

# Flood and Water Management Act 2010

## Local Flood Risk Management Strategy & Action Plan

### Appendices B - D

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**ANDREW STONE**

Head of Flood Risk Management and Strategic Projects  
*Strategic Projects, Sardis House, Sardis Road, Pontypridd, CF37 1DU*

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**ROGER WATERS**

Director  
*Frontline Services, Sardis House, Sardis Road, Pontypridd, CF37 1DU*



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## **APPENDIX B – LEGISLATIVE CONTEXT**

### **THE PITT REVIEW (2008)**

Sir Michael Pitt carried out an independent review of flood risk management practices after the widespread floods during the summer of 2007, in which over 50,000 households were affected, and damages exceeded £4 billion. The Pitt Review was published in June 2008 and called for urgent and fundamental changes to the way flood risk was being managed. The report contained 92 recommendations for the UK Government, Local Authorities, Local Resilience Forums and other stakeholders which were based around the concept of Local Authorities playing a major role in the management of local flood risk, through coordinating with relevant authorities.

### **FLOOD AND WATER MANAGEMENT ACT (2010)**

The Flood and Water Management Act 2010 (FWMA) was introduced in April 2010 in England and Wales and set to implement many of the recommendations made by Sir Michael Pitt's Review of the widespread flooding of 2007 in the UK. The Act was also intended to clarify roles and responsibilities between Risk Management Authorities (RMAs).

Under the Act, the Welsh Government was required to produce a National Strategy for Flood and Coastal Erosion Risk Management (National Strategy). The LLFAs were required to produce a Local Flood Risk Management Strategy in partnership with other RMAs.

### **FLOOD RISK REGULATIONS (2009)**

The Flood Risk Regulations 2009 transpose the European Union Floods Directive (Directive 2007/60/EC on the assessment and management of flood risk) into domestic law in England and Wales. The aim of the Directive is to provide a consistent approach to flood risk across Europe.

Under the Regulations, RCTCBC were identified as a Lead Local Flood Authority (LLFA). While Natural Resources Wales (NRW) is responsible for producing Flood Risk Management Plans at a river basin district level for communities at risk of flooding from main river and the sea, LLFAs are required to produce local Flood Risk Management Plans to manage flooding from surface water and ordinary watercourses.

The Flood Risk Regulations set out a six year cycle with timescale for reporting to the European Commission and the publication of 3 key documents:

- **Preliminary Flood Risk Assessment (PFRA)** to be completed by all LLFAs and NRW. The PFRA will identify 'Flood Risk Areas', at potentially significant risk of flooding. Maps and management plans will be developed on the basis of these 'Flood Risk Areas'.
- **Flood Hazard and Flood Risk Maps.** NRW and LLFA are required to produce Hazard and Risk Maps for all sources of flooding.
- **Flood Risk Management Plans.** NRW and LLFA are required to produce Flood Risk Management Plans for 'Flood Risk Areas'

The first stage of implementing the FRR, the PFRA, was undertaken by RCTCBC in 2011 and supported the preparation of its local FRMP in 2015.

The second cycle of the FRR publications are in development. A PFRA was prepared in 2017 by RCTCBC to meet its duties to manage local flood risk under the second cycle of the FRR publications. This fed into the identification of Flood Risk Areas within NRW's PFRA in 2018. The 2018 PFRA identified 3 Flood Risk Areas within RCT as having significant local flood risk. A FRMP is required for each of these 3 Flood Risk Areas to meet its requirements under the FRR.

As part of NRW's strategic overview of all sources of flooding risk, they published their updated Flood Hazard and Risk maps in 2020 as part of the Flood Risk Assessment Wales (FRAW). The maps benefit the LLFA's production of their FRMP by providing an enhanced understanding of local flood risk while also enabling the public to better understand how the risk of flooding from local sources may affect them.

The Flood Action Plan provided in Appendix A of this Local Strategy meets the requirements of the FRR and replaces RCTCBC's previous FRMP in 2015.

### **PLANNING POLICY WALES (2021)**

Planning Policy Wales (2021) is the overarching land use planning policy for Wales. It provides the policy framework for the effective preparation of local planning authorities' development plans. The main policy document is supplemented by a series of Technical Advice Notes (TANs). The key document influencing flood risk is TAN 15 (Development and Flood Risk).

TAN 15 provides technical guidance which supplements the policy set out in Planning Policy Wales in relation to development and flooding. It advises on development and flood risk as this related to sustainability principles and provides a framework within which risks arising from both river and coastal flooding, and from addition run-off from development in any location, can be assessed. RCTCBC's Local Development Plan implement this guidance at the local policy level.

### **WATER FRAMEWORK DIRECTIVE (2000)**

The European Water Framework Directive (WFD) is a European Union directive which came into force in December 2000. The aim is for Member States to adopt a holistic approach to water management, considering surface and groundwater in both qualitative and quantitative terms, by 2015. In addition to improving water quality, the regulation also promotes sustainable use of water as a natural resource and encourages relevant authorities to conserve habitats and species that are directly dependent on water.

The requirements of this directive are implemented in the UK via the Water Environment Regulations 2017. It establishes a framework for the protection of water bodies, which aims to:

- Prevent deterioration in the classification status of aquatic ecosystems, protect them and improve the ecological condition of waters;
- Achieve at least good status for all water bodies by 2015. Where this is not possible and subject to criteria set out in the Directive, aim to achieve good status by 2021 or 2027;
- Meet the requirements of Water Framework Protected Areas;
- Promote sustainable use of water as a natural resource;
- Conserve habitats and species that depend directly on water;
- Progressively reduce or phase out the release of individual pollutants or groups of pollutants that present a significant threat to the aquatic environment;
- Progressively reduce the pollution of groundwater and prevent or limit the entry of pollutants;
- Contribute to mitigating the effects of floods and droughts.

To meet the requirements of the Directive, NRW (and the Environment Agency where applicable) have produced a management plan for each of the three River Basin Districts in Wales. The Severn River Basin Management Plan (RBMP) is applicable to

the administrative boundary of RCTCBC. It outlines the pressures facing the water environment in the wider south-east Wales region and the actions required to address them.

### **ENVIRONMENT (WALES) ACT (2016)**

The Environment (Wales) Act (2016) introduced the sustainable management of natural resources approach and duties to enhance biodiversity and reduce carbon emissions.

The Act also amended the FWMA as to replace regional flood and coastal committees with a new body: the Flood and Coastal Erosion Committee, which was set up in 2019.

### **WELL-BEING OF FUTURE GENERATIONS (WALES) ACT (2015)**

The Well-being of Future Generations Act (2015) defines the well-being goals, which set a shared vision for public bodies in Wales to work towards. By working with natural processes and identifying opportunities for Natural Flood Management (NFM) to reduce flood risk, public bodies are: contributing to the well-being goals through the Sustainable Management of Natural Resources, maintaining and enhancing biodiversity, and delivering our National Resource Policy priorities.

As the Local Authority, we also have a duty under the Well-being of Future Generation (Wales) Act 2015 to maximise our contribution to the seven well-being goals, through sustainable management of natural resources.

### **OTHER RELEVANT LEGISLATION**

Flood risk management is affected by a range of guidance and legislation. Some of these include:

- Climate Change Act (2008)
- Civil Contingencies Act (2004)
- Conservation of Habitats and Species Regulations (2010)
- Countryside and Rights of Way Act (2000)
- Land Drainage Act (1991)
- Highway Act (1980)
- Public Health Act (1936)



- Water Framework Directive (2009)
- Water Industry Act (1991)
- Wildlife and Countryside Act (1981)
- Strategic Environmental Assessment (SEA) Directive (2001/42/EC)

## APPENDIX C – PUBLIC CONSULTATION OUTCOMES

*To be completed prior to publication of final document, following statutory public consultation*

## APPENDIX D – GLOSSARY OF TERMS

**Business Case:** A management tool for scoping, planning and evaluating a proposal and repository for the evidence base.

**Business Justification Case (BJC):** A 'lighter', single-stage, Business Case that is intended to be used for the appraisal of smaller, simpler and less contentious FCERM projects.

**Critical Infrastructure:** Includes all assets, systems and networks that are essential to the proper functioning of a society and economy. Critical infrastructure includes transportation systems (e.g., roads, highways and railways), electricity sub-stations, water and sewerage treatment plants and digital infrastructure.

**Drainage and Wastewater Management Plan (DWMP):** A long-term strategic plan that highlights the known and expected future risks to drainage and identified strategies to mitigate.

**Dŵr Cymru Welsh Water (DCWW):** Not-for-profit company which supplies drinking water and wastewater services to most of Wales and parts of western England that border Wales.

**Essential Services:** Services that are significantly important to the economy and wider society such as health services (i.e., hospitals), educational facilities (e.g. schools, universities) and services provided by public servants (Council, Police).

**FCERM Business Case Guidance:** The Welsh Government guidance on preparing a business case for FCERM capital funding, issued to Local Authorities and NRW and published by the Welsh Government.

**Flood and Water Management Act 2010:** An Act of Parliament updating and amending legislation to address the threat of flooding and water scarcity.

**Flood Forecast Centre (FCC):** A partnership between the Met Office and Environment Agency to provide flood risk guidance for England and Wales.

**Flood Risk Assessment Wales (FRAW):** A national assessment of risk from all sources of flooding for public and professionals.

**Flood and Coastal Erosion Risk Management (FCERM):** The management of all aspects of flood and coastal erosion risk through understanding risk (probability and consequence) and seeking to modify these factors to reduce its impacts.

**Flood Hazard:** Defined as the produce of the depth and velocity of floodwaters.

**Flood Risk:** Combination of the probability and the potential consequences of flooding.

**Full Business Case:** The completed business case and third stage in the development of a business case for a significant project, which identified the most economically advantageous option following procurement, confirms affordability and puts in place the detailed arrangements for successful delivery.

**Green infrastructure:** Provides flood risk management solutions, traditionally done with hard engineering, by utilising the natural properties of native vegetation. Green measures involve exclusive use of natural material to reduce risk.

**Groundwater:** Water held underground in the soil or in pores and crevices in rock.

**Hybrid schemes:** The use of Natural Flood Management alongside traditional interventions.

**Land Drainage Act (1991):** An Act to consolidate the enactments relating to internal drainage boards, and to the functions of such boards and of local authorities in relation to land drainage.

**Lead Local Flood Authority (LLFA):** Local Authority (the County Council or County Borough Council) for the area as defined in the Flood and Water Management Act.

**Likelihood:** A term describing the chance of something happening, normally in terms of very low, low, medium or high likelihood, and with the everyday phrases 'possible but not expected', 'possible', 'probable' and 'expected'. Can also be expressed as a percentage, e.g. 1% chance of flooding each year.

**Local Resilience Forum:** A group required under the Civil Contingencies Act, 2004, who are responsible for the coordination of emergency planning in local areas.

**Local flood risk:** The risk of flooding from surface water runoff, groundwater and ordinary watercourses.

**Local Flood Risk Management Strategy:** A requirement of the FWMA for LLFAs to develop, maintain, apply and monitor a strategy for managing local flood risk.

**Local Development Plan (LDP):** Sets an overarching land-use and development strategy, along with a policy framework and site-specific allocation for a range of development types.

**Main river:** A watercourse shown as such on the Main River Map, and for which NRW has responsibilities and powers, to protect, risk of life where there is real evidence of a flood risk.

**Maintenance:** Work done to preserve the condition of a defence and maintain a standard of protection.

**National Asset Database:** A database of flood assets managed by NRW. Intended to improve the analysis and mapping of risk and maintenance of those assets. It will hold data on flood assets maintained by Risk Management Authorities, with detail on their location, ownership and condition.

**National Strategy for Flood and Coastal Erosion Risk Management:** A requirement of the FWMA for the Welsh Government to produce which sets the direction and objectives for managing flood and coastal erosion risks in Wales.

**Nature Based Solutions:** Natural Flood Management (NFM) is sometimes referred to as nature based solutions, particularly in the Natural Resources Policy, however, the NFM term is more widely used and recognised in flood risk management.

**Natural Flood Management (NFM):** Measures that help to protect, restore and emulate the natural functions of catchments, floodplains, river and the coast. NFM takes many different forms and can be applied in urban and rural areas, and on rivers, estuaries and coasts. This term covers both coastal and flood risk management solution in this document.

**Natural Resources Wales:** A Welsh Government sponsored body formed in April 2013, largely taking over the functions of the Countryside Council for Wales, Forestry Commission Wales and the Environment Agency.

**Ordinary watercourse:** All watercourses that are not designated as main river, and which are the responsibility of Lead Local Flood Authorities or, where they exist, Internal Drainage Boards.

**Outline Business Case (OBC):** The ‘intermediate’ business case and second stage in the development of a business case for a significant project, which identifies the option offering best public value for spend and puts in place the arrangements for successful delivery.

**Planning Policy Wales (PPW):** Sets out the Welsh Government’s land use planning policies and is supplemented by a series of Technical Advice Notes (TANs).

**Pre-feasibility studies:** Used to assess the viability of a range of project options and ensure that future investment decisions are made on a consistent, prioritised basis.

**Property Flood Resilience/Resistance (PFR):** A way of managing flooding which work alongside traditional engineered defences and natural flood management. PFR measures can help to prevent flood water ingress into a building or aid rapid recovery following a flood event.

**Risk Management Authority (RMA):** A Welsh Risk Management Authority is defined in Section 6 of the Flood and Water Management Act 2010 as NRW; a Lead Local Flood Authority; a district council for an area where there is no unitary authority, or a highway authority wholly in Wales; an internal drainage board for an internal drainage district that is wholly or mainly in Wales; a water company that exercises functions in relation to an area in Wales.

**River Basin Management Plan (RBMP):** Under the Water Framework Directive, a management plan is required for each River Basin District. The RBMP describes the challenges that threaten the water environment and how these challenges can be management and funded.

**South East Wales Flood Risk Management Group (SEWFRMG):** Regional working group established across South East Wales Local Authorities to facilitate best practice, consistency in interpretation and collaborative working.

**Strategic Flood Consequences Assessment (SFCA):** Provides the evidence to inform policies and site selection processes for all strategic and local development plans.

**Strategic Outline Business Case (SOC):** The first stage in the development of a business case for a significant project, which makes the strategic case for change and appraises the available options.

**Sustainable Drainage System (SuDS):** Approach to surface water management which helps to deal with excesses of water by mimicking natural drainage processes.

**Sustainable Drainage System Approval Body (SAB):** A statutory function under the FWMA for the Local Authority to deliver to ensure that drainage proposals for all new development of more than a single dwelling of over 100m<sup>2</sup> of construction area is fit for purpose, designed and built in accordance with the National Standards for Sustainable Drainage published by Welsh Ministers.

**Surface water flooding:** Also known as pluvial flooding. When the rate of rainfall exceeds the rate that water can infiltrate the ground, soil or drainage systems.

**Surface water runoff:** The amount or rate of water sheeting off land into watercourses or causing flooding elsewhere.

**Technical Advice Note (TAN) 15 – Development and Flood Risk:** TAN 15 supports Planning Policy Wales and provides advice regarding development on flood plains, including consideration of flood risk from all sources. It provides a framework within which the flood risks arising from rivers, the sea and surface water can be assessed, in addition to providing advice on the consequences of the risks and adapting to and living with flood risk.

**Water Framework Directive (WFD) 2000:** An important piece of environmental legislation which aims to improve water quality. It applies to rivers, lakes, groundwater, estuaries and coastal waters.

**Water Resources Act 1991:** An Act of Parliament that regulates water resources, water quality and pollution, and flood defence.

**Water Resource Management Plan:** A statutory requirement under the Water Industry Act 1991 for water companies to produce once every 5 years, and which plays a crucial role in securing the public water supply for the region.

**Wider benefits:** Wider benefits help to deliver the Wellbeing of Future Generations objectives providing additional gain. In the context of this Strategy, those gains or benefits would be through the delivery of flood and coastal erosion risk management. This means that aside from reducing the flood or coastal erosion risk to a community, a scheme may deliver other benefits such as recreation, tourism and/or biodiversity.