

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
MUNICIPAL YEAR 2013-2014**

**ENVIRONMENTAL SERVICES SCRUTINY
COMMITTEE**

7TH APRIL, 2014

**REPORT OF THE GROUP DIRECTOR,
ENVIRONMENTAL SERVICES**

Agenda Item No 7

**FLOOD RISK MANAGEMENT - THE
IMPLICATIONS OF THE LAND
DRAINAGE ACT 1991, FLOOD RISK
REGULATIONS 2009 AND THE FLOOD
AND WATER MANAGEMENT ACT 2010**

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1.0 PURPOSE OF THE REPORT

- 1.1 To advise Members of the Council's roles, responsibilities and powers under the following legislation:
- The Land Drainage Act 1991;
 - Flood Risk Regulations 2009; and
 - Flood and Water Management Act 2010.

- 1.2 This report sets out to provide an overview of the current roles and responsibilities of the Flood Risk Management team, situated within the Land Reclamation and Engineering Department of the Environmental Services Group.

2.0 RECOMMENDATIONS

- 2.1 Members note the main roles and responsibilities of RCTCBC under the legislation.

3.0 FLOOD RISK REGULATIONS 2009

- 3.1 The purpose of The Flood Risk Regulations 2009 (FRR) is to transpose the European Commission Floods Directive (Directive 2007/60/EC of the European Parliament and of the Council on the assessment and management of flood risk, which aims to provide a consistent approach to managing flood risk across Europe), into domestic law in England and Wales.

This approach is based on a 6 year cycle, including the production of the following documents:

- Preliminary Flood Risk Assessments (PFRA's) by 22nd December 2011;
- Hazard and Risk Maps by 22nd December 2013; and
- Flood Risk Management Plans.

3.2 Preliminary Flood Risk Assessments

Rhondda Cynon Taf County Borough Council acting as a Local Lead Flood Authority (LLFA) was required to prepare an assessment that considers the general flood risk from local sources of flood risk (i.e. not Main River or seas), entitled "Preliminary Flood Risk Assessment" (PFRA).

The PFRA was completed by RCTCBC in June 2011 and was based on indicative flood risk areas provided by the Environment Agency. The indicative areas are based on computer modelling and data processed by the Environment Agency.

1km² places above flood risk thresholds were identified based on thresholds of over 200 residential properties, over 20 non-residential properties or 1 critical service are affected. Clusters of these 1km grid squares were formed on the basis of 4 or more touching blue squares in Wales in a 3km by 3km grid. A threshold of 5,000 people at risk was applied in Wales.

It is noted that whilst the flood risk areas have been identified, areas not considered a flood risk may still be considered in future flood alleviation schemes.

3.3 Flood Hazard and Risk Maps

The Environment Agency, working with Lead Local Flood Authorities, have produced and published the "updated Flood Map for Surface Water" (uFMfSW). The uFMfSW shows areas at risk of flooding from surface water with maps detailing depth, velocity, hazard and flow direction.

The FRM team are currently assessing the maps and will undertake a new assessment of the flood risk in RCTCBC. This will provide the basis of the Flood Risk Management Plans. RTCBC currently sit on the national task and finish group, tasked with producing a count methodology for properties at risk of flooding. This work will require considerable resource input by the Council.

3.4 Flood Risk Management Plans

This stage is to be completed by 22 June 2015, and will require Rhondda Cynon Taf as a LLFA to formulate and implement a Flood Risk Management Plan based on the uFMfSW. This will bring together all the objectives and measures that relate to the prevention of flooding, the protection of individuals, communities and the environment against the consequences of flooding and arrangements for forecasting and warning. Formulating this Plan will involve considering the need for flood management actions and resilience measures, such as flood alleviation schemes.

RTCBC currently sit on the UK Project Board and the Welsh task and finish group, tasked with producing a template for the Flood Risk Management Report and a template for the document to be reported to Europe.

4.0 FLOOD AND WATER MANAGEMENT ACT 2010

4.1 Following the devastating flooding observed in 2007, Sir Michael Pitt's Review set out a number of recommendations for the government to better manage the risk posed by flooding. The Flood and Water Management Act (FWMA) 2010 implemented many of these recommendations and set out the desire for the sustainable management of risk associated with flooding. A summary of the roles and responsibilities of LLFA's is presented in Appendix A.

4.2 Local Flood Risk Management Strategy

Section 10 of The FWMA 2010 requires LLFA's to "develop, maintain, apply and monitor a strategy for local flood risk management" in Rhondda Cynon Taf. The Local Flood Risk Management Strategy sets out to satisfy and fulfil the requirements of the Flood and Water Management Act 2010 and adopts a holistic approach to flood risk management.

The strategy details the objectives and measures that have been developed to outline, at a high level, how the Authority intends to manage flood risk within the life of this particular strategy and sets out to adopt a holistic approach to flood risk management.

RCTCBC have developed four core objectives with regard to the management of flood risk from local sources. Four core objectives are to be delivered through the implementation of 16no. detailed objectives, which, in turn will be delivered through 38no. measures. The objectives and measures are linked to the community strategy and sustainable development and also satisfy the requirements of Welsh Government.

The strategy was completed by Rhondda Cynon Taf County Borough Council and was approved by Welsh Government in April 2013 without comment. In addition, Section 10 of The Flood and Water Management Act 2010 also requires LLFA's to produce a summary of the strategy. Both the strategy document and the summary are published on the RCTCBC website for the public (www.rctcbc.gov.uk/flooding).

The Strategy is not a one off exercise and will subject to continual review and require significant Council resource.

4.3 Establishment of Asset Register

Under Section 21 of The FWMA 2010, RCTCBC have a duty to establish and maintain a register of all assets that are considered to present a significant flood risk.

To fulfil this requirement, the Council has purchased GIS software called STM Geoviron, which allows the recording of information regarding a structure within a database and also allows the spatial representation of the structure within a GIS format.

The most significant source of flooding in RCT are culverts and as such, these are considered the most important structures to record. Using information provided by the Environment Agency, the FRM team estimate that there are approximately 1200 culverts within the Council, although this is likely to be a conservative estimate.

The FRM team will continue to record and maintain a record of all land drainage structures via ad hoc inspections, flood area appraisals, hard copy Council records and planning submissions.

This work will require considerable resource input by the Council. There is significant cost associated with the work and it is anticipated that it will be undertaken using Welsh Government funding.

4.4 Designation of Structures

Section 30 (schedule 1) of the FWMA 2010 detailed that a designating authority may designate a structure, which is in private ownership, if it is considered that the structure affects a flood risk or coastal erosion risk. The effect of the designation prevents a person from altering, removing or replacing a designated structure or feature without the consent of the responsible authority. A designation is a local land charge.

There are currently no designated structures in Wales. RCTCBC are undertaking the designation of a structure, which is believed to positively affect flood risk. Once the report has been compiled and the order made, RCTCBC will be the first designating authority in Wales to designate a structure.

4.5 Sustainable Drainage System Approval Bodies (SAB's)

Schedule 3 of The Flood and Water Management Act 2010 details that unitary and county councils will be responsible for forming SuDS approval bodies (SABs) to evaluate and approve SuDS in all new developments and to adopt and maintain SuDS serving more than one property. SuDS will be constructed to a new national standard to help manage and reduce flow of surface water into existing systems. RCTCBC will be the SuDS approving and adoption body and this will have further significant implication on skills and resources requirements.

Schedule 3 has not yet been implemented and no standards have been released. The commencement date of April 2014 has been retracted and UK Government has offered no new date for implementation. Welsh Government is waiting for English standards to be released prior to consultation in Wales and as such, a significant delay in Wales is anticipated.

The FRM team will continue to promote the use of sustainable drainage systems until legislation is commenced.

4.6 Amendment to Section 23 of the Land Drainage Act 1991

Under Schedule 2 of the Flood and Water Management Act 2010, responsibility for the consenting of structures on ordinary watercourses was transferred to Lead Local Flood Authorities. This power transferred from the Environment Agency on the 12th April 2012. Since the transfer of powers, RCTCBC have received over 200 applications for ordinary watercourse consent. The FRM team have produced literature, policy and guidance to advertise and educate the industry regarding the requirements for ordinary watercourse consent.

Should any person/persons construct a structure within a watercourse without consent, RCTCBC have permissive powers under Section 24 of the Land Drainage Act 1991. The FRM team act in accordance with the RCTCBC's enforcement policy and liaise with landowners for compliance. In circumstances where it is evident that the landowner will not comply, the FRM team look to enforce under Section 24 of the Land Drainage Act 1991, requiring the watercourse to be reinstated to its original condition.

This responsibility requires significant Council resource.

5.0 Flood Alleviation Schemes

- 5.1 The Council's Capital Land Drainage Program supports works on land drainage and flood alleviation schemes to improve the overall flood risk from mainly ordinary water courses, which are of such scale that their costs place them outside the normal framework of routine maintenance.

The Council, as the Land Drainage Authority, is able to benefit from Welsh Government grant support (85%) under Section 59 of the Land Drainage Act 1991. The Welsh European Funding Office has also supplied grant to alleviate flooding in recent years.

- 5.2 Previous Flood Alleviation Schemes

Several Schemes have been completed over the last 3 years supported by RCT Capital programme, Welsh Government and WEFO. These include Rhydyfelin Flood Alleviation Scheme.

The approximate investment has been over £4m with 363 properties benefiting from a reduced flood risk. A summary is provided in Appendix B.

- 5.3 Future Flood Alleviation Schemes.

As the data collection and risk mapping becomes more comprehensive further risk areas will become apparent and will be built into the Flood Risk Management Plan referred to in Section 3.4.

The council's investment over the last couple of years in software, data and specialist resource have prioritised and justified the advancement of a number of Flood Alleviation Schemes supported by Capital funds from the Council, Welsh Government and WEFO.

This programme of investment of over £2.5m is due for completion by 31 March 2015 and will reduce the flood risk to 375 properties. Further information on the projects can be found in Appendix B.

Appendix A - Summary of LLFA's roles and responsibilities

Description	Section	Commencement	Actions
Local Flood Risk Management Strategy	Section 10	1 October 2010	Develop, maintain, apply and monitor a strategy for local flood risk management in RCTCBC.
Co-operation and arrangement	Section 13	1 October 2010	Enacted
Power to Request Information	Section 14	6 April 2011	Can request a person or persons to provide information for flood risk management – As yet not used by RCTCBC.
Civil Actions	Section 15	6 April 2011	Enforcement of the Section 14 request – As yet not used by RCTCBC.
Local Authority Investigation into Flooding	Section 19	6 April 2011	Requirement to undertake an investigation following a flood event, should it be considered necessary or appropriate.
Duty to Maintain Register	Section 21	6 April 2011	Establish and maintain a register of structures considered to present a significant flood risk.
Sustainable Development	Section 27	6 April 2011	LLFA must promote sustainable development.
Designation of Features	Section 30 (Schedule 1)	6 April 2011	Protection of features that have a significant effect on flood risk.
Section 23 Land Drainage Act 1991	Section 31	12 April 2012	Amendments to the Land Drainage Act 1991
SuDS Approval Body (SAB)	Section 32 (Schedule 3)	Unknown	Creation of Sustainable Drainage Systems Approval Body (LLFA) – adoption of SuDS by Local Authority.

APPENDIX B - Summary of Flood Alleviation Schemes

Flood Alleviation Schemes – Past Schemes

Scheme/Area	Funding*	Status**	Property Benefiting (Decreased Flood Risk)			Completion
			Residential	Non-residential	Other	
Tylcha Ganol/Fach FAS	RCT/WG	Completed	17	0	Roads	2010
Taff Trail FAS	RCT/WG/WEFO	Completed	43	10	Cycle Way	2011
Bodwenarth Quarry FAS	RCT/WG	Completed	13	2	Roads	2011
Rhydyfelin FAS	RCT/WG/WEFO	Completed	271	1	Roads	2013
Caenant Flats FAS	RCT/RCTH	Completed	6	0	Roads	2013
Total Property Benefiting			350	13		

Flood Alleviation Scheme – Future Capital Programme

Scheme/Area	Funding*	Status**	Property Benefiting (Decreased Flood Risk)			Completion By
			Residential	Non-residential	Other	
Nant Gwawr FAS (Phase 1)	RCT/WG/WEFO	D&D	232	0	Roads	31 March 2015
Nant y Fedw FAS	RCT/WG/WEFO	D&D	123	0	Roads	31 March 2015
Nant Cae Dudwg FAS	RCT/WG/WEFO	Con	11	3	Roads	31 March 2015
Bwlfa Road, Cwmdare FAS	RCT/WG/WEFO	D&D	6	0	Roads	31 March 2015
Total Property Benefiting			372	3		

Funding Bodies*

RCT	Rhondda Cynon Taf County Borough Council
WG	Welsh Government
WEFO	Welsh European Funding Office
RCTH	RCT Homes

Status**

Inv	Investigation/Feasibility Phase – Investigation into causes, risk quantification, initial hydraulics and funding applications.
D&D	Design & Development Phase – Surveys, Hydraulic analysis, detailed design, land, consultation and procurement
Con	Construction Phase – Construction of scheme
Completed	Scheme Completed and in maintenance phase