

# Local Flood Risk Management Strategy Policy Review

## Introduction

The Local Flood Risk Management Strategy must be consistent with the recently updated National Flood and Coastal Erosion Risk Management Strategy for England. To ensure that, officers have reviewed the existing policies in the Local Flood Risk Management Strategy against new and emerging national strategies and policies. Following consultation with Risk Management Authorities in Norfolk the new and amended policies are detailed below.

All the policies and supporting text in this section should be read and applied together. Where a proposal is supported by one policy but is in conflict with another policy the proposal should be taken to be unsupported by the strategy. Where a proposal is not supported by the strategy, it should not proceed unless very special circumstances indicate that the benefits of the proposal, to society as a whole, outweigh the policy objection.

## Undertakings and Commitments

### **UC1: Sustainability**

The Lead Local Flood Authority, district councils, internal drainage boards and highway authorities will adopt a sustainable approach to Flood Risk Management, maximising environmental and social benefits from policies and programmes, contribute to the achievement of sustainable development, balancing the needs of society, the economy and the urban, rural and natural environment, taking account of the cultural heritage and seeking to secure environmental benefits.

### **Policy UC2: Flood Investigation**

The Lead Local Flood Authority will undertake a formal flood investigation where it is determined that;

- (a) There is ambiguity surrounding the source or responsibility for a flood incident, and/or;
- (b) There is cause to investigate the flood incident, due to either its impact, or consequence

When a decision is taken to investigate, the Lead Local Flood Authority will notify the relevant Risk Management Authorities and affected parties and will seek to determine the causal effects of flooding and understand the response of relevant Risk Management Authorities to the incident. After a formal flood investigation has been carried out, the Lead Local Flood Authority will publish the results of its investigation and notify any relevant Risk Management Authorities.

The Lead Local Flood Authority will publish a Flood Investigation Protocol describing how it proposes to carry out flood investigation duties and clarifying the factors that will be taken into account when assessing whether the impact or consequence of an event will trigger a formal investigation.

During widespread flooding the Lead Local Flood Authority will prioritise flood investigations based on the characteristics of the event, with greatest priority given to those events which are judged to have created a risk to life.

### **Policy UC 3: Flood Risk Asset Register**

The Lead Local Flood Authority will identify those structures or features whose function or attributes have a significant effect on an area of flood risk and will record such assets in an Asset Register.

The Lead Local Flood Authority will also maintain a record of each structure or feature listed in the register, including information about its ownership, state of repair, which person or body is responsible for maintenance and/or operation. The Lead Local Flood Authority will provide a copy of that record to any owner/manager of such structure or feature.

The Lead Local Flood Authority will make the Asset Register available by prior agreement, during office hours at County Hall, Martineau Lane, Norwich and on-line on the Norfolk County Council web site (<http://www.norfolk.gov.uk/>).

The Lead Local Flood Authority will publish an Asset Register Protocol describing how it proposes to implement this duty.

SuDS delivered as part of new developments will be requested to be included in the Record and may also be included in the Register.

### **Policy UC 4: Critical Drainage Catchments**

In areas where Surface Water Management Plans or other studies identify a significant risk of surface runoff, groundwater, or ordinary watercourse flooding to homes, commercial properties and/or essential infrastructure, the Lead Local Flood Authority, in partnership with other Risk Management Authorities, may publish maps identifying local catchments as 'Critical Drainage Catchments' (CDCs).

The Lead Local Flood Authority and its partner Risk Management Authorities will proactively develop schemes to reduce flood risk in Critical Drainage Catchments and will seek the cooperation of local landowners to implement such proposals where funding is available.

The Lead Local Flood Authority will also object to any planning application that might, on its own or in combination with other developments, lead to a material increase in flood risk within Critical Drainage Catchments and will expect measures to reduce flood risk where opportunities arise.

### **Policy UC 5: Publishing flood risk information**

The Lead Local Flood Authority has a significant role in disseminating and publishing flood risk information. It is committed to;

- Publishing formal flood investigation reports on its website
- Making asset register information available by prior agreement

- Publishing Lead Local Flood Authority led or supported studies on local flood risk once adopted by the Council
- Highlighting the most up-to-date data and mapping on flood risk, integrating this with National datasets where appropriate.

### **Policy UC 6: Emergency Planning**

The Lead Local Flood Authority acknowledges its role in advising emergency planning services and will:

- Seek to ensure that Emergency Response and Recovery Plans take account of emergencies that might arise as a result of local flood risk.
- Contribute to the review of such plans, in consultation with the Environment Agency and other partners within the Norfolk Resilience Forum when required; and
- Provide information and guidance on local flood risk to emergency response organisations during flood events if required.

### **Policy UC 7: Sustainable Flood Management**

In order to support an adequate, economically, technically and environmentally sound approach to providing flood management services, Risk Management Authorities will:

- (a) support a strategic approach to provision of flood mitigation measures particularly by assessing any potentially wider effects of proposed measures. To this effect Risk Management Authorities will continue to play a full role in Local Environment Agency Plans for Norfolk;
- (b) support and guide the provision of sustainable flood mitigation measures which provide social and/or economic benefits to people whilst taking full account of natural processes and which avoid committing future generations to inappropriate defence options.

### **Policy UC 8: Risk based approach to prioritisation of resources**

All Risk Management Authorities will support the investment of resources in areas of highest risk within their respective jurisdictions through;

- Utilising consistent and up-to-date information on local flood risk in the development of any projects and programmes.
- Detailing the level of flood risk mitigation proposed by projects and programmes in terms of 'return period' for any exceedance events.
- Identifying the possibility of match funding from third parties and beneficiaries of mitigation schemes.
- Assessing the potential wider synergies and effects of proposed mitigation schemes on wider catchments, communities and other Risk Management Authority schemes through consultation with the Norfolk Water Management Partnership.
- Supporting the delivery of sustainable flood mitigation schemes which provide social and/or economic benefits to people whilst taking account of natural processes.

### **Policy UC 9: Designation of 3rd party structures or features**

The Lead Local Flood Authority, the Environment Agency, Internal Drainage Boards or District Councils will 'designate' any structure or natural/manmade feature of the environment, where, in the opinion of the risk management authority, the protection of such asset would be beneficial in ensuring protection of land and property against flood or coastal erosion risk.

Lead Local Flood Authorities will normally be the relevant authority for designating structures or features that affect surface runoff, groundwater or ordinary watercourses outside of Internal Drainage Board districts. Where it is considered to be necessary for the purpose of ensuring the continuity of effective surface water drainage in the locality, SuDS structures or features (whether on public land or on private property) may also be designated by the Lead Local Flood Authority.

The Environment Agency will normally be the relevant authority to designate structures or features that affect strategic sources of risk such as large raised reservoirs, the sea and main rivers.

Internal Drainage Boards will normally be the relevant authority to designate structures or features that affect ordinary watercourses within Internal Drainage Board districts.

District Councils will normally be the relevant authority to designate structures or features that affect surface runoff, groundwater or ordinary watercourses in areas where they have responsibility for managing coastal flood and erosion defences if those structures or features integrate with coastal flood or erosion defence structures or features.

Designating authorities may agree with other authorities to designate on a different basis where material circumstances indicate that is appropriate to do so.

### **Policy UC 10: Planning**

The Lead Local Flood Authority will take a proactive role in the development of local plans and will expect planning authorities to prepare policies that redress local flood risk issues and ensure the provision of effective sustainable drainage in new developments.

The Lead Local Flood Authority will also work with local planning authorities to prepare guidance for applicants and will provide advice in respect of individual planning applications where these effect or are affected by local flood risk.

The Lead Local Flood Authority will expect planning authorities to take account of flood risk identified by Surface Water Management Plan modelling, Strategic Flood Risk Assessments and other sources of flood risk modelling (such as the flood risk mapping provided by the Environment Agency) and either avoid locating new development within areas that are at risk of flooding, or if that is not possible, ensure that designs fully mitigate for the expected flood risk.

The Lead Local Flood Authority will raise objection to any developments or plans that might lead to an increase in flood risk.

### **Policy UC11: Securing Sustainable Drainage**

The Lead Local Flood Authority shall, using all available legislative and regulatory measures, seek to secure the implementation of high quality, multi-functional Sustainable Drainage Systems (SuDS), which follow the most up to date guidance, in new development.

Where practicable, the Lead Local Flood Authority will also, through the voluntary cooperation of landowners, aim to secure adaptation of existing drainage networks to Sustainable Drainage Systems (SuDS).

### **Policy UC 12: Water Company liaison**

Risk Management Authorities will work closely with water companies in partnership to;

- Reduce the occurrence of public sewer flooding caused or exacerbated by sources of local flood risk.
- Influence Water Companies to consider local flood risk in their development of sustainable water resources and infrastructure.
- Promote water efficiency where appropriate

### **Policy UC 13: Adapting to climate change**

When developing policy, determining applications or taking enforcement action, Risk Management Authorities must take into account the predicted impacts of climate change including the changes in sea level and more frequent extreme weather events. In doing so, Risk Management Authorities will use the most up to date advice available, including UKCIP Climate Change Projections.

### **Policy UC 14: Flood Resilience and Adaption**

The Lead Local Flood Authority will provide support, where possible, to communities, other services and Risk Management Authorities through the process of planning and developing local flood risk adaption and resilience activities.

The Lead Local Flood Authority will support other Risk Management Authorities in providing information and advice on property level preparedness, resistance and resilience improvements to property owners and occupiers at risk of local flooding.

The Lead Local Flood Authority, with the support of other services and Risk Management Authorities, will encourage communities at local flood risk to develop community led and focused flood action plans and support groups to improve community resilience.

## **Ordinary Watercourse Regulation Policies**

### **Policy OW1: Maintenance of Ordinary Watercourses**

Where responsibility for maintenance of ordinary watercourses rests with a land owner, the Lead Local Flood Authority and other Risk Management Authorities (RMAs) will aim to secure co-operation in ensuring appropriate maintenance takes place, but will draw on powers of enforcement when necessary.

The Lead Local Flood Authority and other Risk Management Authorities will inform and advise individuals of their riparian owner responsibilities and of the route for settling disputes with other riparian owners where appropriate.

### **Policy OW2: Enforcement**

The Lead Local Flood Authority (LLFA) and other Risk Management Authorities (RMAs) will take a risk-based and proportionate approach to enforcement action under the Land Drainage Act 1991, taking into account the location and nature of any nuisance caused by:

- the failure to repair or maintain watercourses, bridges or drainage works
- un-consented works
- impediments to the proper flow of water

The Lead Local Flood Authority will take enforcement action where there is, or has been, a risk to life or serious injury, internal flooding of residential or commercial properties and flooding impacting on critical services. An initial assessment will be based on the Lead Local Flood Authority's impact criteria.

Where works are un-consented and the relevant landowner, person and/or risk management authority responsible provides no evidence or insufficient evidence to support an assertion that the un-consented works would not cause a nuisance or increase flood risk, there will be a presumption that the un-consented works would cause a nuisance or increase flood risk, unless visible evidence suggests otherwise.

The Lead Local Flood Authority may close an enforcement case file and/or take no action where:

- there is a lack of physical evidence to corroborate the impact of a flood event and/or
- there is no actual or potential risk to properties or infrastructure; and/or
- that the matter complained of is not the cause of the drainage problem; and/or
- the matter is trivial in nature (de minimis)

Where no enforcement action is taken further correspondence may include:

- referral to the First Tier Tribunal (Property Chamber), Agricultural Land and Drainage (AL&D) where appropriate
- informing those of their riparian responsibilities

Where the Lead Local Flood Authority or other Risk Management Authorities are made aware of breaches to other legislation, they will advise the appropriate authorities.

### **Policy OW3: Consenting of works on Ordinary Watercourses**

The Lead Local Flood Authority (LLFA) will normally approve alterations to ordinary watercourses where proposed works would not:

- (a) lead to an increase in unmanaged flood risk on the site;
- (b) increase the risk of flooding elsewhere in areas beyond the site;
- (c) materially increase the risk of a watercourse becoming obstructed;
- (d) increase the risk of erosion on the site or in areas beyond the site;
- (e) result in water quality that does not meet standards required by the Water Framework Directive or other legislation;
- (f) have a detrimental impact on
  - protected species of flora and fauna,
  - SSSI, Natura 2000, or Ramsar sites
  - Marine Conservation Zones,
  - National Nature Reserves,
  - Local Nature Reserves,
  - County Wildlife Sites, or
  - sites covered by Priority Habitats
- (g) have a materially detrimental impact on the morphology of natural watercourses.

### **Policy OW4: Culverting**

The Lead Local Flood Authority (LLFA) will only approve an application to culvert a watercourse if there is no reasonably practicable alternative, or if the detrimental effects of culverting would be so minor that they would not justify a more costly alternative.

In all cases, where it is appropriate to do so, adequate mitigation must be provided for damage caused. Wherever practicable the Lead Local Flood Authority and other Risk Management Authorities will seek to have culverted watercourses restored to open channels.

The Lead Local Flood Authority will normally reject applications for culverting (other than vehicle accesses) in areas identified as being;

- in Flood Zones 2 or 3a/3b and/or
- at risk of surface run-off flooding as indicated by the Environment Agency's updated flood map for surface water
- and/or other sources of flood risk modelling.

This is due to the potential of proposed works increasing flood risk. Exceptions to this policy will only be considered if the applicant is able to demonstrate that, on the balance of probabilities, the proposed development would not increase flood risk.

Where opportunities arise and there is benefit in doing so, the Lead Local Flood Authority may encourage landowners to remove existing culverts and restore surface watercourses.

## **Environmental Policies**

### **Policy E1: Nature Conservation**

Risk Management Authorities will:

- play a positive role in fulfilling their statutory and other responsibilities for furthering nature conservation, including achievements of the Government's environmental obligations and targets;
- fulfil their responsibilities in relation to nationally and internationally important conservation areas, under the Wildlife and Countryside Act 1981 and as a competent authority under the terms of the Conservation of Habitats and Species Regulations 2010 by applying strategies and policies laid down in policy documents;
- fulfil their responsibilities in relation to the Habitats and Birds Directives (European Directives 92/43/EEC, 79/409/EEC and 2009/147/EC) and ensure that no works or plan approved by the Authorities results in adverse effects either directly or indirectly on the integrity of identified European sites (Natura2000 Sites) or designated Ramsar sites.
- when carrying out works, seek opportunities for environmental enhancement, aim to avoid net damage to environmental interest and ensure no net loss to Priority Habitats
- where an environmental impact assessment or scheme is required, monitor all losses and gains of such habitats as a result of these operations and report on them to Natural England and/or the Environment Agency; and
- ensure that they work in partnership with Natural England to complete, implement and review plans, policies and measures.

### **Policy E2: Protect habitats**

When carrying out works consistent with the need to maintain satisfactory drainage and flood protection standards, Risk Management Authorities and riparian owners (or their contractors) shall:

- avoid any unnecessary damage to natural habitats
- avoid any long-term damage to natural habitats
- ensure no net loss of Priority Habitats
- take appropriate opportunities to enhance habitats.

### **Policy E3: Water levels (habitats)**

Within pumped catchments, Risk Management Authorities shall sustain water levels in accordance with Water Level Management Plans prepared for Sites of Special Scientific Interest and (in conjunction with Natural England and other interested parties) shall participate in the review of such plans.

### **Policy E4: Ecological Potential**

The Lead Local Flood Authority, and , where relevant, Internal Drainage Boards will require applications for Ordinary Watercourse Consents to include measures within their design to preserve or (where practicable) enhance ecological potential, including, where appropriate, providing landscaping using native species that are compatible with the local water environment.



Where there are technical or operational reasons why drainage or flood defence features cannot be designed to preserve or enhance ecological potential, the Lead Local Flood Authority, and, where relevant, Internal Drainage Boards will expect applicants to provide compensatory enhancement measures in the locality of the proposed works.

Applications for the modification of watercourses or the creation of new watercourses may be refused if insufficient information on landscaping and ecological potential is provided, or if landscape proposals are of poor quality.

### **Policy E5: River Morphology**

Developments which alter the bank of an ordinary watercourse or which create a new watercourse as part of a sustainable drainage scheme shall mimic features of natural river morphology and hydrology wherever it is practicable to do so. Where it is not practicable to do so compensatory measures may be required.

### **Policy E6: Landscaping**

Landscape proposals accompanying applications for works to an ordinary watercourse shall be designed to:

- enhance the drainage characteristics of the scheme;
- stabilise areas that may be vulnerable to erosion;
- enhance the visual appearance of the development; and
- enhance the ecological potential of the local environment.

The use of plants that are likely to be invasive and/or detrimental to the wider natural environment will not be permitted.

### **Policy E7: Heritage Assets**

When considering applications for ordinary watercourse consent in the vicinity\* of protected heritage assets, the Lead Local Flood Authority, or relevant Internal Drainage Board will make enquiries to confirm that applicants have given due regard to the impact of the development on such assets and, where relevant, that they have sought the appropriate consent.

When Risk Management Authorities are carrying out works in the vicinity of heritage assets, they will seek advice from the appropriate heritage body and, wherever it is practicable to do so, will aim to avoid any detrimental effect on heritage assets.

### **Policy E8: Towards Net Zero**

The Lead Local Flood Authority and Risk Management Authorities will expect all parties, involved in design and construction of local flood risk and water management structures associated with development, to make reasonable efforts to minimise carbon footprint, while maximising opportunities to contribute to environmental and climate improvements.

**Policy E9: Biodiversity and Environmental Net Gain**

The Lead Local Flood Authority and Risk Management Authorities, using all available legislative and regulatory measures, will seek to ensure that new local flood risk and water management structures will protect and enhance the environment in a manner that results in biodiversity and environmental net gain for local communities.