



North

Yorkshire County Council

# Local Flood Risk Strategy



## Section 5: Flooding & Land Drainage Legislation and Guidance

Overview of legislation, guidance & bodies that govern flood risk management and drainage

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## 5 Flooding and Land Drainage Legislation

### 5.1 Introduction

The scope of Flood Risk Management in England and Wales has been shaped by a series of historic events, and by legislation laid down over many years in response to drainage issues and flood risk.

### 5.2 Flood and Water Management Act (2010)

The significant flooding that occurred in 2007 led to a review by Sir Michael Pitt which in turn gave rise to the Flood and Water Management Act (2010), which now forms the key piece of legislation overseeing flood risk management in England.

The Flood and Water Management Act 2010 (FWMA) determines that flood risk will be managed by a combination of national strategies for England and Wales and a series of local strategies.

The FWMA gives local authorities significant new roles and responsibilities to help manage flood risk in a more co-ordinated way. It helps reduce flood risk by:

- Defining who is responsible for managing the various sources of flood risk
- Enabling effective partnerships to be formed
- Encouraging more sustainable forms of drainage for new development

#### 5.2.1 The National Flood Risk Management Strategy for England (2011)

The FWMA requires the Environment Agency to 'develop, maintain, apply and monitor a strategy for flood and coastal erosion risk management in England'.

Accordingly, the Agency has written the National Flood and Coastal Erosion Risk Management Strategy for England 2011 (the National Strategy)

- This National Strategy sets out the principles for how flood risk from all sources should be managed. It provides strategic information about the various kinds of flood risk and the organisations responsible for their management. The Strategy's guiding principles are: Community focus and partnership working
- An approach based on catchment cells, working with neighbouring authorities
- Sustainability – taking into account potential future risks and remaining adaptable to climate change
- Proportionate, risk-based approaches: A risk-based management approach targets resources to those areas where they have greatest effect.
- Added benefits including regeneration and socio-environmental benefits in as well as reducing the risk to people and property
- Beneficiaries should be encouraged to invest in local risk management

The FWMA requires risk management authorities (local authorities, internal drainage boards, sewerage companies and highway authorities) to act consistently with the National Strategy in carrying out their flood and coastal erosion risk management functions. The national strategy is available to view on the Environment Agency's website at:

[www.environment-agency.gov.uk/research/policy](http://www.environment-agency.gov.uk/research/policy)

The North Yorkshire Local Flood Risk Management Strategy has been developed around these guiding principles to ensure that communities in North Yorkshire benefit from a coordinated and fully aligned approach.

### 5.2.2 Local flood risk management Strategies

The Act designates NYCC as the Lead Local Flood Authority (LLFA) for its area, with duties and powers to lead the co-ordination of flood risk management at a local level, as well as to carry out a specific role in managing flood risk from local sources – Surface water, groundwater and Ordinary Watercourses.

The FWMA places a duty on all risk management authorities operating in an area to act in accordance with the local flood risk management strategy when carrying out their flood risk management functions – outlined in section 5. These functions are subject to scrutiny in accordance with the LLFA’s democratic processes.

The statutory duties of the LLFA set out in the Act are detailed in section 5 but in summary are:

- Develop, maintain, apply and monitor a local flood risk management strategy (this document)
- Maintain a register of drainage and flood assets
- Investigate flooding incidents where appropriate
- Establish an approving body for sustainable drainage systems (SuDS)

Additional powers handed to the LLFA through the FWMA are:

- Designation of flood risk management structures when deemed necessary
- Permissive power to undertake works where deemed necessary
- Powers to consent works on ordinary watercourses

In addition to the specific duties and powers identified in the legislation for Lead Local Flood Authorities, the Act also requires that all the publicly accountable bodies named as a Risk Management Authority should act consistently with this strategy, and that the water companies should also have regard to the strategy in the delivery of their services.

Section 6 of this strategy describes the role that each organisation plays in the management of flood risk, and the partnerships that ensure these duties are delivered in a coordinated way that meets the requirements of this strategy.

## 5.3 The EU Floods Directive and the Flood Risk Regulations (2009)

The Flood Risk Regulations implement the requirements of the European Floods Directive which aims to provide a consistent approach to managing flood risk across Europe. The approach is based on a 6 year cycle of planning which begins with the publication of:

- Preliminary Flood Risk Assessments (PFRAs) by 22 December 2011
- Hazard and risk maps by 22 December 2013
- Flood risk management plans by 22 December 2015

North Yorkshire County Council’s Preliminary Flood Risk Assessment is available at <https://publications.environment-agency.gov.uk/skeleton/publications> .

The Hazard and Risk maps published by the Environment Agency can be found at <http://www.environment-agency.gov.uk/research/planning/135518.aspx>.

The Flood Risk Management Plan (FRMP) for North Yorkshire is currently being developed, and consultation is currently scheduled to take place from July 2014. The County Council is working closely with the EA and other organisations to develop a coherent and consistent set of measures and objectives for managing flood risk from all sources of flooding.

## **5.4 National Planning Policy Framework (NPPF) on development and Flood Risk Management**

The spatial planning and development management process has a critical role to play in managing the risk of flooding by directing development to areas of lowest risk, by managing land use and by ensuring development on a site does not increase the flood risk elsewhere.

The planning process handles the delicate balance between the economic development of an area and potential risks of flooding in the future. Planning authorities and Developers have a key role to play in managing and mitigating flood risk in new developments and should have regard to this strategy. New development should also look for opportunities to make a positive, sustainable contribution to the overall flood risk of an area and realise both environmental and social amenity benefits.

In March 2012 the Government introduced the National Planning Policy Framework (NPPF). On matters relating to flood risk the NPPF replaces the earlier Planning Policy Statement:25 Development and Flood Risk (March 2010) with a technical guidance document.

The Government requires that the NPPF be taken into account in the preparation of local plans and is a material consideration in planning decisions. As LLFA, NYCC supports an approach by planning authorities in its area that reflects the presumption in favour of sustainable development contained in the NPPF.

## **5.5 North Yorkshire Planning Authorities & Local development plans**

General planning development control and planning policy are the responsibility of the seven district councils and two National Park Authorities (North York Moors and Yorkshire Dales).

The county council has responsibility for planning only for waste management and mineral sites across the area and for its own developments such as schools and libraries.

Links to the local plans of each planning authority are available via the county council website by following this link: <http://www.northyorks.gov.uk/article/26340/Local-plans>

## **5.6 North Yorkshire Flood Resilience Forum**

Under the Civil Contingencies Act 2004, the purpose of the North Yorkshire Local Resilience Forum (NYLRF) is to prepare and plan for emergencies to reduce the impact on the people of North Yorkshire when such events occur.

The NYLRF has the responsibility of developing plans for an effective response to a major emergency. This means working closely with emergency services, NYCC, District and Borough Councils, the National Health Service, and other agencies that can help to prepare and respond to any event.

The NYLRF partnership brings together expertise and resources from different organisations during a flood event. Whatever the original source or sources of flooding, this team will provide those communities and individuals affected by flooding with a coordinated multi-agency response that can support the people affected by flooding when it occurs.

The composition of the team comes from a wide range of disciplines, including emergency planning, flood risk management, sewerage, highways, communications teams and the voluntary sector. Other disciplines from within NYCC and other organisations can also be drawn upon in an emergency.

## 5.7 Land drainage law and regulation

The Land Drainage Acts 1991 and 1994 give NYCC as land drainage authority permissive powers to maintain the flow in ordinary watercourses and to ensure they are free from obstruction. An ordinary watercourse is every river, stream, ditch, drain, cut, dyke, sluice, sewer (other than a public sewer) and passage through which water flows and which does not form part of a main river.

The council can require landowners to carry out work to remove any obstruction and maintain the flow. It can also carry out works on ordinary watercourses and undertake drainage work on private land to prevent flooding. The Environment Agency has similar land drainage powers in relation to main rivers under the Water Resources Act and the Flood and Water Management Act

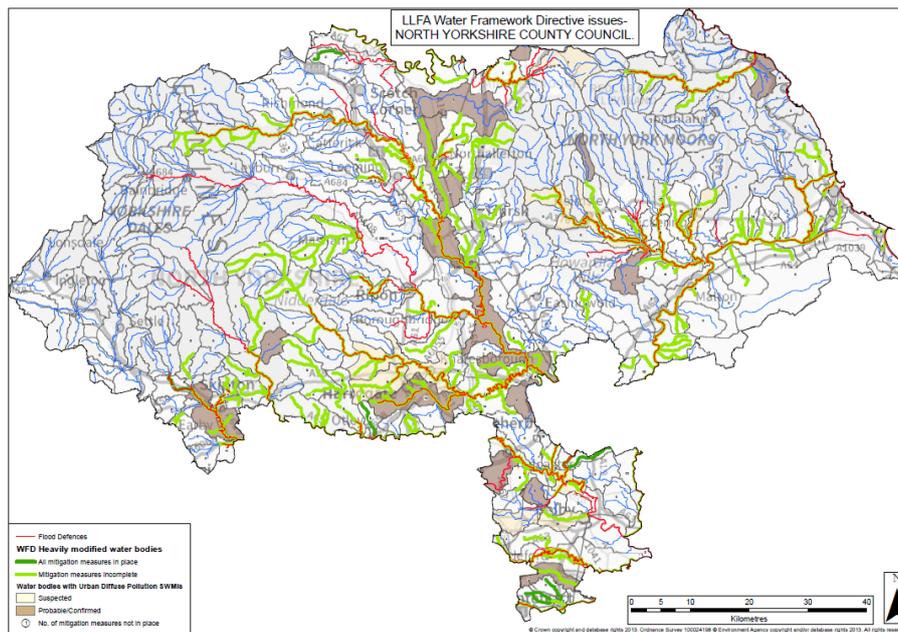
It should be emphasised that, although NYCC and the EA have permissive powers relating to the maintenance of flow in watercourses, these organisations are only legally responsible for the physical maintenance of watercourses where they themselves are the riparian owners.

## 5.8 Riparian ownership

Persons or organisations owning land or buildings next to or over a watercourse, or with a watercourse running through their land or buildings, are defined as riparian owners in common law. The Environment Agency's publication 'Living on the Edge' (<http://www.environment-agency.gov.uk/homeandleisure/floods/31626.aspx>) gives an overview of riparian owners' rights and responsibilities. In general terms, these responsibilities relate to the upkeep of watercourses and drainage infrastructure – allowing water to flow unhindered and free from pollution.

## 5.9 Water Framework Directive

The European Floods Directive is a sister directive to the Water Framework Directive (WFD). Both directives use the same unit of management (river basin districts) and are based on the same 6 year cycle of planning. There is a requirement to coordinate delivery of the two directives.



The objectives of WFD include:

- Preventing deterioration in the status of surface water bodies, protecting them and improving their ecological status.
- Achieving at least 'good' status for all waters by 2015, 2021 or 2027 depending on the criteria set out in the Directive.
- Promoting the sustainable use of water as a natural resource, balancing abstraction and recharge
- Conserving aquatic ecosystems, habitats and species
- Progressively reducing or phasing out the release of pollutants which present a significant threat to the aquatic environment
- Progressively reducing the pollution of groundwater and preventing or limiting the entry of pollutants
- Contributing to the mitigation of the impact of floods and drought on surface water bodies.

The Directive sets a target that all surface and ground water bodies are to reach 'good' status by 2015. However, this target is extended to be one of 'good ecological potential' by 2027 for those bodies which have been heavily modified for example to provide water supply, flood protection or navigation. All new activity in the water environment requires assessing to identify any potential impacts which could hinder a water body from meeting its WFD objectives. However there is also opportunity for identifying flood risk management measures which can also deliver water body improvement and contribute to meeting WFD targets. A good example of this might be a scheme to provide upstream storage lagoons that retain both flood water and act as a sediment trap, thus reducing both flooding and pollution.

LLFAs and other RMAs have an important contribution to make in achieving WFD targets and objectives. Through effective coordination and planning of activities such as the consenting of works on ordinary watercourses, the promotion of sustainable drainage and working with communities and individuals to improve water body management, benefits can be realised for both water quality and flood resilience, as reflected in the Objectives for this Strategy

## 5.10 Links to North Yorkshires Council and Community Plans

The North Yorkshire Council Plan for the period 2013-2016 forms the cornerstone of the council's policy framework . It sets out the authority's vision and priorities for the next three years, and how they will be achieved. It has been developed in conjunction with the North Yorkshire Strategic Partnership (NYSP) North Yorkshire Community Plan 2011-14.

**'We want North Yorkshire to be an even better place for everyone to live, work or visit.'**

This commitment is underpinned by the three priorities identified in our community plan, and our Local Flood Risk Strategy has been developed so that it reflects this commitment:

- protecting and supporting vulnerable people
- supporting economic growth and employment
- enabling stronger local communities.