

NATIONAL TECHNICAL ADVISORY GROUP ON FLOODING ISSUES

RESPONSIBILITIES FOR MANAGING FLOOD RISK IN SCOTLAND

Purpose

1. This paper gives background details on the division of responsibilities for managing flood risk in Scotland.

Background to the current institutional arrangements for flooding in Scotland

2. In Scotland the primary responsibility for protecting land from flooding lies with the owner of the land. This does not change as a result of the Water Environment and Water Services (Scotland) Act 2003 (“the 2003 Act”).

River and coastal flooding

3. Local authorities have wide discretionary powers to protect non-agricultural land under the Flood Prevention (Scotland) Act 1961. Authorities are not limited to using their powers within their own administrative area; all schemes are required to take account of upstream and downstream impacts. For new defences, local authorities design, and then legally “make”, flood prevention schemes that are widely advertised before being submitted to Scottish Ministers for confirmation (who may confirm with or without modification, or refuse to confirm). Flood prevention schemes that comply with national design standards are approved and funded by Ministers with confirmed schemes attracting grant at a rate up to 50% of total costs subject to certain criteria being met. The Executive's current criteria stipulate that the scheme should reduce the risk of flooding to no greater than 1% (annual probability of occurrence) with allowance for climate change over the life of the scheme. Schemes are also required to be technically, environmentally, and economically sound and sustainable. The Executive has to date provided supplementary allocations to councils to fund the major confirmed schemes, but revisions to local government finance arrangements will see the removal of capital allocation from April 2004.

4. The Flood Prevention and Land Drainage (Scotland) Act 1997 amended the Flood Prevention (Scotland) Act 1961, and for the first time and unique to Scotland in a UK context, placed certain duties on local authorities with regard to their flood prevention activities.

- Duty of local authorities to assess watercourses from time to time to ascertain whether in a condition which is likely to cause flooding of non-agricultural land in their area.
- Duty of local authorities to maintain watercourses in their area which are in a condition likely to cause flooding of land
- Duty of local authorities to publish biennial reports specifying measures they consider they require to take to prevent or mitigate flooding, measures taken to prevent or mitigate flooding since their last report and instances of flooding since their last report.

5. SEPA is a protector of the water environment, and has no flood defence functions. However, some of SEPA's knowledge and expertise is relevant to flooding and SEPA has powers to provide flood warning systems - wider dissemination of flood warnings through Floodline was launched in November 2001. SEPA has the function under section 25 of the Environment Act 1995 of assessing flood risk in Scotland. SEPA has produced maps of indicative flood risk areas that have been distributed to planning authorities. In April 2004 it intends to award a contract for the production of second-generation flood risk assessment maps. These will be made widely available through the internet. SEPA also has a duty to provide advice on flood risk to planning authorities, if requested, based on information held.

6. The 2003 Act has given SEPA, along with other authorities, the duty to promote sustainable flood management. Secondary legislation will subsequently give SEPA the power to regulate abstractions, impoundments and engineering works. In addition, SEPA will lead in the establishment and maintenance of River Basin Management Plans and a Scottish Monitoring Strategy.

7. The 2003 Act will give SEPA a role in regulating flood prevention works, promoting sustainable approaches to flood prevention and considering the impacts of flood management on the environmental objectives.

8. Roads Authorities (Scottish Ministers for trunk roads, local authorities for all other public works) have powers under the Roads (Scotland) Act 1984 to carry out certain works to keep roads free from surface water.

9. Planning policy guidance on development in flood risk areas has been reviewed and the outcome, in the shape of Scottish Planning Policy 7: Planning and Flooding (SPP 7), will be issued on 6 February 2004. It offers guidance to planning authorities to avoid inappropriate development in areas subject to flood risk. A large group of stakeholders has been involved in the SPP 7 review.

Sewer flooding

10. Scottish Water has statutory responsibility for flooding from sewers under the Sewerage (Scotland) Act 1968. At present, Scottish Water is putting considerable effort into understanding flooding problems. It has recorded flooding information in each of its operational areas into a Scottish Water Flooding Register. This records instances of internal and external property flooding and highway flooding.

11. Drainage area studies are the main means of understanding of sewer flooding, and the models developed can also be used to investigate the possibility of interim solutions and to confirm the effectiveness of contingency plans. Scottish Water plans to invest approximately £22 million by 2006 on these studies. It also plans to invest around £55 million (with additional funds potentially being made available from the sewer rehabilitation budget), by 2006, to resolve sewer-flooding problems. Additional benefits in relation to flooding will also be achieved through other sewer network investment.

Overland flooding

12. Overland flooding, caused by the build up of water on land following heavy rainfall or by a high water table causing ponding of standing water in low lying areas, is not directly related to flow in watercourses and is the responsibility of the land owner concerned.

Conclusions

13. Members are asked to note the above.

NTAG Secretariat

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