

LOCAL GOVERNMENT NORTH YORKSHIRE AND YORK

16 APRIL 2010

Flood and Water Management Bill**Legislative Process Progress Update****Recent announcements and events**

The Flood and Water Management Bill was considered by the House of Lords Grand Committee on the 17 and 24 March 2010, and following a further session scheduled for the 6 April it is now expected to be carried through in a 'wash up' before parliament is dissolved ahead of the general election. This suggests that **the bill is all but certain to be given royal assent before the end of this government term..**

Reminder of the Key Elements for Lead Local Flood Authorities of the proposed legislation

The EU Floods Directive – In order to meet EU timescales, the regulations for the Floods Directive are being transposed separately from the Flood and Water Management Bill and will not be debated further. We therefore now have confirmation that the Lead Local Flood Authority will be required to produce Preliminary Flood Risk Assessments (PFRA) by December 2011, Flood hazard maps by December 2013 and Flood Risk Management Plans (FRMP) by December 2015.

The detailed timetable for the PFRA's is now emerging, and we need to submit our response to the EA by 22 June 2011. The PFRA must identify areas of significant risk from any/all sources of flooding, called *Flood Risk Areas*. The PFRA should build upon existing readily available information, working in partnership with the EA and district councils. A living draft of detailed DEFRA guidance on the preparation of PFRA's is expected in early April 2010.

Lead Local Flood Authority duties – As well as giving the Environment Agency an overview of all flood and coastal erosion risk management, the bill gives unitary and county councils a leadership role in managing the risk of all local floods. The central aspects of this role are set out as:

- Coordination of flood risk management

- The duty to develop, maintain, apply and monitor a strategy for local flood risk management (surface runoff, groundwater and ordinary watercourses) that is consistent with national strategies
- the duty to investigate flooding and maintain a register
- Powers to do works to manage flood risk
- Designation of third party assets as relevant to flood risk management, requiring the owners to seek consent before altering, removing or replacing the structure
- Approval, adoption and maintenance of Sustainable Drainage Systems (SuDS)
- Power to issue consents for structures impacting on flow in watercourses

Changes to the bill during its passage through the commons

Local authority investigations - In response to fears about the implied burden, DEFRA have clarified the scope of the duty on local authorities to investigate flooding. Local authorities will now have the power to decide whether and how far it is necessary or appropriate to investigate an incident.

Building regulations: flood resistance - A new clause amends the Building Act 1984. Sir Michael Pitt recommended revising the Building Regulations to ensure that all new or refurbished buildings in high flood-risk areas are made flood resistant or resilient. The new clause extends the scope for which Building Regulations can be made to cover minor repairs.

Risk Management: designation of features - Two amendments have been made to make the compensation and appeals provisions more comprehensive in Schedule 1 of the Bill which provides for the designation of features.

The first change will ensure that a designating authority compensates a person that has suffered damage to their property in the event that they have unreasonably exercised their powers of entry.

The second change fills an unintended gap in the appeals mechanism to allow consent conditions to be appealed.

Incidental flooding – Environment Agency and Local Authorities - The provisions have been made more explicit for these bodies to consult persons who own

or occupy land that is likely to be directly affected before the bodies carry out work that might cause flooding, raised groundwater levels or coastal erosion.

Regional Flood and Coastal Committees - The Environment Agency will be required to obtain the consent of the relevant Regional Flood and Coastal Committee for the regional programme as a result of an amendment to clause 23.

Key areas of uncertainty

Funding - The issue of funding has not been fully resolved and remains an issue for local authorities, and so as a response to this, a DEFRA and LGA Legislative Review Panel has now been convened to look at the issue of future funding. The government will only currently say that all future funding obligations will be met.

SUDS Approval - The LGAs have adopted the position that the SuDS Approval Body (SAB) function should fall to district rather than county councils, and the Conservatives believe this should lie with the water companies. However, current indications from ministers and from DEFRA officials are that this is not now likely to be amended.

Summary and Critical Next Steps

Whilst the bill may yet be modified or amended during the 'wash up', it is now most likely that it will progress onto the statute book in its current form.

The following key actions will therefore represent our critical next steps:

Strategy - Continue to develop strategic and policy responses to the new legislation

Communication - Prepare and deliver a series of events and workshops for county and district representatives (councillors and officers) for whom the new legislation will have an impact

Delivery - Commence the preparation of the Preliminary Flood Risk Assessments required to satisfy the EU Floods Directive

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