

		AGENDA ITEM 4
		SSC/06/11
Committee:	Safer and Stronger Communities Policy & Scrutiny Committee	
Date:	18 March 2011	
Scrutiny Review on the Flood and Water Management in Essex		
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At the Committee's last meeting in February 2011 a new topic was identified in the Forward Look for this meeting namely Flood and Water Management in Essex.

A draft scoping document that has been used to make arrangements for today's consideration of the Flood and Water Management in Essex is attached at Appendix A. It has the objective:

'To review a briefing on the way that Flood and Water Management is being taking forward in Essex in the light of new legislation.'

Nick Humfrey, Flood Partnership Manager, has been invited to this meeting to provide the Committee with background on this topic and answer Members' questions. A briefing paper is attached at Appendix B.

Action required by the Committee:

To consider the information submitted at the meeting.

Policy and Scrutiny Scoping Document

Committee	Safer and Stronger Communities Policy and Scrutiny Committee	
Topic	Flood and Water Management in Essex	Ref: SSC-SCR-15
Objective	To review a briefing on the way that Flood and Water Management is being taking forward in Essex in the light of new legislation.	
Reasons for undertaking review	Under the Flood and Water Management Act, the County Council has new scrutiny responsibilities as a lead local flood authority to allow for the scrutiny of risk management authorities as to the exercise of their flood and coastal erosion risk management functions. As this matter falls within the remit of this Committee, it is proposed that Members are briefed by Service Officers on the implementation of the new legislation.	
Method	Briefing to full Committee	
Membership	Full Committee	
Issues to be addressed	<p>The briefing has been designed along the following lines to provide the broad information</p> <ol style="list-style-type: none"> 1. Outline of new responsibilities for ECC as a Lead Local Flood Authority <ol style="list-style-type: none"> a. Production of a Preliminary Flood Risk Assessment (PFRA) b. Modelling and planning of Significant Flood Risk Areas c. Development of a Local Flood Risk Management Strategy d. Investigation of significant flood risk events e. Register of significant flood assets f. Powers to designate a feature as a significant 	

	<p>flood asset</p> <p>g. Power to commission works on surface water flood defence schemes</p> <p>2. Other developments in flood management in Essex</p> <p>a. Essex Partnership for Flood Management</p> <p>b. South Essex Surface Water Management Plan</p> <p>c. EU Floodcom programme with Chelmsford Borough Council and ECC</p> <p>3. Funding Issues</p> <p>a. New process for central government funding of flood defence schemes- <i>What channels, if any, should ECC be using to increase local investment in flood defence?</i></p> <p>4. Communication issues</p> <p>a. Public Consultation on Local Strategy for Flood Risk Management and South Essex Surface Water Management Plan-<i>who should be consulted?</i></p> <p>b. Significant Flood Risk Area in South Essex- <i>how should this information be communicated?</i></p> <p>c. New process for central government funding- <i>should we take a pro-active stance in communicating this?</i></p> <p>d. Encouraging resilience among households at risk- <i>how do we encourage households to take more responsibility for ensuring they are flood resilient?</i></p> <p>5. Governance Issues</p> <p>a. What is the Governance structure for Flood and Water Management in Essex including an over view of the operation of the Essex Partnership for Flood Management?</p> <p>b. How are other Lead Local Flood Authorities tackling their new scrutiny responsibilities?</p> <p>How will the Council be addressing its new role with its existing emergency planning activity?</p>
Sources of Evidence and witnesses	<p>Briefing paper</p> <p>Presentation by Nick Humfrey, Flood Partnership Manager</p>
Work Programme	<p>Meeting 18 March 2011</p>

Indicators of Success	Raised awareness of the Council's role and responsibilities as a Lead Local Flood Authority, and the new approach to flood and water management in Essex.		
Meeting the CfPS Objectives <ul style="list-style-type: none"> • <i>Critical Friend Challenge to Executive</i> • <i>Reflect Public voice and concerns</i> • <i>Own the scrutiny process</i> • <i>Impact on service delivery</i> 	The purpose of this initial review is to provide the Committee with an understanding of the new flood and water management regime so that its may fulfil the overall objective of owning the scrutiny process in the longer run.		
Diversity and Equality <i>Diversity and Equality issues are to be considered and addressed.</i>	If any of the Council's Diversity and Equality Policies are identified during the course of review, they will be taken into consideration as appropriate		
Date agreed by Committee			
Future Action			
Governance Officer		Committee Officer	
Service Lead Officer(s)	Nick Humfrey, Flood Partnership Manager		

**Briefing Note for Safer and Stronger Communities Committee
on Flood and Water Management**

Report prepared for the Committee by Nick Humfrey, Flood Partnership Manager

Legislative Context

The Flood and Water Management act was passed on April 8th 2010 and is the result of a review by Sir Michael Pitt into the floods of the summer of 2007. This report produced 92 recommendations, the vast majority of which have been accepted and put into the act.

This Act complements other major piece of flood legislation such as the EU Flood Risk Regulations which came into force December 2009 and Planning Policy Statement (PPS) 25 which sets out government policy on development and flood risk.

The Act will provide a more joined up and effective approach to managing flood risks and has attributed new powers and responsibilities to the Environment Agency but also to County and Unitary councils which are considered **Lead Local Flood Authorities (LLFAs)**.

The legislation also identifies certain organisations as flood risk management authorities with obligation to co-operate and to come to Lead Local Flood Authority scrutiny committees if asked. These organisations are:

- Water and Sewerage companies (i.e. Anglian and Thames Water. Water supply companies such as Veolia East and Essex & Suffolk are not included)
- The Environment Agency
- District and Borough Councils
- Internal Drainage Boards (of which there are currently none in Essex)

The focus of the new legislation is on surface water runoff, groundwater and ordinary watercourses (i.e. watercourses not considered significant enough to be maintained by the Environment Agency). Coastal and Main River flooding will remain the responsibility of the Environment Agency.

Some of the more legal elements of the act e.g. Designation of Lead Local Flood Authorities, were commenced October 2010. Most of the other elements will be commenced April 2011 with two exceptions. The first is the transfer of responsibility for consenting changes to watercourses from the Environment Agency to the Lead Local Flood Authorities. Defra is considering transferring it to district councils instead so the commencement has been delayed. Secondly and more crucially the section on Sustainable Drainage Systems will be commenced at a later point, probably April 2012.

Responsibilities of a Lead Local Flood Authority

Essex County Council is now the Lead Local Flood Authority for the county of Essex. This gives us new responsibilities and powers which we have never taken on before. These include:

- Investigating and publishing reports on significant floods in the county
- Recording flood assets throughout the county and designating those features which have a significant impact so that the owner is obliged to maintain them.
- Working with the other Risk Management Authorities to develop a strategy for managing surface water, groundwater and ordinary watercourses throughout Essex.
- Becoming a SuDS (Sustainable Drainage Systems) Approval Body . This role means that we will ensure that all new developments drain in a manner which prevents flooding occurring elsewhere by refusing permission to build unless our drainage requirements are met. We will also be responsible for maintaining new drainage systems which cover more than one property so that they continue to function and prevent flood risk.
- The power to request information regarding flooding from any organisation or person
- The power to commission works to prevent surface water runoff and groundwater flooding
- The responsibility to consent changes to watercourses may also be moved from the Environment Agency to the Lead Local Flood Authority

Responsibilities of other Risk Management Authorities

Other organisations also have important roles to play.

Environment Agency

- Retains responsibility for managing flood risk from the sea, main rivers and reservoirs
- Responsible for producing a National Strategy for all types of flood risk and coastal erosion.

- Manage the Regional Flood and Coastal Committees which decide which local schemes to fund

District and Borough Councils

- Power to designate structures and features that affect flooding or coastal erosion;
- Power to commission works on ordinary watercourses
- Ability to take on flood and coastal erosion functions from another risk management authority when agreed by both sides.

Water Companies

- Responsibility to maintain their sewers and prevent flooding caused by them, including surface water concerns
- Adoption of all private sewers from Autumn 2011
- Duty to be scrutinised by County Council committees on flood and water management issues

Responsibilities of Householders

None of the organisations listed above have the capability, power or resources to take care of all flooding issues and they have no legal obligation to do so. Ultimate responsibility for protecting a house from flood damage lies with the householder.

What Essex County Council is committed to doing is helping householders and communities to be able to manage the risks they face. This means ensuring that communities are aware of the risks they face, are aware of the causes of flooding in their area and where organisations and persons are responsible and are aware of what steps they can take to make themselves more resilient.

Essex Partnership for Flood Management

The Essex Partnership for Flood Management was formed to bring together key partners so that they can all contribute to a strategic overview of the issues surrounding flooding in the county.

The objectives of the partnership include:

- Leading on public communications about issues surrounding flooding
- To collectively lobby central government to ensure that the resources necessary to meet obligations are provided
- To approve and scrutinise relevant policy and guidance produced by the Lead Local Flood Authority, including the Local Flood Risk Strategy.

The group meets quarterly, with the next meeting on 16th March.

The partnership has representatives from Essex County Council, the Environment Agency, Thames Water, Anglian Water, Essex Fire and Rescue Service and the 12 District and Borough Councils.

The Chair is Cllr Tracey Chapman from Essex County Council and the representatives from the district and borough councils are elected members from the relevant cabinet or committee portfolio.

As well as the listed partners there will be a number of stakeholders who will be kept aware of the decisions and activities of the group and brought in to discuss issues where appropriate. These include the Highways Agency, Network Rail and Essex Police.

South Essex Surface Water Management Plan

Defra provided funding at the end of 2009 for Surface Water Management Plans in 71 locations throughout the country which were considered to have the greatest surface water risk. An area covering Rochford, Castle Point and Basildon was identified. Separate Surface Water Management Plans were also identified for Thurrock and Southend-on-Sea.

The money was delivered to Essex County Council as the Lead Local Flood Authority but Basildon offered to project manage the plan. At that point no one in Essex was working on flooding matters so it seemed sensible to delegate it. Rochford, Castle Point and Basildon were planning a Water Cycle Study when this funding was announced and so thought it would be sensible to procure one consultant to do both pieces of work simultaneously. Scott Wilson were procured and began work just before Christmas. It should be finished by July 2011.

Communications for this project will focus on press releases and pamphlets to affected areas to engage with the public and gain local knowledge. They are currently proposed to be run by Basildon and Scott Wilson with sign off from the other councils. Press

releases will have quotes from Cllr Richard Moore of Basildon and Cllr Tracey Chapman of Essex.

Floodcom

FLOODCOM is an EU project in which Essex County Council is the lead partners working with St Omer in France, the Manhood Peninsula in Chichester, Flanders and Chelmsford which are all affected by tidal and fluvial flooding. The project aims to address the common challenges faced with regard to climate change and flood risk of low lying areas in maritime areas on the fringes of the North Sea.

The project partners have identified 3 key objectives that will be addressed through 3 activities:

- To prevent and mitigate against the risk of flooding to 1.1 million people living in France, the UK and Belgium, testing and sharing results and best practice of new techniques for inundation and evacuation.
- To inform, guide and educate 50 communities on the risk of flooding, and the need to take action now at individual community, county and regional level.
- To offer new uses for 35,000 ha of land threatened by flooding for commerce, wildlife and people, ensuring growth and a resilient economy.

Funding

The key concern with the current system is that while there are an extremely large number of potential flood management schemes which would be good investments in terms of cost-benefit ratios. Currently 95% of funding within the flood management system is paid for through general taxation, and even without the current fiscal problems, there would be a limit to how much the taxpayer would expect to pay, especially as much of the country is not at risk.

Because government funding will always be limited, and the benefits are often so localised in their effect, the paper proposes that “those who would benefit from flood defences should be allowed and encouraged to contribute towards their costs”. This could potentially lead to more schemes being completed as rather than depending solely on central government funding, schemes can take elements from a number of different sources of funding.

Objectives

The paper states that the new approach would have the following objectives:

- **Encourage total investment in flood and coastal erosion risk management by operating authorities to increase** beyond levels provided by central Government alone, as Sir Michael Pitt suggested in his review of the 2007 flooding¹.
- **Enable more local choice within the system, and encourage innovative, cost-effective options to come forward** in which civil society may play a greater role.
- **Maintain the widespread take-up of flood insurance**, by helping to keep insurance affordable through risks being properly managed, whilst focusing Government support on those least able to pay.

Principles

It also provides the following general principles:

- At least some Grant-in-Aid should be on offer to all potential projects over time, rather than some projects being fully funded and others not making it.
- Funds from central government should focus on increasing the resilience of society and the country in general
- All sources of risk, and projects sponsored by all operating authorities, should be treated and valued equally
- The general taxpayer should not pay to protect new development

Payment Structure

Payment will switch to a 'payment for outcomes' system, so that the level of grant depends on the level of benefit produced by the scheme. Currently a scheme is fully paid if it has an average of 8 to 1 benefit to cost return. Under the proposed system they will look to guarantee a return of 5 to 1 for the taxpayer by setting payment rates at a fifth of the annual damages avoided.

A formula has been developed to calculate what saving to the annual damage has been made by the scheme considering how long the scheme will last and what change to the probability of flooding it has made. The emphasis remains very much on households rather than profit making organisations who should factor flood risk into their decisions. The general rate paid for non-household economic benefits will be £1 for each £18 rather than £1 for each £5 as with households.

Payment levels will also take into account levels of deprivation so that projects in deprived areas are less likely to be reliant on local contributions to go ahead. Using the Treasury Green Book they currently plan to set payment levels in the 20% most deprived areas in the county at 225%. So if the household in the example was in Jaywick, instead of £6,415, there would instead be £14,427 provided.

Other Payees

The key idea from the paper is that the onus will be on community groups and local Chambers of Commerce to find some of the funding themselves. However it also presumes that Regional Flood and Coastal Committees will help to make some schemes more feasible by making some contribution to it and reducing the community sum to a reasonable amount.

There is also an expectation that the new system will help to drive down costs. While a straight grant meant that those commissioned with developing the scheme knew how much money there was available and would price accordingly, under the new system companies are aware that if they don't take the price on offer there will be no work.

Advantages

- By putting the onus on communities to help with funding, it does create an expectation that this should happen and hence create a potentially larger pot for flood defence funding
- By not committing all of central government funding to a few projects it does not provide such a stark contrast between the winners and the losers in the bidding for flood defence work
- By not providing the capital in block grants, it could well lead to costs being driven down or more innovative schemes being proposed.
- It provides more local control over what happens as many schemes will depend on RFCC or possibly council funding to go ahead.

Disadvantages

- It requires a large amount of capital to be raised by local communities but there is little indication of how this money is expected to be raised and no admission that there will be costs associated with it.

- There will be a large amount of pressure on the County Council, as the Lead Local Flood Authority, to fund schemes which otherwise won't go ahead.
 - There will be great pressure to increase the levy for the RFCC as if the central funding is not spent in a region (and it may well take RFCC money to bring together enough funding) it will be distributed to other regions.
 - The risk should a project's costs increase seem to be solely on the local contributors. Given the difficulties in raising money locally this may increase the uncertainty of projects.
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