

Local Flood Risk Strategy 2022-2027



Section 6: Who does what?

Overview of the flood risk management duties and responsibilities of organisations, businesses and individuals

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6 Who does what? : Flood Risk Management in North Yorkshire

6.1 The Yorkshire Regional Flood and Coastal Committee

The Regional Flood and Coastal Committee (RFCC) is a committee established by the Environment Agency under the Flood and Water Management Act 2010.



The RFCC brings together members appointed by Lead Local Flood Authorities (LLFAs) and independent members with relevant experience for three purposes:

- To ensure there are coherent plans for identifying, communicating and managing flood and coastal erosion risks across catchments and shorelines
- To promote efficient, targeted and risk-based investment in flood and coastal erosion risk management that optimises value for money and benefits for local communities
- To provide a link between the Environment Agency, LLFAs, other risk management authorities, and other relevant bodies to engender mutual understanding of flood and coastal erosion risks in its area.

6.2 Partnership working and the functions of risk management authorities

The Flood and Water Management Act 2010 (FWMA) defines certain organisations as ‘Risk Management Authorities’ with responsibility for management of flood risk.

In addition to the specific responsibilities and functions¹ that each RMA is required to deliver, they also share:

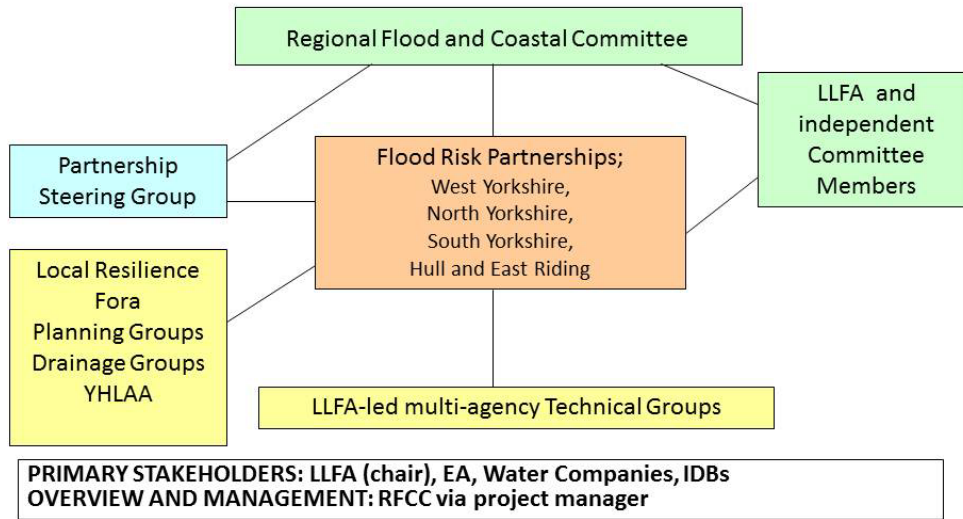
- A duty to act consistently with the Local Flood Risk Strategy when carrying out flood risk management functions
- A duty to work in partnership to manage flood risk in the area and to co-ordinate flood risk management activities
- A duty to share information and data relating to their flood risk management activities
- A duty to be subject to the scrutiny of the LLFA’s democratic processes in respect of their flood risk management activities

In the Yorkshire region, four sub-regional partnerships have been developed to assist with the coordination of these flood risk management activities. The North Yorkshire Flood Risk Partnership comprises representatives from North Yorkshire County Council, City of York Council, the Environment Agency, Yorkshire Water, and representation from the Internal Drainage boards, the districts and the coastal authority in the sub-region.

The creation of the new unitary council for North Yorkshire in April 2023 will bring together the 7 district councils and the County Council. Any changes to the structure and working arrangements of the partnerships will be updated within the strategy.

¹ 3 “flood risk management function” means a function under; Part 1 of the Flood and Water Management Act 2010, Section 159 or 160 (and a flood defence function within the meaning of section 221) of the Water Resources Act 1991, The Land Drainage Act 1991, Sections 100, 101, 110 or 339 of the Highways Act 1980, The Flood Risk Management Functions Order 2010.

FCRM Partnerships Model



The relevant authorities in the North Yorkshire Authority area are identified in the table below

Risk Management Authority	Organisation responsible within North Yorkshire
Lead Local Flood Authority	North Yorkshire County Council
Environment Agency	Environment Agency (Yorkshire - North East)
District / Borough Councils	District Councils: Craven, Hambleton, Ryedale, Richmondshire and Selby Borough Councils: Harrogate and Scarborough (Scarborough are also the coastal authority for their administrative area)
Water companies	Majority of County: Yorkshire Water Small areas near the northern border: Northumbria Water and United Utilities
Highways Authority	Trunk roads: National Highways Non trunk roads: North Yorkshire County Council
Internal Drainage Boards	There are six Internal Drainage Boards (within consortiums) that operate across the County

6.3 North Yorkshire County Council as Lead Local Flood Authority

NYCC recognises that it has an important and challenging role to play as Lead Local Flood Authority in facilitating the delivery of flood risk management in its area by co-ordinating the activities of all relevant agencies.

As well as this general responsibility the Act assigns specific management functions to NYCC relating to 'local flood risk' – defined by the Act as flooding from Surface Water, Ground Water and Ordinary Watercourses. These functions are expressed as 'Duties' – something we are legally obliged to do – and 'Powers' to be used at the authority's discretion.

NYCC's risk management duties are:

- To develop, maintain and apply a Local Flood Risk Management Strategy
- To develop and maintain information on flooding from ordinary watercourses, surface water and groundwater
- To investigate incidents of flooding in its area where appropriate and necessary and to publish reports
- To maintain a register of structures and features which have a significant effect on flood risk
- To establish and operate an approval body for sustainable drainage systems (SuDS) serving new development and redevelopment (expected to become effective in 2014)

NYCC's permissive powers are:

- The power to designate any structure or feature that affects flooding
- To consent to third party works on ordinary watercourses
- The power to carry out works to manage flood risk from surface water and from groundwater

NYCC's permissive powers under the Land Drainage Act are:

- Maintain and improve ordinary watercourses and build new works
- Serve notice on any person or body requiring them to carry out necessary works to maintain flow in ordinary watercourses

Although NYCC has powers to do works in ordinary watercourses, the responsibility for the maintenance lies with the riparian owner. Hence NYCC is only responsible for maintenance where it is the riparian owner.

North Yorkshire County Council is a category 1 responder, the emergency response to flooding is not part of its role as LLFA. The Resilience and Emergencies Team undertake coordination of this function on behalf of NCC. The LLFA will however often undertake investigations into the cause and effects of significant flood events and will endeavour to

predict which are likely to be vulnerable to local flooding from surface runoff, groundwater or from ordinary watercourses. Dissemination of this information will ensure that emergency response teams are better informed about the spatial distribution of flood risk and can prepare emergency response plans accordingly. ²(Please see section 2 Action Plan for further information on the work between the LLFA and the Local Resilience Forum)

6.4 North Yorkshire County Council as Highway Authority

There are approximately 9,000km (5,592 miles) of road, 4,400km (2,734 miles) of footway and over 2,000 bridges in North Yorkshire. North Yorkshire County Council is the local Highway Authority for the County and is responsible for the management of most of these roads (excluding Motorways and Trunk Roads such as the A1(M) and A64(T) which are managed by the National Highways).

The Highways Act (1980) places a responsibility on the council to drain the highway of surface water and to maintain the highway drainage systems. To meet this responsibility, the highway Authority may undertake works on the highway or on land adjoining it for the purpose of draining the highway or to prevent surface water flowing onto it and causing flooding.

Surface water from the highway drains either into the public sewer network (maintained by the Water Company), into separate highway drains (maintained by the highway authority) or into roadside ditches (maintained by the landowner). Much of this drainage is via drainage gullies which are cleaned out every six months, or annually, depending on need. This need is established through a risk based approach. Cleansing is carried out in order to ensure the free flow of water from the highway. More regular gully emptying takes place at sites across the county where poor drainage has been identified. This increased frequency of emptying reduces the risk of flooding and helps to reduce damage to the network whilst also maintaining access for transport users.

² The Civil Contingencies Act (CCA) 2004 sets out which authorities are emergency responders. North Yorkshire County Council is a category 1 Responder (these are organisations at the core of the response to most emergencies i.e. the emergency services, local authorities and NHS bodies). The Resilience and emergencies Team (NYCC) coordinates this function on behalf of NYCC. The Team works with multi-agency partners i.e. Category 1 responders, Category 2 Responders (Health and Safety Executive, transport and utility companies who will be heavily affected by incidents that affect their sector), the military, the Voluntary sector, and the Environment Agency, through the North Yorkshire Resilience Forum (NRF) to prepare for, respond to and recover from, major emergencies. This includes embedding lessons identified.



6.5 The functions of the Environment Agency

Under the FWMA the Environment Agency (EA) has a strategic overview role for all sources of flooding as well as an operational role in managing flood risk from Main Rivers, reservoirs and the sea. As part of this role the EA have developed a National Flood and Coastal Erosion Risk Management Strategy for England – ‘Understanding the Risks, Empowering Communities, Building Resilience.’

This national strategy outlines the EA’s strategic functions as:

- Ensuring that flood risk management plans (FRMPs) are in place and are monitored to assess progress. The plans will set out high-level current and future risk management measures across the catchment
- Publishing and regularly updating its programme for implementing new risk management schemes and maintaining existing assets
- Supporting risk management authorities’ understanding of local flood risk by commissioning studies and sharing information and data
- Supporting the development of local plans and ensuring their consistency with strategic plans
- Managing and supporting Regional Flood and Coastal Committees and allocating funding

The EA’s operational functions are/include:

- Risk-based management of flooding from main rivers including permissive powers to do works including building flood defences
- Regulation of works in main rivers through the consenting process
- Regulation of reservoirs with a capacity exceeding 10,000m³
- Working with the Met Office to provide severe weather warnings – available to Risk Management Authorities
- Duties as a Category 1 Responder for Emergency Planning (including issuing flood warnings).
- The maintenance and operational management of main river assets including flood defences
- Statutory consultee to the development planning process

- The power to serve notice on any person or body requiring them to carry out necessary works to maintain the flow in main rivers



6.6 Internal Drainage Boards

Internal Drainage Boards (IDBs) are local operating authorities established in areas of special drainage need in England and Wales.

IDBs have permissive powers to undertake works to secure clean water drainage and water level management in designated drainage districts. In managing water levels IDBs have an important role in reducing flood risk in areas beyond their administrative boundary. They also have byelaws (Land Drainage Act 1991, S66) to ensure the effective working of a drainage system in their district or area.

IDBs are funded by special levies from local authorities, capital grants awarded by the Environment Agency and general drainage rates paid by landowners.

There are nine Internal Drainage Boards (IDBs) whose geographical area of responsibility falls either partly or wholly in the administrative area of North Yorkshire County Council. The majority of the IDBs (apart from the Swale and Ure Internal Drainage Board) are part of a consortium or management board. The IDBs are:

[York Consortium Drainage Boards](#)

- Ainsty Internal Drainage Board
- Airdale Internal Drainage Board
- Foss Internal Drainage Board
- Ouse and Derwent Internal Drainage Board

Shire Group of Internal Drainage Boards

- Kyle & Upper Ouse Internal Drainage Board
- Selby Area Internal Drainage Board

Yorkshire and Humber Drainage Boards

- Danvm Internal Drainage Board
- Vale of Pickering Drainage Board

Swale and Ure Internal Drainage Board

6.7 Responsibilities of riparian owners in North Yorkshire

Landowners whose land is adjacent to a watercourse are known as ‘riparian owners’.

A landowner can be an individual e.g. home owner or farmer, private business or an organisation e.g. the district council as park owner, on school grounds the county council as property owner.

A watercourse is defined as every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than a public sewer) and feature through which water flows, but which does not form part of a Main River.

Riparian owners have legal duties, rights and responsibilities under common law and the Land Drainage Act 1991 for watercourses passing through or adjoining their land. These responsibilities are to:

- Pass on the flow of water without obstruction, pollution or diversion affecting the rights of others
- Accept flood flows through their land, even if these are caused by inadequate capacity downstream.
- Maintain the banks and bed of the watercourse and keep structures maintained
- Keep the bed and banks free from any artificial obstructions that may affect the flow of water including clearing litter, heavy siltation or excessive vegetation.

Guidance on the rights and responsibilities of riparian ownership are outlined by the Environment Agency and can be found [here](#).

Although risk management authorities do have permissive powers to carry out works to reduce flood risk related to Main Rivers and Ordinary Watercourses these will only be used as a last resort and do not replace the responsibilities of the riparian owner under common law and the Land Drainage Act 1991.

Where surface water runs off land or is managed via land drainage systems, this naturally contributes to flows in our drainage networks and watercourses. For much of the County, this runoff is managed by private landowners and farmers. As such, the effect of land

management on local flood risk issues is often well understood by the communities and the people who live and work in them.

Where uncertainty exists in terms of responsibilities, or when disputes arise between adjacent landowners or authorities, a judgement from the [Agricultural Land and Drainage Tribunal](#) may be requested.

Given the size of the County, effective land management and stewardship by landowners therefore needs to play an important part in managing flood risk. Individual landowners can help reduce flood risk on a localised scale, but their collective effort can also assist RMAs by reducing the cumulative impacts, because runoff from several localised catchments may combine as the watercourses make their journey to the larger rivers and the sea.

We recognise the importance of sustainable and effective land management, and will work with communities and businesses to achieve this.

6.8 The function of the Water & Sewerage Companies (WaSC)

The water companies of England and Wales are both water supply service providers and sewerage undertakers. The water and sewerage industry is regulated by Ofwat, through the Water Industry Acts 1991 and 1999 and the Water Act 2003, to ensure that consumers' interests are protected. The water companies' flood risk management responsibilities relate to their operations as sewerage undertakers, reservoir owners and provider of infrastructure to new developments.

There are three Water and Sewerage Companies that operate within the administrative area of North Yorkshire County Council. They are:-

- [Yorkshire Water Services Limited](#)
- [Northumbrian Water Services Limited](#)
- [United Utilities Limited](#)

6.8.1 Water company sewerage and flood risk management functions

Particularly in urban areas, some rainwater falling on buildings, impermeable surfaces and roads drains into public sewers owned by one of the water companies. In the NYCC administrative area these are Yorkshire Water, Northumbrian Water and United Utilities.

This water can then be conveyed:-

- Through the combined sewer network, where it mixes with foul water (including sewage) and passes on to sewage treatment works

Or

- Through surface water only sewers, to be discharged directly to rivers and streams

The water companies are risk management authorities and are responsible for the management of the risk of flooding from both combined and surface water public sewers due to excess rainfall entering them.

Responsibility for private sewers lies with the landowners (see section 5.11), but in 2011 the ownership of many private sewers was transferred to water companies. Further guidance can be found [here](#).

Duties as a Category 2 Responder for Emergency Planning

6.8.2 Water company as reservoir owner and operator

The water companies maintain the 27 reservoirs in North Yorkshire in accordance with the Reservoirs Act 1975 and the Flood and Water Management Act 2010. Independent engineers appointed under these Acts use industry guidance to ensure the integrity of the reservoir when subject to flooding.

6.9 District and Borough Councils

There are seven borough and district councils in North Yorkshire, and the County Council works closely with each to manage flood risk.

- Richmondshire District Council
- Hambleton District Council
- Scarborough Borough Council
- Ryedale District Council
- Craven District Council
- Harrogate Borough Council
- Selby District Council

The information set out below highlights the range of mechanisms available to District and Borough Councils in the exercise of their flood risk management functions. After April 2023 the districts, borough and county council will become one authority.

6.9.1 Responsibilities under the Flood and Water Management Act 2010

Section 6 District Councils are classed as Risk Management Authorities.

Section 11 In exercising its flood and coastal erosion risk management functions and any function that might affect a coastal erosion or flood risk, a district council must act in a manner which is consistent with the national strategy and

associated guidance, and also act in a manner which is consistent with local strategies and associated guidance.

- Section 13 A District Council must co-operate with other Risk Management Authorities in the exercise of their flood and coastal erosion risk management functions.
- Section 27 In exercising a flood or coastal erosion risk management function, district councils must aim to make a contribution towards the achievement of sustainable development.
- Section 39 A district council may carry out work (as specified by Section 3 (3) (a) to (e) of the Act) that will or may cause flooding, increase water below the ground or coastal erosion.
- Schedule 1 District Councils are allowed to designate a structure, or a natural or manmade feature of the environment where the authority thinks that the existence or location of the structure or feature affects flood risk. The effect of designation is that a person may not alter, remove or replace a designated structure or feature without the consent of the responsible authority.

6.9.2 Responsibilities under the Land Drainage Act 1991

- Section 14A A District Council may carry out flood risk management work, where the authority considers the work desirable having regard to the local flood risk management strategy for its area, and that the purpose of the work is to manage a flood risk in the authority's area from an ordinary watercourse.
- Section 66 A District Council may make byelaws to secure the efficient working of a drainage system in the authority's district or area, to regulate the effects on the environment, to secure the effectiveness of flood risk management work within the meaning of section 14A and/or to secure the effectiveness of works done in reliance on

6.9.3 Responsibilities under the Public Health Act 1936

- Section 260 A district council may undertake works to manage statutory nuisances in connection with watercourses, ditches, ponds, etc as outlined by Section 259 of the Public Health Act 1936. This includes the clearance of any obstruction or impediment to the proper flow of water. Other provisions within the Public Health Act 1936 outline further provisions related to watercourses, culverting and land drainage.

4.20. Responsibilities under the Environmental Protection Act 1990

Section 79 (Statutory nuisances and inspections therefore) outlines that the following would constitute a statutory nuisance; that any water covering land or land covered with water which is in such a state as to be prejudicial to health or a nuisance.

6.9.4 Responsibilities under the Localism Act 2011

Section 9FH & 9JB A district council (as a risk management authority) must comply with a request made by a lead local flood authorities overview and scrutiny committee, in the course of its arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions which may affect the local authority's area. District councils must have regard to reports and recommendations of an overview and scrutiny committee in the course of arrangement outlined above.

6.9.5 Planning Legislation

Borough and District Councils operate their development planning and control functions, having due regard to the National Planning Policy Framework and associated technical guidance. These duties also apply to the National Park Authorities.

6.9.6 Civil Contingencies Act 2004

Duties as a Category 1 Responder for Emergency Planning.