this question is the implied belief that maintenance is in some sense optional and that there is a source of untapped funding elsewhere from national budgets available to pay for it.

Maintenance of land drainage assets, be they in public or private ownership, is essential and a FRM strategy should have this as an axiomatic point.

Maintenance of publicly owned FRM assets needs to be funded from the public purse, whether that is held nationally or whether it comes from local funds. If it does come from local funding, then the government needs to ensure that it properly resources local authorities or RFDCs (RFCCs) or the EA to do so.

18 How often should local strategies be reviewed and who should be involved in the review?

This should be driven by need prompted by changing circumstances rather than any rigid stipulation.

19 Should reports on the implementation of the national strategy assess progress against specific milestones and activities?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If so, what should these specific milestones and activities relate to?

Good practice dictates that there should be some mechanism in place to track progress in achieving the goals set within the strategy. However, this is far too complex a question to respond to in the context of a consultation response. It needs an implementation plan based on the strategy and a thorough analysis of the strategy to produce a meaningful set of targets that accurately capture its intentions and avoid creating 'perverse incentives'.

20 There are two levels of information: statutory guidance and advice.

Are there any areas where we are proposing to provide advice where you consider it should be statutory (that is provided as guidance)?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If so, please explain why.

21 What primary objectives in FCERM should the strategy achieve over the next 12 years?

The 'objectives' that the strategy is setting for itself are not clearly stated. There are aims; there are guiding principles and there are statements about achieving the objectives. But the objectives themselves are vague.

22 Is the risk-based approach to FCERM appropriate and does the approach suggested take account of the main risk factors?

The risk based approach to FCERM is appropriate but the draft strategy introduces a new financially-driven element of focusing the cost of proposals on direct beneficiaries. Note that the term beneficiary is itself fairly loaded. The benefits of a FRM scheme are broader than they might at first appear so a degree of care is needed in considering this.

More to the point, it is rather strange that there should be such a focus on this one area of activity when the historic way public infrastructure has been funded has been through general taxation. Everyone contributes according to their ability to pay and the apportionment of that income to the projects that will be of most benefit to the community (in this case by central or local elected governments). If the beneficiary, whoever that might be, pays then it is a small step to the next stage where some could argue they do not benefit from schools, hospitals, public transport, etc and therefore they should not pay for those elements of public expenditure in their taxes.

Greater community involvement and engagement is a laudable objective for the strategy but there needs to be some caution about requiring local community contributions as a prerequisite for a scheme. This risks 'priority purchase' by better off areas despite assurances that mechanisms to prevent this are possible.

23 Are there any barriers to local action that need to be removed or reduced?

Without the support of LLFAs, and this support involves funding as well as using enforcement powers that have been removed from district councils, then there will be significant barriers to district councils acting in the way that they have been able to do for many years to deal with local FRM.

Consultation questions on the guidance on co-operation between authorities and requesting information

Introductory comment

From a Borough Council point of view, it seems incongruous that statutory or any other form of guidance should be needed to require relevant authorities to cooperate and share information to achieve flood risk management objectives on behalf of their local communities.

However the underpinning Act envisaged that there was a possibility that this might not freely occur and that a formal duty was required accompanied by sanctions to ensure that it would be adhered to.

The short responses to the consultation below are made with a degree of incredulity that such guidance is truly necessary but also a degree of realism that it could occur; for example, through a private water company being reluctant to data share and using 'commercial confidentiality' as a justification for behaving in that way.

1 Does this guidance sufficiently explain what we mean by co-operation?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If not, what elements are unclear?

2 Does this guidance explain how the power to request information should be exercised in a reasonable way?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If not, how might it be improved?

3 What barriers to co-operation and information sharing need to be addressed?

It is not really a barrier but more of a constraint. It should be recognised that district councils, at a time of cut backs and financial difficulty, may not be able to react as promptly as they would wish for information.

This is not the least because funding for flood risk management has been cut back on what is in any event a permissive function and the staff who could have readily have dealt with such matters may no longer be with the council. Indeed some may be recruited by the LLFA itself.

4a How much more effective do you feel statutory guidance would be than non-statutory or no guidance?

Statutory guidance has an actual as well as a perceived feel of a heavier obligation to comply than if it weren't statutory.

4b We have assumed that there will be a 25% saving in time dealing with information requests because of statutory guidance and advice to follow, as everyone will be working within a common framework.

Please tell us if this is a reasonable assumption or whether it should be more or less.

This appears to be a reasonable assumption.

5 Do you have any suggestions for new sections to be included in this statutory guidance?

Please tick the relevant box

Yes

No

Don't know

If so, please provide details.

6 If you are likely to be asked for information, are there any issues that may make it difficult for you to respond?

Many district councils could be in the same circumstances as this Council in that the flood risk management and land drainage function has over the past two decades, since the end of agency arrangements with water companies, operated as a 'one man band'. Consequently, a significant part of the corporate memory on land drainage resides in the mind of a single member of staff. Should that member of staff depart because of financial prompted cut-backs or retirement, continuity and the capacity to respond to requests or know where the information is held will evaporate. That is, many districts are likely to be operating this part of their service well below any proper critical mass that could ensure business continuity and assistance for the LLFA.

7a How many requests for information do you feel a lead local flood authority might make in any year?

It is impossible to provide an answer to this question at this stage.

7b If you have dealt with comparable requests before, how long might you expect it to take?

Less than 4 hours (short)	<input type="checkbox"/>
One to two days (medium)	<input type="checkbox"/>
Over one week (long)	<input type="checkbox"/>
Other (please specify)	See Q7a

8 Do you feel that the functions that the guidance relates to need to be set out within it?

Please tick the relevant box

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If so, which option as expressed at the start of Annex B is the most appropriate to use?

9 Is there any additional non-statutory advice or supporting information you would particularly wish to see (for example best practice or model agreements) that would help further encourage co-operation and information sharing?

Not considered necessary.

Consultation questions on the draft Strategic Environmental Assessment report

- 1 Please tell us if there are any other key issues or trends that should be considered in the Strategic Environmental Assessment report.**

None required because the Assessment is fully comprehensive.

- 2 Please tell us if there are any additional environmental effects (including those on humans) that need to be taken into account when developing the strategy.**

None required because the Assessment is fully comprehensive.

- 3 Please tell us if there is any additional mitigation for adverse effects that should be incorporated into the strategy.**

None required because the Assessment is fully comprehensive.

- 4 Please tell us if there are any key environmental indicators that should be incorporated into annual reporting on the strategy.**

Not aware of any that would be required.

Future funding for flood and coastal erosion risk management

- 1 Do you think that the existing funding prioritisation and allocation system should continue, in which Government focuses on funding the most cost-beneficial projects?**

No; the amount of funding subject to local decision needs to be increased markedly relative to the amount currently within the Flood Defence Grant in Aid budget.

- 2 Do you have any other comments or anything to add to the analysis in Section 1?**

On funding, the documents imply that there are currently substantial untapped sources of money at a community level to pay for a whole range of flood risk management initiatives previously paid for by the government; ie tax payers. While there might be some opportunity for locally sourced contributions, this could only ever be extremely limited in the amounts and, critically, in the current financial climate and era of budget cuts, are likely to be non-existent.

More specifically, the funding mechanisms outlined in the documents present a definite potential for better off areas to 'buy' priority for their local schemes in preference to other less well off areas. There are caveats to say that this has been recognised and can be managed out of the process by preferential treatment of areas of deprivation. However, this would do nothing for those less well off areas just above the preferential threshold.

It is difficult to understand what is so unique about flood risk management that it is singled out for such treatment when, for example roads and hospitals merit funding from the tax payer.

There is no recognition of the huge challenge there is in encouraging people to become interested, involved or even contributing financially when they live in flood risk areas when the probability of an event makes it unlikely over a normal lifetime. Even then this assumes that people live in a property over a lifetime when the fact is that most people do not.

- 3 Do you agree with the objectives in Section 2? If not, which would you change, or what others would you add?**

See answer to Q1

4 Do you agree with the guiding principles outlined in Section 3? If not, which would you change, or what others would you add?

Agreement up to a point but the new financially-driven element of focusing the cost of proposals on direct beneficiaries is problematic.

The term 'beneficiary' is itself fairly loaded. The benefits of a FRM scheme are broader than they might at first appear so a degree of care is needed in considering who exactly are the beneficiaries.

That there should be such a focus on this one area of public endeavour is puzzling when the historic way public infrastructure has been funded has been through general taxation. Everyone contributes according to their ability to pay and the apportionment of that income to the projects that will be of most benefit to the community (in this case by central or local elected governments). If the beneficiary, whoever that might be, pays then it is a small step to the next stage where some could argue they do not benefit from schools, hospitals, public transport, etc and therefore they should not pay for those elements of public expenditure in their taxes.

Greater community involvement and engagement is a laudable objective for the strategy but there needs to be some caution about requiring local community contributions as a prerequisite for a scheme. This risks 'priority purchase' by better off areas despite assurances that mechanisms to prevent this are possible.

5 In particular, do you agree that the costs of protecting new development should not fall to the general taxpayer, now or over the long-term?

In the broadest of terms, the answer is 'yes but'.

It really depends on how this is to work in detail at a practical level taking into account such circumstances as infill sites where there is already protection from an earlier FRM scheme.

The reasonable approach is for defence of a new development site to be set at a current standard with suitable forward projections and for there to be a commuted sum for future maintenance over a reasonable period.

It is absolutely critical that the EA justifies the back-dated deadline for consideration of future funding arrangements. There is no indication of why January 2009 has any significance. It would be fairer if the threshold date for new processes and arrangements were a time in the future coincident with the issue of the strategy.

6 Do you agree with the rationale for the ‘payment for outcomes’ approach?

Broadly yes but there should be some moderation built into the arrangements to provide a little flexibility.

What is being proposed is deeply complex and may make scheme by scheme comparison difficult to either carry out or explain to a lay audience.

7 Do you agree that a payment for outcomes system would be more likely to deliver the objectives stated in Section 2, in comparison with the current prioritisation and allocation approach? An accompanying impact assessment provides a more detailed comparison.

Broadly, yes

8 Do you have any comments or suggestions on the role of RFCCs and the local levy?

To give effect to the localism agenda, the balance between central grant and local levy should be corrected to at least parity and much greater say in its distribution should be accorded to the Regional Flood Defence Committees.

In doing so, it is essential that the representation on RFDCs be altered to include representatives from the district tier in shire areas.

9 Do you have any comments on the analysis in Section 6, or your own views of the potential benefits and risks of the payment for outcomes approach?

Perhaps eventually central government documents will recognise the financially perilous state of local government and that there are no large amounts of uncommitted funds waiting to be redistributed to FRM activity. Such funds do not exist nor is there scope for reallocating within existing budgets to the extent implied in Section 6.

10 Do you have any suggestions for improving the way a payment for outcomes system might work?

There needs to be more recognition that less well off areas will be disadvantaged by the system as described.

Draft Technical Guidance

- 11 Do you agree with these outcome measures for future periods? If not, which would you change, or what others would you add?**

Broadly yes but the significance of January 2009 has not been adequately justified.

Also OM3 should be based on a sliding scale as a firm cut off provides too much of a 'cliff edge'.

- 12 Do you have any comments on the indicative payment values for each outcome, or the underlying assumptions used in their calculation?**

First, they appear rather arbitrary and almost any permutation of numbers could be substituted and appear equally plausible.

Secondly, the figures are applicable across the whole of the country when the reality is that the values for many of the parameters will vary depending on area. Thus, the resulting 'score' will not truly reflect reality.

- 13 Do you have views on the National Priority Programme and the threshold above which projects would be selected for it?**

Unlikely to be significant for this Borough.

- 14 Do you have any suggestions or preferences for determining what each RFCC's share of FDGiA should be, once funding has been allocated to the National Priority Programme?**

This is difficult territory but not impossible and it could be modelled on the arrangements for distribution of the national 'pot' that have been applied over the years to the transport budget for major highway works. Even then, identifying true cost and benefit ratios is surrounded in debate but it needs to be tackled in order to produce a fair system where the essential FRM schemes are built before the desirable or 'nice to have' schemes.

- 15 Do you have any other comments or suggestions on how prioritisation and funding allocation should work?**

It must be based on fairness.

16 Do you have any comments or suggestions on these funding and delivery arrangements?

None beyond commenting the resource impact of the arrangements for managing local input and expectations should not be underestimated.

17 Do you agree that it would be inappropriate under the new system to allow payments to be made under OM2 and OM3 in relation to households not actually at risk of physical damage?

This is not as simple as the question implies. There could be some justification for reflecting better protection for some properties as part of the overall scheme benefits. It all depends on the circumstances of particular cases.

18 Do you have any comments or suggestions on the key project metrics or the way in which they would be calculated?

Not at this stage.

Sustainable Development

- 1 Do you agree with the definitions of sustainable development used in this guidance? Would you add anything further to the definition provided?**

The definitions are acceptably appropriate.

- 2 How do you think local flood authorities currently contribute to sustainable development? Are there other aspects of sustainable development or local flood authority activity that should be referred to or given more prominence in this guidance?**

The coverage is adequate as it is.

- 3 Can you suggest other sources of information that we should include in the guidance?**

What is included is comprehensive and fairly all inclusive.

- 4 Does this guidance provide the level of information that you require, if not what changes would you make?**

No change required

- 5 This guidance is for local flood authorities. Should the Environment Agency be required to have regard to this guidance in addition to their existing duties towards sustainable development?**

Yes

- 6 Do you agree with our assessment of the likely costs and benefits (outlined in the Impact Assessment)? Do you have examples of tangible costs or benefits resulting from adopting sustainable development approaches?**

Agreed

- 7 Do you agree with our preferred option (option 3 in the Impact Assessment)?**

Agreed