

## ABERDEEN CITY COUNCIL

---

COMMITTEE	Enterprise Planning and Infrastructure
DATE	15 March 2011
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	New Flood Regulations – Flood Risk Management (Scotland) Act 2009
REPORT NUMBER:	EPI/11/072

---

### 1. PURPOSE OF REPORT

To update the Committee on the progress made to date to implement the Act.

### 2. RECOMMENDATION(S)

That the Committee:

- a. Notes the responsibilities placed on Local Authorities by the Act, the indicative costs involved and the funding allocated by the Scottish Government.
- b. Notes the progress made to date to implement the Act and the indicative programme for future progress.
- c. Notes the requirement for ACC to respond to the draft consultation 'Delivering Sustainable Flood Risk Management' by 18 March 2011 and authorises officers to respond on behalf of ACC.
- d. Instructs officers to report annually on progress.

### 3. FINANCIAL IMPLICATIONS

In 2009 the Scottish Government advised that the average additional revenue costs to each local authority in Scotland for implementing the Act would be:

- a) £1,140,000 for the period 2010/11 up to 2014/15 - £228,000 per annum
- b) £240,000 per annum post 2015
- c) £10,000 per annum for local authority functions and new statutory processes

All local authorities received the same allowance of £60,000 in the 2010/11 revenue allocation. Notification that this funding was secure was given in December 2010.

For financial year 2011/12 the allocation has been made on the basis of flood risk with Aberdeen City receiving an allocation of £148,000

#### 4. SERVICE & COMMUNITY IMPACT

The full details of what each statutory organisation will be responsible for under the new Act will be contained in the supplementary Regulations, which have still to be published. However additional resources will be required for delivery of the new duties and these will be determined following the publication of the Regulations. The duties will generally involve additional staff resources for the following:

- a) Preparing maps of bodies of water (including SUDS systems)
- b) Assessing watercourses
- c) Preparing Local Flood Risk Management Plans
- d) Preparing and implementing maintenance, clearance and repair work schedules
- e) Preparing a register of all Flood Protection Schemes.
- f) Engaging with the public.

To date one additional technical officer post has been allocated to assist with these duties.

#### 5. OTHER IMPLICATIONS

There will be a requirement to work closely with other statutory bodies and especially Aberdeenshire, SEPA and Scottish Water.

#### 6. REPORT

The new Act enables provision to be made for implementing the European Communities Floods Directive 1. The purpose of this Directive is to establish a framework for the assessment and management of flood risks, aiming at the reduction of the adverse consequences for human health, the environment, cultural heritage and economic activity associated with floods.

The Act makes provision in relation to five main areas:

- a) Coordination and cooperation within the domain of flood risk management
- b) Assessment of flood risk and preparation of flood risk maps and flood risk management plans, including implementing the EC Floods Directive.
- c) Amendments to local authority and SEPA functions for flood risk management
- d) A revised statutory process for flood protection schemes incorporating deemed planning consent within the Flood Order

- e) Amendments to the enforcement regime for the safe operation of reservoirs.

The statutory Organisations responsible for delivery of the new legislation are:

- a) Scottish Government
- b) Local Authorities
- c) SEPA
- d) Scottish Water
- e) National Parks

The majority of the work involved with implementing the new Act will be carried out by the local authorities and SEPA.

Draft guidance on delivering sustainable flood risk management was published by the Scottish Government in January 2011. The deadline for submission of views and comments is 18 March 2011. The draft guidance along with the address for submitting comments can be accessed online at the Scottish Government website.

The milestones identified for implementation of the Act are as follows:

<b>Deadline</b>	<b>Lead Authority</b>	<b>FRM Act requirement</b>
18 March 2011	Responsible Authorities	Comments to Scot Gov on draft guidance on sustainable flood management.
May 2011	Scottish Government	Publish guidance on sustainable flood management
January 2011	SEPA	Establish advisory groups
December 2011	SEPA	Produce as assessment of flood risks across Scotland leading to identification of areas most vulnerable to flooding
	SEPA	Identify Local Plan Areas
March 2012	SEPA	Establish local plan advisory groups
No Statutory deadline	Local Authorities	Prepare a schedule of clearance and repair works
Timescales to be set by Scottish Ministers	Local Authorities	Prepare maps of water bodies and Sustainable Urban Drainage Systems (SUDS)
Timescales to be set by	SEPA	Prepare maps of artificial

Scottish Ministers		structures and natural features
Timescales to be set by Scottish Ministers	Scottish Water	Publish an assessment of flood risk from sewerage systems
December 2013	SEPA	Publish an assessment of opportunities for restoration of natural features and characteristics to reduce flood risk
	SEPA	Publish flood hazard maps and flood risk maps
	SEPA	Publish a statement of consultation actions
December 2014	SEPA and lead authorities	Publish draft national and local flood risk management plans for consultation
December 2015	SEPA and lead authorities	Publish flood risk management plans
June 2016	Lead local authorities	Publish implementation parts of local flood risk management plans
Cycle to be repeated every 6 years thereafter		

## 7. AUTHORISED SIGNATURE

### 8. REPORT AUTHOR DETAILS

Alan Robertson  
Structures, Flooding and Coastal Engineering Manager  
[alanr@aberdeencity.gov.uk](mailto:alanr@aberdeencity.gov.uk)  
01224 (52)2419

### 9. BACKGROUND PAPERS

Flood Risk Management (Scotland) Act 2009  
Delivering Sustainable Flood Risk Management – a consultation – January 2011

## APPENDIX A

### A BRIEF OUTLINE OF THE RESPONSIBILITIES FOR THE FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009

The new flood Act is subject to further regulations which will be made by Scottish Ministers.

#### LOCAL AUTHORITY RESPONSIBILITIES

Bill Section No.	Title	Comment	Responsible Body
1	General Duties	Scottish Ministers (SM), SEPA, Local Authorities (LA) and others must all act to reduce flood risk	Local Authority (LA) SM SEPA
5	Responsible Bodies	LAs, Scottish Water (SW) and others	LA SW
17	Maps of Bodies of Water	The bodies of water & SUDS schemes are to be mapped by LAs	LA
18	Assessment of Bodies of Water	LAs will have a duty to assess watercourses	LA
34	Local FRMP (Flood Risk Management Plan)	The Local Flood Risk Management Plan has to be completed by the lead Local Authority.  The Local Flood Risk Management Plan (LFRMP) supplements the Flood Risk Management Plan produced by SEPA  The LFRMP details the objectives, measures, maps, information, timetables, programmes.  The LFRMP includes surface water and urban drainage	LA
35	Local FRMP publicity and consultation	To be completed by December 2014	LA
36	Local FRMP publication	To be completed and published by December 2015	LA
37	Local FRMP interim and final reports	To be published 2 to 3 years and 5-6 years later	LA
39	Local FRMP joint working	Joint working with neighbouring LAs	LA SEPA
43	Information to SEPA	LAs must give information it holds to SEPA on request	LA SEPA
44	Information to LA	Given by SEPA to LAs on Request	SEPA LA
49	District Flood Risk Advisory Group (DFRAG)	Administered by SEPA to advise SEPA	SEPA LA etc
50	Sub-District FRAG	Administered by SEPA to advise	SEPA

		SEPA and LAs	LA etc
56	General Powers to Manage Flood Risk	LAs may do anything to reduce risk imminent flooding or contributes to the FRMP	LA
59	Duty to carry out Clearance and Repairs	LA must carry out the works scheduled under Section 56. i.e., the cleansing and repair schedule and timetable for any watercourse which give rise to a risk of flooding.	LA
60	Flood Protection Schemes (FPS)	Schemes can be proposed by the LA	LA
61	Land Drainage Acts	Can be varied by the FPS	
62	Register of FPS	All schemes to be registered including earlier schemes completed under the 1961 act.	LA
65	Deemed Planning Permission	Planning Permission is deemed to be granted along with the FPS.	LA
66	Land Acquisition	CPO available	
74	Flood Warning	Given by SEPA	SEPA & LA
80	Powers of Entry	For SEPA and LA	SEPA & LA
82	Compensation	LA to pay compensation to effected parties for works carried out under sections 56, 59, 76, 79, 81 of the Act	
84	Reservoirs Act	SEPA becomes the enforcement authority. LA has 28 days to provide information.	
90&91	Crown Application	The Act applies to the Crown	LA
Schedule 2	Flood Prevention Schemes: Procedure	FPS procedure – 28 days for objections, then <ul style="list-style-type: none"> <li>• Public Inquiry if there are Statutory objections</li> <li>• Otherwise a LA hearing</li> <li>• Appeals allowed</li> </ul>	SM LA