

ABERDEEN CITY COUNCIL

COMMITTEE	Enterprise Planning and Infrastructure
DATE	26 November 2009
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	New Flood Regulations – Flood Risk Management (Scotland) Act 2009
REPORT NUMBER:	EPI/09/079

1. PURPOSE OF REPORT

To advise the Committee of the new responsibilities placed on Local Authorities by the Flood Risk Management (Scotland) Act 2009.

2. RECOMMENDATION(S)

That the Committee:

- a. Note the responsibilities placed on Local Authorities by the Act, the indicative costs involved, and that a further report will be submitted to the Committee in due course with details of the staffing, and other resource implications.
- b. Authorise the use of monies from the Roads revenue budget to fund the costs of implementing the Act this financial year 2009/10.
- c. Authorise officers to bid for monies from future Revenue Budgets to fund the future costs of implementing the Act

3. FINANCIAL IMPLICATIONS

In so far as local authorities are concerned the Scottish Government is advising that the average additional costs to each local authority in Scotland for implementing the Act are:

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

Because of the relatively small geographical area covered the costs incurred by ACC are likely to be less than these average figures. However it is not possible

to be more precise on costs until such time as the supplementary regulations are published.

No additional funding has been made available by the Scottish Government to implement the requirements of the Act.

Some costs associated with implementation of the Act will be incurred in financial year 2009/10 – these are not likely to exceed £5000. It is proposed that these costs are funded from the existing Roads revenue budget.

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 it is likely that additional resources will be required for delivery of the new duties and these will require to be worked out following the publication of the Regulations. The duties will generally involve additional staff resources for the production of:

- a) Maps of Bodies of Water (including SUDS systems)
- b) Assessment of Watercourses
- c) Local Flood Risk Management Plans
- d) Maintenance, Clearance and Repair work schedules
- e) Register of all Flood Protection Schemes.

5. OTHER IMPLICATIONS

None at this stage.

The details of the resources which require to be in place for 2010/11 will be determined following publication of the Regulations and will be the subject of a future report.

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.

A report showing the annual programme of inspections to watercourses and hecks will be submitted to the January Committee

The Directive applies to all forms of flooding by defining “flood” to include all temporary covering by water of land not normally covered by water. This includes flooding from rivers, lochs, groundwater and the sea as well as flooding from surface water runoff.

A report showing the flooding incidents that have occurred in the City since April 2009 will be submitted to the January Committee

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 attached to implementing the new Act will be carried out by the local authorities and SEPA, and these duties are itemised in Appendix A

7. REPORT AUTHOR DETAILS

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8. BACKGROUND PAPERS

Flood Risk Management (Scotland) Act 2009

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	Administered by SEPA to advise SEPA	SEPA LA etc

	(DFRAG)		
50	Sub-District FRAG	Administered by SEPA to advise SEPA and LAs	SEPA 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"> • Public Inquiry if there are Statutory objections • Otherwise a LA hearing • Appeals allowed 	SM LA